

Schools & Learning Council Meeting Packet

**April 1, 2008
9:00 am – 12:00 pm
212 Knott**

**Marco Rubio
Speaker**

**Joe H. Pickens
Council Chair**

Council Meeting Notice
HOUSE OF REPRESENTATIVES

Speaker Marco Rubio

Schools & Learning Council

Start Date and Time: Tuesday, April 01, 2008 09:00 am

End Date and Time: Tuesday, April 01, 2008 12:00 pm

Location: 212 Knott Building

Duration: 3.00 hrs

Consideration of the following bill(s):

HB 185 Public K-12 Education by Heller

HB 251 Public Secondary Schools by Jordan

HB 475 Student Financial Assistance by Kravitz

HB 745 State University Student Fees by Precourt

HB 893 Tax on Sales, Use, and Other Transactions by Coley

Consideration of the following proposed council bill(s):

PCB SLC 08-03 -- State College System

PCB SLC 08-05 -- College and Career Preparation

PCB SLC 08-09 -- K-8 Virtual Education

Consideration of the following proposed council substitute(s):

PCS for HB 65 -- Supplemental Educational Services



NOTICE FINALIZED on 03/28/2008 16:18 by TJG

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 185 Public K-12 Education

SPONSOR(S): Heller and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 642

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on K-12</u>	<u>10 Y, 0 N</u>	Gillespie	Ahearn
2) <u>Schools & Learning Council</u>		Gillespie 	Cobb 
3) _____			
4) _____			
5) _____			

SUMMARY ANALYSIS

House Bill 185 allows the parents of multiple-birth siblings assigned to the same grade level and school to request that the school place the siblings in the same classroom or in separate classrooms. The bill applies to *monzygotic* (identical) twins, *dizygotic* (fraternal) twins, and higher order multiples (triplets, quadruplets, quintuplets, etc.). The bill requires the school to place the multiple siblings as requested by the parents, except if:

- Factual evidence of performance shows that the siblings should be separated;
- The request would require the school district to add an additional class to the siblings' grade level; or
- After the first grading period following the siblings' enrollment, the principal, in consultation with the teacher of each affected classroom, determines that the requested placement is disruptive to the school. (The bill also allows a parent to appeal the principal's determination according to school district policy).

A parent's requested classroom placement must be submitted in writing and be made at least 5 days before the first day of each school year (or 5 days after the first day of attendance for multiple-birth siblings enrolling after the first day of school). The bill does not affect the classroom placement of students with disabilities or the disciplinary authority of schools to remove a student from a classroom for misbehavior.

The Committee on K-12 adopted three amendments. The amendments allow a parent to submit a request for classroom placement of multiple siblings up to 5 days after (instead of 5 days before) the first day of school; clarify that a school is not required to place multiple-birth siblings in separate classrooms if an additional class must be added to the school (instead of grade level); and clarify that a parent's right to appeal applies to the school principal's decision to change the classroom placement of multiple-birth siblings after the first grading period following the siblings' enrollment in school (**see IV. AMENDMENTS**).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty: The bill requires a school district to grant a parent's request, except under certain circumstances, that their multiple-birth siblings be placed in the same classroom or in separate classrooms.

Empower Families: The bill requires a school district to grant a parent's request, except under certain circumstances, that their multiple-birth siblings be placed in the same classroom or in separate classrooms.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Twins and Higher Order Multiple Births

There are two types of twins: *monozygotic* (identical), one-egg, twins; and *dizygotic* (fraternal), two-egg twins. Identical twins are genetically alike, having the same chromosomes and remarkable physical similarities.¹ Identical twins have the same gender, blood type, and hair and eye colors.²

Fraternal twins are not necessarily more alike than two siblings born to the same mother and father. The difference between fraternal twins and non-twin siblings is that twins share the same intrauterine environment and are the same age. Fraternal twins may be of the same or opposite genders.³

Three or more births to the same mother during the same pregnancy are known as higher order multiples or "supertwins."⁴ Higher-order multiples include, for example, triplets (three multiple births), quadruplets (four multiple births), and quintuplets (five multiple births). Higher-order multiples can be all identical, all fraternal, or a mix of identical and fraternal twins.⁵

Research on Classroom Placement of Multiple Births

A 1999 survey by the National Organization for Mothers of Twins Clubs (NOMOTC) found that, nationally, approximately 43 percent of teachers and school principals believed in a policy of separating all multiples in school,⁶ although NOMOTC asserted that, in 2000, there was no substantial evidence to support a policy that multiples must be placed in separate classrooms in order for them to grow and develop as individuals.⁷

In January 2004, the National Association of Elementary School Principals reported that the National Association of School Psychologists:

- Found that research was ambivalent as to whether twins should be separated or kept together in school; and

¹ National Organization for Mothers of Twins Clubs, *Placement of Multiple Birth Children in School: A Guide for Educators 2* (2000).

² *Id.* at 3.

³ *Id.*

⁴ *Id.* at 4.

⁵ *Id.*

⁶ *Id.* at 5.

⁷ *Id.* at 14.

- Urged that schools maintain a flexible perspective and consult with parents to determine when and if the separation of twins is desirable or unfavorable.⁸

In April 2004, researcher Lucy A. Tully (London, U.K.) and colleagues (London, U.K., and Madison, Wisconsin), found that twins separated in the first year of school (age 5) had more internalizing problems (e.g., depression, anxiety, and social withdrawal) than twins not separated.⁹ For identical twins, these problems increased following the first year of separation and persisted through age 7. Tully's team also found that later-separated (age 7) identical twins had poorer reading abilities after separation than non-separated twins. Tully's team found, however, that there were no significant differences among separated and non-separated twins in externalizing behavior (e.g., defying teachers, being aggressive toward others, failing to comply with teacher directions, and arguing). Finally, Tully's team also found that fraternal twins separated after the first year of school were rated as working harder compared to fraternal twins not separated. In sum, Tully and colleagues concluded that their findings demonstrate that school-wide practices, especially those encouraging the separation of twins, have the potential to lead to adjustment problems for at least some children. Their findings did not, however, support the implementation of policies that keep all twins together in school. They concluded that schools should adopt a more flexible, family-focused approach that takes into account the characteristics and experiences of each twin as well as the views of the parents.

By comparison, in August 2005, researcher Marieke van Leeuwen and colleagues (Amsterdam, the Netherlands) found that, in the long term, there are no significant differences in academic achievement or problematic behavior between separated and non-separated twins.¹⁰ Accordingly, van Leeuwen's team concluded that it makes no difference whether twins are separated or not. They also concluded that it still seems sensible for the decision about classroom separation to be based on what parents think is best for their twins and for themselves.

In 2006, researchers David A. Hay (Perth, Australia) and Pat Preedy (Hampshire, U.K.) identified several reasons for separating or not separating multiples:¹¹

General reasons for putting multiples in separate classes:

- The children are able to operate as individuals within the class situation;
- The teacher is more likely to compare the multiple child against the peer group instead of his or her co-multiple(s);
- The multiple-birth child is able to operate without his or her co-multiple telling, particularly if he or she is in trouble;
- The multiple-birth child has an opportunity to make friends and socialize as an individual.

General reasons for keeping multiples together in the same class:

- Multiple-birth children may need the support of each other particularly if they have not experienced separation prior to school; even if multiple-birth children are comfortable when separated, they may need to be able to check up on what the other is doing;
- If one child is dominant, the dominant child may lose confidence as he or she no longer has his or her co-multiple(s) to organize;
- The children may be compared more at home particularly if the teachers are very different and one child appears to be making more progress;
- The teachers are less likely to understand how the children operate as multiples, e.g., being upset if one is ill or in trouble.

⁸ National Association of Elementary School Principals, "The Trouble with Twins," *The Communicator: The Monthly Newsletter of NAESP*, Vol. 27, No. 5, 1, 7 (Jan. 2004), available at <http://www.naesp.org/ContentLoad.do?contentId=1144> (last visited Mar. 28, 2008).

⁹ Lucy A. Tully, et al., "What Effect Does Classroom Separation Have on Twins' Behavior, Progress at School, and Reading Abilities?," *Twin Research*, Vol. 7, No. 2, (International Society for Twin Studies, April 2004).

¹⁰ Marieke van Leeuwen et al., "Effects of Twin Separation in Primary School," *Twin Research and Human Genetics*, Vol. 8, No. 4, 384, 389-90 (International Society for Twin Studies, Aug. 2005), available at http://www.twinslaw.com/Research_files/Leeuwen_TRHG_2005.pdf (last visited Mar. 28, 2008).

¹¹ David A. Hay & Pat Preedy, "Meeting the Educational Needs of Multiple Birth Children," *Early Human Development*, No. 82, 401 (2006), available at <http://www.twinsandmultiples.org/downloads/pubs/haypreedy2006.pdf> (last visited Mar. 28, 2008).

Hay and Preedy also identified certain circumstances when multiple-birth children are likely to benefit from separation:¹²

Multiple-birth children are likely to benefit from separation when:

- One child is markedly more able than the other;
- One child perceives himself or herself as failing;
- There is markedly similar progress with one child leveling up or down so that they can keep together;
- There is disruptive behavior where multiples form a "fatal combination";
- One or both children are dependent, unable to mix or relate with other children;
- There is intense competitiveness so that the child's main goal is to keep up with or beat their co-multiple(s);
- One or both children polarize (go to opposite extremes);
- There is lack of privacy where one multiple-birth child constantly reports to parents about the activities and progress of the other.

Hay and Preedy expressed concern that the Minnesota legislature passed a 2005 law allowing parents to be the ones to ultimately decide if twins or higher multiples should be in the same class because the law "fail[ed] to take into account the many issues in deciding whether or not to separate."¹³ They warn that putting multiple-birth children into separate classes requires careful consideration and consultation with parents because most multiple-birth children have had little or no experience of separation before starting school.¹⁴

Pat Preedy established a checklist and questionnaire, which provide a framework for parents and teachers when discussing the separation of multiple-birth children in school.¹⁵ The checklist considers the following:

- Dependence/independence of the multiples;
- Social skills and dependence upon adults;
- Previous experience of being apart;
- Language and abilities relative to each other and to their peer group;
- Behavior at preschool or at school;
- Whether one multiple dominates (e.g., when reading or telling about events), takes turns dominating, or none of the multiples dominate;
- In social situations, whether one multiple always hangs back;
- Interests at home, in sports, and at school;
- Needs for intervention (speech and language therapy, physiotherapy, etc.);
- Same or different friends;
- Whether twins are identical or fraternal and their genders. Generally girls are closer than boys and identical twins are closer than fraternal twins, but there are many exceptions;
- Physical development, i.e., whether the multiples are much smaller (or larger) than most other children;

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Pay Preedy, "Together or Apart": A Checklist for Parents and Teachers of Multiples 1 (2004), available at http://www.twinsandmultiples.org/downloads/school_checklist.doc (last visited Mar. 28, 2008).

- Age of the multiples, e.g., whether it is time for multiples to try a new experience;
- Feelings of teachers and parents;
- Views of any other professionals observing the multiples; and
- Wishes of the multiples, especially when they differ from each other or from the wishes of adults.¹⁶

National Birth Statistics on Multiple Births

Hay and Preedy observe that there has been a significant increase in the number of twins and higher multiples so that one child in 33 is now a multiple. Accordingly, it is not unusual for schools to have several sets of twins, as well as triplets, and even higher multiples.¹⁷

According to the federal Centers for Disease Control and Prevention (CDC), the twin birth rate in 2005 (most recent available data) was 32.2 twins per 1,000 total births.¹⁸ The twin birth rate rose steadily (approximately 3 percent per year between 1990 and 2004) for a total increase of 42 percent since 1990, and 70 percent since 1980. The 2005 rate of triplet and other higher order multiple births was 161.8 multiple births per 100,000 total births. The rate of triplet and other higher order multiple births climbed by more than 400 percent during the 1980s and 1990s, peaking at 193.5 multiple births per 100,000 births in 1998. According to the CDC, two related trends have been closely associated with the rise in multiple births over the last two decades; the older age at childbearing (women in their thirties are more likely than younger women to conceive multiples spontaneously) and the widening use of fertility therapies, including assisted reproductive technologies (eggs and sperm are handled in the laboratory—e.g., in-vitro fertilization) and other therapies (e.g., ovulation-inducing drugs and artificial insemination).¹⁹

**Numbers of Twin, Triplet, Quadruplet, and Other Higher Order Multiple Births:
United States, 1990, 1995-2005**

Year	Twins	Triplets	Quadruplets	Quintuplets and other higher order multiple births
2005	133,122	6,208	418	68
2004	132,219	6,750	439	86
2003	128,665	7,110	468	85
2002	125,134	6,898	434	69
2001	121,246	6,885	501	85
2000	118,916	6,742	506	77
1999	114,307	6,742	512	67
1998	110,670	6,919	627	79
1997	104,137	6,148	510	79
1996	100,750	5,298	560	81
1995	96,736	4,551	365	57
1990	93,865	2,830	185	13

SOURCE: Centers for Disease Control and Prevention (2007).²⁰

Florida Policies on Multiple-birth Classroom Placements and Classroom Management

According to the Florida Department of Education (DOE), “[n]o evidence was found that any of Florida’s local school boards had policies in place that would prohibit twins and other multiple births from being placed in the same classroom.”²¹ DOE explained that “[s]ome school districts, such as Miami-Dade

¹⁶ *Id.*

¹⁷ Hay & Preedy, *supra* note 11, at 397.

¹⁸ U.S. Dept. of Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics, *National Vital Statistics Report, Vol. 56, No. 6, 24* (Dec. 5, 2007), available at http://www.cdc.gov/nchs/data/nvsr/nvsr56/nvsr56_06.pdf (last visited Mar. 28, 2008).

¹⁹ *Id.* at 25.

²⁰ *Id.* at 24.

²¹ Florida Department of Education, *2008 Agency Bill Analysis of HB 185, 2* (Dec. 17, 2007).

County Public Schools, allow all children who are part of a multiple birth to enroll in a school choice program when one of them is selected through the random selection process."²²

Florida law allows a teacher to remove disobedient, violent, abusive, uncontrollable, or disruptive students from the classroom.²³ If a teacher removes a student from the classroom, the principal may place the student in another appropriate classroom, in-school suspension, or a dropout prevention and academic intervention program.²⁴ The principal may also recommend the student for out-of-school suspension or expulsion, as appropriate.

Class-Size Reduction

In 2002, the voters of Florida approved an amendment to the State Constitution requiring the reduction of class sizes by the 2010 school year so that the maximum number of students per public school classroom assigned to a teacher is:²⁵

- Eighteen students for prekindergarten through third grade;
- Twenty-two students for grades 4 through 8; and
- Twenty-five students for grades 9 through 12.

The constitutional amendment requires the Legislature, beginning with the 2003-2004 fiscal year, to provide funds for reducing the average number of students in each classroom by at least two students per year until reaching the maximum class sizes.²⁶

To implement the constitutional amendment, the Legislature required a school district that did not comply with the maximum class sizes to reduce its average number of students per classroom²⁷ by at least two students per year. The Legislature also specified how the averages are calculated:

- For fiscal years 2003-2004 through 2005-2006, the average number of students per classroom was calculated at the district level.
- For fiscal years 2006-2007 through 2007-2008, the average is calculated at the school level.
- For fiscal year 2008-2009 and thereafter, the average is calculated at the individual classroom level.²⁸

Thus, for fiscal years 2003-2004 through 2005-2006, a school district that did not meet the maximum class sizes for its classrooms was required to reduce the district's average number of students per classroom by two students. A school district was permitted to have a school whose average class size was not reduced as long as the district's average showed an overall reduction by two students.

For fiscal years 2006-2007 and 2007-2008, a public school (including a charter school) that does not meet the maximum class sizes for its classrooms is required to reduce the school's average number of

²² *Id.*

²³ Section 1003.32(4), F.S.

²⁴ Section 1003.32(5), F.S.

²⁵ Section 1(a), Art. IX of the State Constitution.

²⁶ *Id.*

²⁷ The State Constitution specifies that the class-size requirements do not apply to "extracurricular classes." *Id.* Section 1003.03(1), F.S., specifies that the maximum class sizes apply to "core-curricula courses," which section 1003.01(14), F.S., defines as "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."

²⁸ Section 1003.03(2)(b), F.S.

students per classroom by two students. A school is permitted to have individual classrooms that are not reduced as long as the school's average shows an overall reduction by two students.

Beginning in fiscal year 2008-2009, an individual classroom that does not meet the maximum class size must be reduced by two students to meet the maximum class size.

Proposed Changes:

The bill allows the parents of multiple-birth siblings assigned to the same grade level and school to request that the school place the siblings in the same classroom or in separate classrooms. The bill applies to *monzygotic* (identical) twins, *dizygotic* (fraternal) twins, and higher order multiples (triplets, quadruplets, quintuplets, etc.). The bill requires the school to place multiple siblings as requested by the parents, except if:

- Factual evidence of performance shows that the siblings should be separated;
- The request would require the school district to add an additional class to the siblings' grade level; or
- After the first grading period following the siblings' enrollment, the principal, in consultation with the teacher of each affected classroom, determines that the requested placement is disruptive to the school.

The bill allows a parent to appeal the principal's classroom placement of multiple-birth siblings. Appeals are conducted in the manner provided by school district policy. The bill directs that, during an appeal, the multiple-birth siblings remain in the classroom chosen by the parent. As drafted, the bill appears to limit a parent's opportunity to appeal the principal's classroom placement to instances in which the principal determines that the requested placement is disruptive to the school. The bill does not appear to allow a parent to appeal a classroom placement based on the siblings' performance or the need to add an additional class.

A parent's requested classroom placement must be submitted in writing and made at least 5 days before the first day of each school year (or 5 days after the first day of attendance for multiple-birth siblings enrolling after the first day of school). The bill authorizes a school to recommend to parents the appropriate classroom placement for multiple-birth siblings. The school may provide professional educational advice to assist parents in deciding the appropriate classroom placement.

The bill specifies that it does not affect a right or obligation under Florida law or the federal Individuals with Disabilities Act regarding the individual placement of exceptional students (*i.e.*, students with disabilities).²⁹ The bill also declares that it does not affect the authority of a school district, principal, or teacher to remove a student from a classroom in accordance with the district's discipline policies.

The bill provides an effective date of July 1, 2008.

C. SECTION DIRECTORY:

Section 1. Creates s. 1003.61, F.S., which allows the parents of multiple-birth siblings assigned to the same grade level and school to request that the school place the siblings in the same classroom or in separate classrooms.

Section 2. Provides an effective date of July 1, 2008.

²⁹ Special education and related services for students with disabilities are determined in an individualized education plan (IEP) prepared for the individual student by the student's IEP team.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to DOE, "compliance with the class size amendment, scheduling for limited student enrollment courses, and scheduling of small schools will create a fiscal impact of an amount that cannot be calculated at this time."³⁰ DOE explains:

At small elementary schools with large numbers of multiple-birth siblings, it may be difficult to accommodate parents' requests to place siblings in separate classrooms, particularly when there may only be one classroom teacher per grade level at the school. Even at larger schools, a principal may not know which students are twins or multiple births and may need to change student schedules the week before school starts to accommodate parents' requests.³¹

The bill poses two challenges for the schools, particularly at the secondary level, where students attend multiple classes during the school year. First, Florida's implementation of the class size amendment (CSA) will be based on the number of students in individual classrooms offering core-curricula courses beginning in the 2008-2009 school year. Second, for highly rigorous courses with limited student enrollment, such as AP Calculus or IB History of the Americas, it may be difficult for a school to accommodate both a student's scheduling preferences and a parent's request that siblings be placed in separate classrooms.³²

³⁰ Florida Department of Education, *supra* note 21, at 3.

³¹ *Id.* at 2.

³² *Id.*

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DOE recommends that the bill be clarified to address the difference in schedules at elementary schools (grades) and secondary schools (subjects).³³ For example, a high school class may enroll students in both grades 11 and 12. The bill currently specifies that a school is not required to place multiple-birth siblings in separate classrooms if the request requires the school district to add an additional class to the "grade level." The department recommends that the bill specify that a school is not required to place multiple-birth siblings in separate classrooms if the request requires the school district to add an additional class to the "school."³⁴

D. STATEMENT OF THE SPONSOR

Representative Heller submitted the following sponsor statement:

The Florida DOE is focusing on the parents "separating" their multiple-birth children (MBC) in the school and its undetermined impact. When in reality, this bill receives countless communications from parents who are being denied by the local schools their request to have their MBC placed together. Most parents of MBC are thinking about their children's placement upon entering preschool. Parents are told by the preschools that the elementary school will separate their children; so they should prepare for this inevitability.

We agree with the assertion that there is no policy mandating separation of MBC entering school. However, our experiences are different. We are told by administrators that separating our MBC is what is best for them. Many parents have tried sharing the research mentioned in the bill analysis with these administrators but to no avail. They then turn to the school superintendent for an intervention on their behalf. Often, superintendents will not override decisions made by the principal in charge.

³³ *Id.* at 3.

³⁴ *Id.*

The quote on page 4 of the analysis (see [text accompanying] footnote 14) was incomplete regarding the Hay and Preedy's concerns over the Minnesota Law. Listed below is the unabridged text from Hay and Preedy's "Meeting the Educational Needs of Multiple Birth Children":

The fact that the Minnesota State legislature found it necessary in 2005 to pass a law that parents should be the ones to ultimately decide if twins or higher multiples should be in the same class is both progressive but a concern, both because of the need for such a ruling and also because it fails to take into account the many issues in deciding whether or not to separate.

There is a framework school policy available at www.twinsandmultiples.org, which guides schools to have a flexible approach, assessing and meeting the needs of the children as individuals, while also taking into account the special multiple relationship. The key message is that with understanding and where necessary support, multiple-birth children can make good progress in school enjoying and celebrating the fact that they are twins or higher multiples.³⁵

As the research quoted in the analysis states, a flexible policy with parental input is best. Since parents are not feeling their input is valued and heard at the local school level, this bill is advocating this bill so that they will be heard and their choice granted. One size does not fit all. That is why the bill language includes both options. Parents know what is best for their children's emotional, psychological, social and educational needs. This bill will safeguard individual liberty and most importantly empower families to do what is best for their children.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On February 5, 2008, the Committee on K-12 adopted three amendments offered by Representative Heller, which:

- Allow a parent to submit a request for the classroom placement of multiple siblings 5 days after the first day of school year instead of 5 days before the first day of school year (amends line 22 of the bill);
- Clarify that a school is not required to place multiple-birth siblings in separate classrooms if the bill would require the school district to add an additional class to the school (instead of adding an additional class to the siblings' grade level). Some middle and high school classes include students from multiple grade levels (amends lines 39-40 of the bill); and
- Add a cross-reference to clarify that a parent's right to appeal applies to the school principal's decision to change the classroom placement of multiple-birth siblings after the first grading period following the siblings' enrollment in school (amends line 49 of the bill).

³⁵ Hay & Preedy, *supra* note 11, at 401.

1 A bill to be entitled
 2 An act relating to public K-12 education; creating s.
 3 1003.06, F.S.; authorizing the parent of multiple birth
 4 siblings to request certain classroom placement; providing
 5 a definition; providing exceptions to implementation of
 6 the requested placement; authorizing appeal of placement;
 7 specifying conditions under which provisions do not apply;
 8 providing an effective date.

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

11
 12 Section 1. Section 1003.06, Florida Statutes, is created
 13 to read:

14 1003.06 Classroom placement of multiple birth siblings.--

15 (1) As used in this section, the term "multiple birth
 16 siblings" means twins, triplets, quadruplets, or other siblings
 17 resulting from a multiple birth.

18 (2) (a) The parent of multiple birth siblings who are
 19 assigned to the same grade level and school may request in
 20 writing that the school place the siblings in the same classroom
 21 or in separate classrooms. The request must be made no later
 22 than 5 days before the first day of each school year or 5 days
 23 after the first day of attendance of students during the school
 24 year if the students are enrolled in the school after the school
 25 year commences.

26 (b) The school may recommend to the parent the appropriate
 27 classroom placement for multiple birth siblings and may provide

HB 185

2008

28 professional educational advice to assist the parent with the
29 decision regarding appropriate classroom placement.

30 (3) Except as provided in subsection (4) or subsection
31 (5), a school shall provide the multiple birth siblings with the
32 classroom placement requested by the parent.

33 (4) (a) A school is not required to place multiple birth
34 siblings in the same classroom if factual evidence of
35 performance shows proof that the multiple birth siblings should
36 be separated.

37 (b) A school is not required to place multiple birth
38 siblings in separate classrooms if the request would require the
39 school district to add an additional class to the grade level of
40 the multiple birth siblings.

41 (5) (a) At the end of the first grading period following
42 the multiple birth siblings' enrollment in the school, if the
43 principal of the school, in consultation with the teacher of
44 each classroom in which the multiple birth siblings are placed,
45 determines that the requested classroom placement is disruptive
46 to the school, the principal may determine the appropriate
47 classroom placement for the siblings.

48 (b) A parent may appeal the principal's classroom
49 placement of multiple birth siblings in the manner provided by
50 school district policy. During an appeal, the multiple birth
51 siblings shall remain in the classroom chosen by the parent.

52 (6) This section does not affect:

53 (a) A right or obligation under s. 1003.57 or under the
54 Individuals with Disabilities Education Act, 20 U.S.C. ss. 1400

HB 185

2008

55 | et seq., regarding the individual placement decisions of the
56 | school district; or

57 | (b) The right of a school district, principal, or teacher
58 | to remove a student from a classroom pursuant to school district
59 | student discipline policies.

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

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

Bill No. **HB 185**

COUNCIL/COMMITTEE ACTION

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

This amendment is traveling with the bill and requires no further action.

1 Council/Committee hearing bill: Schools & Learning Council.
2 Committee on K-12 recommends the following:

3
4 **Amendment**

5 Remove line(s) 22 and insert:

6 than 5 days after the first day of each school year or 5 days

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

Bill No. **HB 185**

COUNCIL/COMMITTEE ACTION

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

This amendment is traveling with the bill and requires no further action.

1 Council/Committee hearing bill: Schools & Learning Council.
2 The Committee on K-12 offered the following:

3
4 **Amendment**

5 Remove line(s) 39-40 and insert:
6 school district to add an additional class to the multiple birth
7 siblings' school.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3 (for drafter's use only)

Bill No. **HB 185**

COUNCIL/COMMITTEE ACTION

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

This amendment is traveling with the bill and requires no further action.

1 Council/Committee hearing bill: Schools & Learning Council
2 The Committee on K-12 offered the following:

3
4 **Amendment**

5 Remove line(s) 49 and insert:
6 placement of multiple birth siblings under paragraph (a) in the
7 manner provided by

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 251 Public Secondary Schools

SPONSOR(S): Jordan

TIED BILLS: IDEN./SIM. BILLS: CS/CS/SB 574

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on K-12	8 Y, 0 N	Gillespie	Ahearn
2) Schools & Learning Council		Gillespie <i>AG</i>	Cobb <i>CC</i>
3)			
4)			
5)			

SUMMARY ANALYSIS

House Bill 251 prohibits a school district or public secondary (grades 6-12) school from preventing a Reserve Officer Training Corps (ROTC) unit from operating at the school, preventing students from enrolling in a ROTC unit at another educational institution, or denying military recruiters the same access to students which is given to postsecondary educational institutions and prospective employers.

The bill directs the State Board of Education to adopt rules and enforce the bill's provisions.

The bill raises several drafting issues, but these issues are addressed by an amendment adopted by the Committee on K-12 which clarifies and expands the bill's provisions. The amendment:

- Prohibits a school district from banning Junior ROTC units from its public high schools and prohibits a community college or state university from banning a Senior ROTC unit from the college or university;
- Requires a school district to allow a student to enroll in Junior ROTC at another public high school, unless the student's school offers Junior ROTC for any service branch, the student does not meet the Junior ROTC unit's minimum enrollment requirements, or the student's class schedule does not allow the student to enroll in Junior ROTC at another school;
- Clarifies that a school district is not required to provide transportation for a student enrolling in Junior ROTC at another public high school; and
- Requires school districts, community colleges, and state universities, to the extent required by federal law, to grant military recruiters with specified access to students, school grounds, and certain student information (e.g., name, address, and telephone listing). (See IV. AMENDMENTS for details.)

On March 4, 2008, the Committee on K-12 adopted a remove-everything amendment that substantially replaces the bill. (See IV. AMENDMENTS for a full analysis of the amendment.)

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty: The bill prohibits school districts and public secondary schools from preventing the operation of ROTC units or from preventing students from enrolling in a ROTC unit at another educational institution.

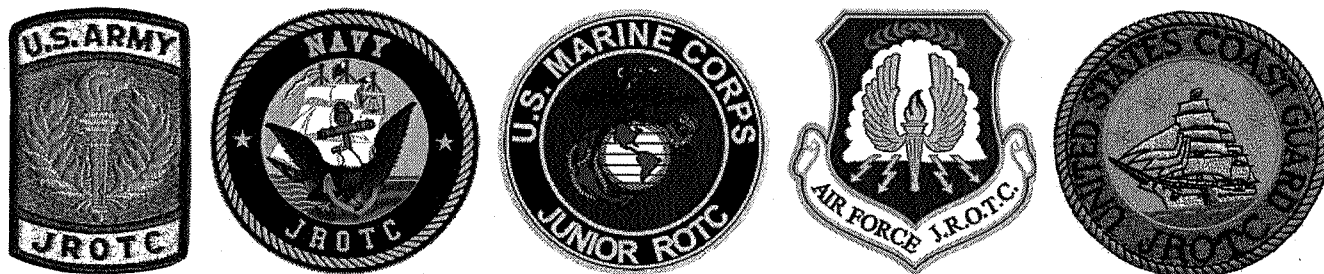
Empower Families: The bill prohibits school districts and public secondary schools from preventing students from enrolling in a ROTC unit at another educational institution.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Junior Reserve Officers' Training Corps

The U.S. Congress authorizes each military department to establish Junior Reserve Officers' Training Corps (JROTC) units at public and private secondary educational institutions that apply to the respective military department and meet federal standards and criteria.¹ The purpose of JROTC is "to instill in students ... the values of citizenship, service to the United States, and personal responsibility and a sense of accomplishment."² The U.S. Army, Navy, Marine Corps, and Air Force have each established JROTC programs. In addition, the first U.S. Coast Guard JROTC was established in 1991 at the Maritime and Science Technology Academy (MAST Academy) in Miami, Florida.



The U.S. Department of Defense has issued instructions for JROTC units.³ The instructions specify that, to enroll in a JROTC unit, students shall:

- Be selected by the JROTC instructor with the approval of the school principal or his or her representative;
- Maintain acceptable standards of academic achievement and an academic standing that warrants at least normal progression leading to graduation;
- Maintain acceptable standards of conduct as defined by the military department;
- Be in grade 8 or above, with certain exceptions; and

¹ 10 U.S.C. § 2031(a)(1).

² 10 U.S.C. § 2031(a)(2).

³ U.S. Department of Defense, *Junior Reserve Officers' Training Corps (JROTC) Program, Enclosure E2 (Procedures for the Establishment of JROTC at Schools), section E2.3 (Eligibility of Students), Instruction No. 1205.13, 9 (Feb. 6, 2006), available at <http://www.dtic.mil/whs/directives/corres/pdf/120513p.pdf> (last visited Mar. 28, 2008) [hereinafter *JROTC Instruction*].*

- Meet other qualifying participation criteria prescribed by the military department (for example, the U.S. Army JROTC requires participating students to be physically able to participate in the JROTC's physical education program.⁴)

The JROTC instructions also specify that students with disabilities who have an Individualized Education Plan (IEP) or Section 504 Accommodation Plan may enroll in a JROTC unit, even if the students are otherwise ineligible under these enrollment requirements.⁵

According to the Florida Department of Education (DOE), there are currently six ROTC Major Areas of Interest and 28 ROTC courses in the state's *Course Code Directory* for high schools to offer (9 for Air Force, 4 for Army, 4 for Navy, 4 for Marine Corps, and 7 for Coast Guard). Based on attendance data from the 2006-2007 school year, DOE reports that there were 31,590 students enrolled in ROTC classes in 286 schools in almost all districts throughout the state. The school districts not offering ROTC courses included Calhoun, Franklin, Glades, Hendry, Jackson, Lafayette, and Madison counties. In the 2006-2007 school year, there were no high school students who were dual enrolled in a community college ROTC course.⁶

Florida law allows students who complete 2 years in a ROTC class to simultaneously satisfy the one-credit graduation requirement in physical education and the one-credit graduation requirement in performing arts (total of two credits).⁷

In addition to JROTC programs, the military departments have also established ROTC units on college and university campuses. These programs are known as Senior ROTC.⁸

Military Recruitment on School Campuses

On January 8, 2002, President George W. Bush signed into law the federal *No Child Left Behind (NCLB) Act of 2001*.⁹ Among its provisions, the NCLB act established several provisions regarding the access of military recruiters to students and student recruiting information:

- Access to student recruiting information.—Each school district receiving certain federal funds under the NCLB act must provide, on a request made by military recruiters, access to secondary school students' names, addresses, and telephone listings.
- Consent.—A secondary school student, or the parent of the student, may request that the student's name, address, and telephone listing not be released without prior written parental consent, and the school district shall notify parents of the option to make a request and shall comply with any request.
- Same access to students.—The school district must provide military recruiters with the same access to secondary school students as is provided generally to postsecondary educational institutions or to prospective employers of the students.¹⁰

⁴ U.S. Army Cadet Command, *Junior Reserve Officers' Training Corps Program: Organization, Administration, Operation, Training, and Support, Cadet Command Regulation 145-2, section 3-11 (Enrollment Requirements)* 17-18 (July 1, 2007), available at <https://www.usarmyjrotc.com/jrotcRes/downloads/CCR145-2.pdf> (last visited Mar. 28, 2008).

⁵ *JROTC Instruction*, *supra* note 3, at 9 (paragraph E2.3.3).

⁶ Florida Department of Education, *2008 Agency Bill Analysis of HB 251, 2* (Dec. 14, 2007).

⁷ Section 1003.428(2)(a)6., F.S.,

⁸ *See, e.g.*, 10 U.S.C. §§ 2101-2111b.

⁹ Public Law 107-110 (2002).

¹⁰ *Id.* at § 9528 (codified at 20 U.S.C. § 7908).

Implementing provisions of the federal *Family Educational and Privacy Rights Act (FERPA)*,¹¹ Florida law allows a public school to publicly release "directory information"¹² about its students, but requires the school to give public notice of the categories of information it designates as directory information and allow a reasonable period of time for a parent or student to inform the school in writing that the information should not be released.¹³

According to DOE, the level of access to public schools for military recruiters is determined at the local level.¹⁴ Some public schools restrict recruiters on campus to certain events, while other schools do not allow recruiters of any kind on campus. Many high schools require recruiters to have pre-scheduled appointments.¹⁵

Proposed Changes:

The bill prohibits a school district or public secondary (grades 6-12)¹⁶ school from preventing an ROTC unit from operating at the school, preventing students from enrolling in an ROTC unit at another educational institution, or denying military recruiters the same access to students which is given to postsecondary educational institutions and prospective employers.

The bill includes several drafting issues (**see III. COMMENTS**).

The bill directs the State Board of Education to enforce the bill's provisions under section 1008.32, F.S., which allows the state board to take the following actions if the state board determines that a district school board is unwilling or unable to comply with law or state board rule:

- Report to the Legislature that the school district is unwilling or unable to comply with law or state board rule and recommend action to be taken by the Legislature;
- Reduce the discretionary lottery appropriation until the school district complies with the law or state board rule;
- Withhold the transfer of state funds, discretionary grant funds, or any other funds specified as eligible for this purpose by the Legislature until the school district complies with the law or state board rule;
- Declare the school district ineligible for competitive grants; or
- Require monthly or periodic reporting on the situation related to noncompliance until it is remedied.

The bill requires the State Board of Education to adopt rules to administer the bill's provisions.

The bill provides an effective date of July 1, 2008.

C. SECTION DIRECTORY:

Section 1. Creates section 1003.451, F.S., which prohibits school districts and schools from preventing an ROTC unit from operating at the school, preventing students from enrolling in an ROTC unit at

¹¹ 20 U.S.C. § 1232g(a)(5).

¹² Section 1002.22(2)(d), F.S., defines "directory information" as a student's "name, address, telephone number if it is a listed number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student."

¹³ Section 1002.22(3), F.S. (flush-left provisions following § 1002.22(3)(d)14., F.S.).

¹⁴ Florida Department of Education, *supra* note 6, at 2.

¹⁵ *Id.*

¹⁶ The Florida Secondary School Redesign Act (s. 1003.413(1), F.S.) specifies that "[s]econdary schools are schools that primarily serve students in grades 6 through 12."

another educational institution, or denying military recruiters the same access to students which is given to postsecondary educational institutions and prospective employers.

Section 2. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Florida Department of Education (DOE) estimates that the bill would require "increased workload expenses [for DOE] by an unknown amount to survey and identify districts that were in compliance and to enforce compliance for others."¹⁷ Accordingly, the fiscal impact is indeterminate but appears to be insignificant.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to DOE, the bill could create a negative fiscal impact on school districts if the bill requires the districts to incur the expense of transportation and additional planning to assure that students could complete required coursework by their scheduled graduation.¹⁸ If the bill is amended to clarify that school districts are not required to provide transportation for students enrolling in JROTC units at other schools (**see III. COMMENTS**), the bill's fiscal impact appears to be insignificant.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of

¹⁷ Florida Department of Education, *supra* note 6, at 3.

¹⁸ *Id.*

February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill directs the State Board of Education to adopt rules to administer the bill's provisions. The state board's general grant of rulemaking authority is found in section 1001.02(1), F.S.:

The State Board of Education is the chief implementing and coordinating body of public education in Florida except for the State University System, and it shall focus on high-level policy decisions. It has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of law conferring duties upon it for the improvement of the state system of K-20 public education except for the State University System.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill prohibits a school district or public secondary school from preventing an ROTC unit from operating at the school. The bill does not distinguish whether it applies to Junior ROTC (secondary schools), Senior ROTC (postsecondary educational institutions), or both programs.

The bill also prohibits a school district or public secondary school from preventing students from enrolling in a ROTC unit at "another educational institution." This provision is unclear as to whether a school district or public secondary school would be required to:

- Permit a student to enroll in a Junior ROTC unit at a private school;
- Permit a student to enroll in a Senior ROTC unit at a community college or state university (through, for example, a dual-enrollment program);
- Permit a student to enroll in another school's Junior ROTC unit, even though the student's assigned school operates a Junior ROTC unit;
- Admit a student in a public school's Junior ROTC unit, even though the student does not otherwise meet the JROTC unit's enrollment criteria;
- Permit a student to transfer enrollment to another public school that operates a Junior ROTC; and
- Provide transportation between schools for students enrolling in a Junior ROTC unit in another school.

These drafting issues are addressed by an amendment adopted by the Committee on K-12 (see **IV. AMENDMENTS**).

D. STATEMENT OF THE SPONSOR

Waived by sponsor due to time constraints.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 4, 2008, the Committee on K-12 adopted an amendment offered by Representative Jordan (remove everything after the enacting clause). The amendment clarifies use of the terms "Junior ROTC" (secondary education level) and "Senior ROTC" (postsecondary education level) and revises provisions throughout the bill, which are described as follows:

Junior ROTC:

The amendment prohibits a school district from banning any branch of the U.S. Armed Forces or the U.S. Department of Homeland Security¹⁹ from establishing, maintaining, or operating a Junior ROTC unit at a public high school. The bill prohibits policies or practices preventing the establishment, maintenance, or operations of Junior ROTC units at public secondary schools (middle and high schools). Thus, the amendment removes provisions from the bill which prohibited the ban of Junior ROTC at middle schools.

The bill prohibits a school district from preventing a student from enrolling in a Junior ROTC unit at another educational institution. The amendment clarifies that a school district must allow a student to enroll in Junior ROTC at another public high school but denies authority for a student to enroll in Junior ROTC at another school, if:

- The student's school offers Junior ROTC for any service branch;
- The student does not meet the Junior ROTC unit's minimum enrollment requirements; or
- The student's class schedule does not allow the student to enroll in Junior ROTC at another school.

The amendment also specifies that a school district is not required to provide transportation for a student attending Junior ROTC at another public high school.

The bill requires a school district to grant military recruiters with the same access to secondary school students which the district grants to postsecondary educational institutions or prospective employers of students. The amendment, through cross-reference to federal law, clarifies that these provisions are required by the federal NCLB act.²⁰ The amendment specifies that military recruiters must be provided the same access to school facilities and grounds as provided to postsecondary educational institutions or prospective employers of students. The amendment also clarifies that the military recruiters who must be given access to secondary schools are the recruiters of the U.S. Armed Forces (i.e., U.S. Army, Navy, Marine Corps, and Air Force) and the Department of Homeland Security (e.g., U.S. Coast Guard).

As previously discussed, the federal NCLB act requires a school district receiving certain federal funds to provide military recruiters with access to the names, addresses, and telephone listings of secondary school (middle and high school) students.²¹ The NCLB act also requires the school district to give parents the option of—and notify parents about the option of—allowing a student or parent to request that the student's name, address, and telephone listing not be released without prior written parental consent.²² State law establishes a similar process for the release of "directory information,"²³ which requires a school to give public notice of the categories of information it designates as directory information and allow a reasonable period of time for a parent or student to inform the school in writing that the information should not be released.²⁴

The amendment requires a school district to grant military recruiters with access to the names, addresses, and telephone listings of secondary school students as required by the federal NCLB act. The amendment also specifies that a school district, as required by the NCLB act and current state law, must give a parent the

¹⁹ U.S. Coast Guard Junior ROTC units are coordinated under authority of the U.S. Department of Homeland Security, while other Junior ROTC units (U.S. Army, Navy, Marine Corps, and Air Force) are coordinated by the U.S. Armed Forces.

²⁰ See *supra* note 10 and accompanying text.

²¹ *Id.*

²² *Id.*

²³ See *supra* note 12.

²⁴ See *supra* note 13 and accompanying text.

opportunity to request that the student's name, address, and telephone listing not be released without prior written parental consent as required under the NCLB act and current state law.

The amendment also includes provisions from the bill which allow the State Board of Education to adopt rules and take enforcement action against school districts that do not comply with the bill's requirements.

Senior ROTC:

Under a federal law commonly referred to as the "Solomon Amendment,"²⁵ an institution of higher education is prohibited from receiving certain federal contract and grant funding if the Secretary of Defense determines that the institution, among other things, prevented:

- A military department from maintaining, establishing, or operating a Senior ROTC unit at the institution;
- A military department or the U.S. Department of Homeland Security from gaining access to campus—and students (17 years of age or older) on campus—for purposes of military recruitment, which access is "at least equal in quality and scope to the access to campuses and to students that is provided to any other employer";²⁶ and
- Military recruiters from having access to the names, addresses, telephone listings, dates and places of birth, levels of education, academic majors, degrees received, and the most recent educational institutions enrolled in by students (17 years of age or older).²⁷

The amendment prohibits a Florida community college or state university, to the extent required by the federal Solomon Amendment, from:

- Banning any branch of the U.S. Armed Forces from establishing, maintaining, or operating a Senior ROTC unit at the college or university;
- Denying military recruiters of the U.S. Armed Forces and U.S. Department of Homeland Security the same access to the college's or university's students, and to campus facilities and grounds, which the college or university grants to other employers; and
- Denying military recruiters access to the names, addresses, telephone listings, dates and places of birth, levels of education, academic majors, degrees received, and most recent educational institutions enrolled in by the college's or university's students.

²⁵ See, e.g., *Rumsfeld v. Forum for Academic and Institutional Rights*, 547 U.S. 47, 51, 126 S. Ct. 1297, 1302 (2006) (U.S. Supreme Court referred to 10 U.S.C. § 983 as the "Solomon Amendment").

²⁶ 10 U.S.C. § 983(b)(1).

²⁷ 10 U.S.C. § 983.

1 A bill to be entitled
 2 An act relating to public secondary schools; creating s.
 3 1003.451, F.S.; prohibiting any school district or public
 4 secondary school from prohibiting ROTC units on campus,
 5 preventing a student from enrolling in an ROTC unit at
 6 another educational institution, or preventing military
 7 recruiters from having certain access to students;
 8 providing for enforcement; providing for the adoption of
 9 rules by the State Board of Education; providing an
 10 effective date.

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

13
 14 Section 1. Section 1003.451, Florida Statutes, is created
 15 to read:

16 1003.451 Prohibiting school districts or schools from
 17 preventing ROTC access to campus; providing for enforcement by
 18 the State Board of Education.--

19 (1) A school district or public secondary school may not
 20 have a policy or practice that prohibits or in effect prevents:

21 (a) The maintaining, establishing, or operation of a unit
 22 of the Reserve Officer Training Corps of any branch of the
 23 United States Armed Forces at the school;

24 (b) A student at the school from enrolling in a unit of
 25 the Reserve Officer Training Corps at another educational
 26 institution; or

27 (c) Military recruiters from having the same access to the
 28 school's students as is provided by the school to postsecondary

HB 251

2008

29 educational institutions or to prospective employers of those
30 students.

31 (2) The State Board of Education shall enforce this
32 section pursuant to s. 1008.32.

33 (3) The State Board of Education shall adopt rules to
34 administer this section.

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

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. HB 251

COUNCIL/COMMITTEE ACTION

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

This amendment is traveling with the bill and requires no further action.

1 Council/Committee hearing bill: Schools & Learning Council
2 Committee on K-12 offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 1003.451, Florida Statutes, is created
7 to read:

8 1003.451 Junior Reserve Officers' Training Corps; military
9 recruiters; access to public school campuses.--

10 (1) A school district may not ban any branch of the United
11 States Armed Forces or the United States Department of Homeland
12 Security from establishing, maintaining, or operating a unit of
13 the Junior Reserve Officers' Training Corps at a public high
14 school in the district.

15 (2) (a) A school district shall allow a student attending a
16 public high school in the district to enroll in the Junior
17 Reserve Officers' Training Corps at another public high school
18 in the district unless:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

19 1. The student's school offers the Junior Reserve
20 Officers' Training Corps for any branch of the United States
21 Armed Forces or United States Department of Homeland Security;

22 2. The student does not meet the Junior Reserve Officers'
23 Training Corps' minimum enrollment qualifications; or

24 3. Scheduling of the student's courses of study do not
25 allow the student to attend the Junior Reserve Officers'
26 Training Corps at another public high school in the district.

27 (b) This subsection does not require a school district to
28 provide transportation for a student to attend the Junior
29 Reserve Officers' Training Corps at another public high school
30 in the district.

31 (3) (a) A school district shall, as required in 20 U.S.C.
32 s. 7908(a) (3), grant military recruiters of the United States
33 Armed Forces and United States Department of Homeland Security
34 the same access to secondary school students, and to school
35 facilities and grounds, which the district grants to
36 postsecondary educational institutions or prospective employers
37 of students.

38 (b) A school district shall, as required in 20 U.S.C. s.
39 7908(a) (1), grant military recruiters access to the names,
40 addresses, and telephone listings of secondary school students,
41 except, the district shall comply with a student's or parent's
42 request under 20 U.S.C. s. 7908(a) (2) or s. 1002.22(3) (d) not to
43 release the student's information without prior written parental
44 consent.

45 (4) The State Board of Education shall enforce this
46 section under s. 1008.32.

47 (5) The State Board of Education may adopt rules under ss.
48 120.536(1) and 120.54 to administer this section.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

49 Section 2. Section 1004.09, Florida Statutes, is created
50 to read:

51 1004.09 Senior Reserve Officers' Training Corps; military
52 recruiters; access to community college and state university
53 campuses.--

54 (1) A community college or state university may not ban,
55 to the extent prohibited in 10 U.S.C. s. 983(a)(1), any branch
56 of the United States Armed Forces from establishing,
57 maintaining, or operating a unit of the Senior Reserve Officers'
58 Training Corps at the college or university.

59 (2)(a) A community college or state university shall, to
60 the extent required in 10 U.S.C. s. 983(b)(1), grant military
61 recruiters of the United States Armed Forces and United States
62 Department of Homeland Security the same access to the college's
63 or university's students, and to campus facilities and grounds,
64 which the college or university grants to other employers.

65 (b) A community college or state university shall, to the
66 extent required in 10 U.S.C. s. 983(b)(2), grant military
67 recruiters access to the names, addresses, telephone listings,
68 dates and places of birth, levels of education, academic majors,
69 degrees received, and most recent educational institutions
70 enrolled in by the college's or university's students.

71 Section 3. This act shall take effect July 1, 2008.

72
73

74 -----

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

76 Remove the entire title and insert:

77 A bill to be entitled

78 An act relating to Reserve Officers' Training Corps

79 programs; creating s. 1003.451, F.S.; prohibiting a school

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

80 district from banning a Junior Reserve Officers' Training
81 Corps unit in certain schools; requiring a school district
82 to allow a student, under certain circumstances, to enroll
83 in the Junior Reserve Officers' Training Corps at another
84 school; specifying that a school district is not required
85 to provide transportation for a student enrolling in the
86 Junior Reserve Officers' Training Corps at another school;
87 requiring a school district to grant military recruiters
88 certain access to students, school facilities and grounds,
89 and certain student information; providing for
90 enforcement; providing for the adoption of rules by the
91 State Board of Education; creating s. 1004.009, F.S.;

92 prohibiting a community college or state university from
93 banning, to the extent prohibited by federal law, a Senior
94 Reserve Officers' Training Corps unit; requiring that a
95 community college or state university, to the extent
96 required by federal law, grant military recruiters certain
97 access to students, campus facilities and grounds, and
98 certain student information; providing an effective date.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 0251

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Schools and Learning Council
2 Representative Jordan offered the following:

3
4
5
6
7
8

Amendment to Strike-all Amendment by Committee on K-12

Remove lines 31-32 and insert:

(3) (a) A school district shall grant military recruiters
of the United States

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Schools and Learning Council
 2 Representative Jordan offered the following:

3
 4 **Amendment to Strike-all Amendment by Committee on K-12**
 5 **(with title amendment)**

6 Remove lines 54-55 and insert:

7 (1) A community college or state university may not ban
 8 any branch

9
 10
 11 -----
 12 **T I T L E A M E N D M E N T**

13 Remove line 93 and insert:
 14 banning a Senior

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Schools and Learning Council
 2 Representative(s) Jordan offered the following:

3
 4 **Amendment to Strike-all Amendment by Committee on K-12**
 5 **(with title amendment)**

6 Remove lines 59-60 and insert:

7 (2) (a) A community college or state university shall grant
 8 military

9
 10 -----
 11 **T I T L E A M E N D M E N T**

12 Remove lines 95-97 and insert:

13 community college or state university grant military recruiters
 14 certain access to students, campus facilities and grounds, and,
 15 to the extent required by federal law, access to

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 475 Student Financial Assistance

SPONSOR(S): Kravitz

TIED BILLS: IDEN./SIM. BILLS: SB 1232

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Postsecondary Education</u>	<u>(W/D)</u>	<u>Thomas</u>	<u>Cobb</u>
2) <u>Schools & Learning Council</u>	<u></u>	<u>Thomas</u>	<u>Cobb</u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Effective for the 2009-2010 academic year and each year thereafter, HB 475 prohibits a state university or community college from using state funds appropriated directly or indirectly to the institution and tuition and fee revenues generated by Florida residents to provide financial assistance to any student holding an F-1 or M-1 visa. Financial assistance does not include compensation paid to students for assistantships or participation in work-study programs.

HB 475 requires these funds to be redirected to provide additional need-based financial assistance to eligible Florida residents. After the unmet need for eligible Florida residents is fully satisfied without reliance on loans, any funds remaining must be used to provide merit-based financial assistance to eligible Florida residents.

HB 475 defines "eligible Florida resident" to mean a student classified at the time of initial enrollment at a state university or community college as a resident for tuition purposes pursuant to s. 1009.21, F.S. This definition prohibits students who become reclassified as a resident for tuition purposes from receiving the redirected aid.

HB 475 also creates reporting requirements for universities and community colleges effective December 31, 2008.

For the 2006-2007 academic year, an estimated \$9.4 million from state funds and tuition and fee revenues would have been redirected to Florida residents enrolled in the state universities and community colleges. (See Fiscal Comments)

The effective date of this act is July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – HB 475 creates reporting requirements for public universities and community colleges.

Empowers Families – HB 475 may give Florida residents previously unable to afford a higher education an opportunity to enroll in a public university or community college; however, this bill may also limit opportunities for foreign individuals or families by eliminating sources of financial assistance. The bill may also have the potential of decreasing the amount of private financial aid funds for Florida residents if institutions redirect such funds to foreign students in order to sustain the population of these students at an institution.

B. EFFECT OF PROPOSED CHANGES:

Background

Cost of Attendance

The cost of attending college varies by institution and a student's dependency status.¹ For a typical Florida community college student, the average cost of attending community college is 2001-02 was \$10,643. For universities, the average cost were \$11,659 for students living on campus and \$12,919 for those living off campus.² According to *The Measuring Up 2006 the National Report Card on Higher Education*, the average loan amount that undergraduate students in Florida borrow each year is \$3,291.³

Need-based Aid

To help students afford college, the state and federal government offer a variety of financial aid programs including both merit-based scholarships and need-based grants and loans. A student's eligibility for need-based programs is determined by computing the cost to attend an individual college or university and then subtracting the amount that the student's family is expected to contribute to the student's education. The cost of attendance includes tuition and fees, books and materials, room and board, transportation, and the personal expenses. To be considered for most need-based financial aid, a student must complete the Free Application for Federal Student Aid (FAFSA) form, and submit it to the US Department of Education. The federal government uses a formula to calculate the student's expected family contribution and then determines the student's unmet financial need by subtracting the expected family contribution from the total cost of attendance at their desired institutions.⁴

The Florida Student Assistance Grant (FSAG) Program consists of four state-funded financial assistance programs that are available to undergraduate students who demonstrate financial need. The FSAG is the State's primary need-based aid program. The FSAG Program is comprised of the following four programs: The Florida Public Student Assistance Grant Program, the Florida Private Student Assistance Grant Program, the Florida Postsecondary Student Assistance Grant Program and

¹ OPPAGA, *College Attendance Costs Vary and Result From Higher Tuition, Room, and Board*, Report No. 03-33, (June 2003)

² Id.

³ The National Center For Public Policy and higher Education <http://measuringup.highereducation.org>

⁴ Id.

the Florida Public Postsecondary Career Education Student Assistance Grant. Each program is funded separately. According to the Office of Student Financial Assistance 2006 – 2007 End of Year Report a total of 8,926 eligible students went unfunded through the Florida Public Student Assistance Grant. The State University System reported 4,362 eligible students who didn't receive funding and the community colleges reported 4,564 eligible students who didn't receive funding.⁵

F-1 and M-1 Visa

The Federal Immigration and Nationality Act (Act) provides two nonimmigrant visa categories for persons wishing to pursue full-time academic or vocational studies in the United States.⁶ The F-visa is reserved for nonimmigrants wishing to pursue academic studies and/or language training programs. The M-visa is reserved for nonimmigrants wishing to pursue nonacademic or vocational studies. Foreign students seeking to study in the United States may enter under an F-1 or M-1 visa provided they meet the following criteria:

- The student must be enrolled in an “academic” educational program, a language-training program, or a vocational program.
- The school must be approved by U.S. Citizenship and Immigration Services (USCIS).
- The student must be enrolled as a full-time student at the institution.
- The student must be proficient in English or be enrolled in courses leading to English proficiency.
- The student must maintain a residence abroad which he/she has no intention of giving up.
- The student must have sufficient funds available for self-support during the entire proposed course of study.
 - Financial evidence must be provided that shows the student or their parents who are sponsoring the student has sufficient funds to cover tuition and living expenses during the period of their intended study.⁷

Effect of Proposed Changes

Effective for the 2009-2010 academic year and each year thereafter, HB 475 prohibits a state university or community college from using state funds appropriated directly or indirectly to the institution and tuition and fee revenues generated by Florida residents to provide financial assistance to any student holding an F-1 or M-1 visa.

By December 31, 2008, each state university and community college must report to the President of the Senate and Speaker of the House of Representative the total amount of state funds appropriated directly or indirectly to the institution and tuition and fee revenues generated by Florida residents that was used to provide:

⁵ Office of Student Financial Assistance, https://www.floridastudentfinancialaidsg.org/pdf/EOY_Reports.asp?year=2006

⁶ According to 8U.S.C. § (a)(15)(F)(i), the term “immigrant” means

Every alien except an alien who is within one of the following classes of nonimmigrant aliens – an alien having a residence in a foreign country which he has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study ... at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in a language training program in the United States ... which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student.

⁷ Information received from a February 5, 2008, e-mail response from an employee of the Office of Congressional Relations, a division of U.S. Immigration and Customs Enforcement (ICE), a branch of the U.S. Department of Homeland Security (DHS).

- Financial assistance during the 2006-07 academic school year to students holding F-1 or M-1 visas and
- Need-based financial assistance during the 2006-2007 academic school year to students classified as residents for tuition purposes.

HB 475 requires the state funds appropriated directly or indirectly to the institution or tuition or fee revenues generated by Florida residents be redirected to provide additional need-based financial assistance to eligible Florida residents.

HB 475 defines "eligible Florida resident" to mean a student classified at the time of initial enrollment at a state university or community college as a resident for tuition purposes. This definition prohibits students who become reclassified as a resident for tuition purposes from receiving the redirected aid.

The redirected funds must not be used to reduce or supplant the existing level of funding Florida residents currently receive for need-based financial assistance from state funds appropriated directly or indirectly to the institution and tuition and fee revenues generated by Florida residents. After the unmet need for eligible Florida residents is fully satisfied without reliance on loans, any funds remaining must be used to provide merit-based financial assistance to eligible Florida residents.

C. SECTION DIRECTORY:

Section 1. Creates an unnumbered section to provide legislative intent; creates reporting requirements for state universities and community colleges; prohibits use of certain funds to provide financial assistance to certain foreign students; defines the term "eligible Florida resident;" and provides for redirection of funds to provide additional need-based financial assistance to eligible Florida residents.

Section 2. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS.

D. FISCAL COMMENTS:

The State University System reports that for the 2006-2007 academic year an estimated \$8.2 million from state funds and tuition and fee revenues would have been redirected to Florida residents enrolled in the State University System. The State University System during the 2006-2007 academic year had an estimated 1709 students with F-1 and M-1 visas.⁸

The Department of Education reports that for the 2006-2007 academic year an estimated \$1.2 million from state funds and tuition and fee revenues would have been redirected to Florida residents enrolled in the community colleges. The community colleges reported that 351 students with F-1 visas were enrolled during the 2006-07 academic year. No students with M-1 visas enrolled in community colleges during the 2006-07 academic year.⁹

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

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

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

2. Other:

Federal Constitution: The federal constitution grants congress plenary power to regulate immigration.¹⁰ Congress may make classifications based on citizenship as long as they are not arbitrary and

⁸ Information on the state university system and community college system provided by the Florida Board of Governors on January 14, 2008 by e-mail

⁹ Id.

¹⁰ U.S. Const. art I, § 8.

unreasonable.¹¹ F-1 or M-1 foreign students are required by federal law to maintain residency status in their native country with no intention of abandoning it. Such a person must be a student and is only authorized to remain in the country until completion of a course of study.¹²

The Equal Protection clause of the federal constitution protects individuals from statutory classifications that burden constitutionally protected fundamental rights.¹³ The U.S. Supreme Court has subjected statutory classifications that burden fundamental rights to strict scrutiny review.¹⁴ To be constitutional, the classification must be necessary to advance a compelling state interest using the least restrictive means available.¹⁵ Statutory classifications that do not burden a fundamental right are subject to rational basis review -- a lesser standard. Under rational basis review, the classification must be rationally related to a legitimate state interest. The court has held that education is not a fundamental right.¹⁶ Thus, a classification in the area of education that rationally relates to a legitimate state interest will stand.¹⁷

State statutes that classify persons based on alienage may also implicate equal protection.¹⁸ The court has applied strict scrutiny to invalidate state statutes that create alienage classifications. In each case, the statute in question drew a distinction between the rights of citizens and those of *resident aliens*.¹⁹ The court applies this standard to resident aliens based on their close connection to the country and near citizen-like status.²⁰

The court has either applied rational basis review or has declined to apply equal protection analysis in cases involving nonresident aliens.^{21 22} Thus, it appears that nonresident aliens are not a suspect class for equal protection purposes.²³ Other federal courts have upheld statutory classifications burdening nonresident aliens.²⁴

Florida Constitution: Florida courts, in determining whether an alienage classification is valid, appear to place heavy emphasis on whether the alien's status is permanent or temporary. The Florida Supreme Court has held that a temporary nonresident alien who is in the country indefinitely due to political

¹¹ *Mathews v. Diaz*, 426 U.S. 67, 82-83 (1976).

¹² 8 U.S.C.A. 1101(a)(15)(F)(i) and (M)(i).

¹³ U.S. Const. amend. XIV, § 1.

¹⁴ *See Zablocki v. Redhail*, 434 U.S. 374, 388 (1978)(Right to marry) and *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996)(Parental rights).

¹⁵ *Bernal v. Fainter*, 467 U.S. 216 (1984).

¹⁶ *San Antonio Independent School Dist. v. Rodriguez*, 411 U.S. 1, 37-38 (1973).

¹⁷ *San Antonio Independent School Dist.*, 411 U.S. at 54-55.

¹⁸ *Graham v. Richardson*, 403 U.S. 365, 372 (1971).

¹⁹ *Graham v. Richardson*, 403 U.S. 365, 372 (1971)(Arizona law requiring five year durational residency requirement for welfare benefits); *Application of Griffiths*, 413 U.S. 717, 721-722 (1973)(Connecticut rule restricting state bar admission to citizens); *Examining Board v. Flores de Otero*, 426, U.S. 572, 601-602 (1976)(Puerto Rico law denying engineering license to aliens); *Nyquist v. Maucet*, 432, U.S. 1 (1977)(New York law providing eligibility for state student financial aid program to citizens and resident aliens who had either applied for or filed intent to apply for citizenship).

²⁰ *Application of Griffiths*, 413 U.S. 717, 722 (1973).

²¹ *Plyler v. Doe*, 457 U.S. 202, 224-230 (1982)(Invalidating a Texas law denying undocumented alien children free access to public schools. Holding that such persons are not a suspect class because their presence in the country is illegal. Holding that education is not a fundamental right that triggers strict scrutiny review).

²² *Toll v. Moreno*, 458 U.S. 1, 9-14 (1982)(Maryland law prohibiting G-4 nonresident aliens from claiming residence for in-state tuition purposes was invalid because it conflicted with federal immigration law. Federal requirements for G-4 aliens do not preclude such persons from declaring U.S. residency. The court specifically cites that F-1 visa status would not authorize the holder to establish residency in the U.S. for tuition purposes).

²³ *See Plyler*, 457 U.S. at 223 and *Toll*, 458 U.S. at 12-14 (1982).

²⁴ *LeClerc v. Webb*, 419 F.3d 405 (5th Cir. 2005)(Louisiana rule prohibiting nonresident aliens from sitting for the Louisiana bar examination upheld); *United Latin American Citizens v. Bredesen*, 500 F.3d 523 (6th Cir. 2007)(Tennessee statute limiting the issuance of driver's licenses to citizens and resident aliens while requiring nonresident aliens to obtain a separate driver's credential upheld. The court applied rational basis review, reasoning that the statute in question did not classify "citizens" versus "aliens." Instead, the classification was based on the legality of the alien's presence or the length of time the alien was authorized to remain in the country and, thus, was permissible).

persecution may not claim residency status for homestead exemption purposes.²⁵ The court held that, while holders of permanent alien status might lawfully claim residency for such purposes, temporary aliens cannot.²⁶ The court also held that such persons did not constitute a suspect class under the state equal protection clause because all similarly situated individuals were treated equally.²⁷

If the bill is challenged on equal protection grounds and the court subjects it to strict scrutiny review, it could be argued that the bill serves a compelling state interest in reserving limited state resources to expand access to postsecondary education and reduce student loan debt for Florida residents. Expanding access and increasing financial assistance may benefit the state economically if more Florida residents earn a postsecondary degree, increase their earning potential, and remain in Florida to contribute to its economy. The bill appears to be narrowly tailored to advance the interest of the state in that it only prohibits use of state funds to provide financial assistance to students with an F-1 or M-1 visa, and does not include those students receiving paid compensation for assistantships or participation in work-study programs. Such students also may still receive financial assistance via federal and private monies.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

D. STATEMENT OF THE SPONSOR

This legislation allows children of Florida taxpayers who qualify for need based aid to move to the front of the "tuition aid" line in order to attend one of Florida's public institutions of higher learning.

Most importantly, this legislation DOES NOT deny foreign students the opportunity to secure state funding. It allows residents of the State of Florida first preference in acquiring these limited funds on a need based aid basis.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

²⁵ *Juarrero v. McNayr*, 157 So.2d 79, 80-81 (Fla. 1963).

²⁶ *Juarrero*, at 80-81.

²⁷ *Id.* See also *Lisboa v. Dade County Property Appraiser*, 705 So.2d 704 (Fla. 3rd DCA 1998)(Holding that certain asylum applicants could claim permanent residency in Florida for homestead exemption purposes. The 3rd DCA declined to follow *Juarrero*, because the alien status considered there was changed to allow such persons to opt for permanent status. The court held that such denial did not violate equal protection. However, it decided the case in favor of plaintiff after determining his status to be permanent. The court certified the question to the Florida Supreme Court, which subsequently declined to hear the case. Thus, it appears that the general holding in *Juarrero* still stands. That is, an alien must have a permanent visa status to establish permanent residency in Florida. See *Lisboa v. Dade County Property Appraiser*, 737 So.2d 1078 (Fla. 1999)).

1 A bill to be entitled

2 An act relating to student financial assistance; providing
 3 legislative intent to expand access to postsecondary
 4 education and reduce student indebtedness; requiring each
 5 state university and community college to report
 6 information relating to certain funds used to provide
 7 financial assistance to certain students; prohibiting the
 8 use of such funds to provide financial assistance to
 9 specified foreign students; defining the term "eligible
 10 Florida resident"; providing for the redirection of funds
 11 to provide additional need-based financial assistance to
 12 eligible Florida residents; requiring a report by state
 13 universities and community colleges; providing an
 14 effective date.

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

17
 18 Section 1. (1) It is the intent of the Legislature to use
 19 a portion of the state's limited resources to expand access to
 20 postsecondary education and to reduce student indebtedness by
 21 increasing need-based financial assistance for Florida
 22 residents. Expanding access and increasing financial assistance
 23 will encourage Florida residents to pursue postsecondary
 24 education, which will produce economic benefits for the state by
 25 increasing the levels of higher educational attainment and
 26 earning potential of Florida's citizenry.

27 (2) By December 31, 2008, each state university and
 28 community college shall report to the President of the Senate

29 and the Speaker of the House of Representatives:

30 (a) The total amount of state funds appropriated directly
 31 or indirectly to the institution and tuition and fee revenues
 32 generated by Florida residents that was used to provide
 33 financial assistance during the 2006-2007 academic year to
 34 students holding F-1 or M-1 visas.

35 (b) The total amount of state funds appropriated directly
 36 or indirectly to the institution and tuition and fee revenues
 37 generated by Florida residents that was used to provide need-
 38 based financial assistance during the 2006-2007 academic year to
 39 students classified as residents for tuition purposes pursuant
 40 to s. 1009.21, Florida Statutes.

41 (3) Effective for the 2009-2010 academic year and each
 42 year thereafter:

43 (a) A state university or community college shall not use
 44 state funds appropriated directly or indirectly to the
 45 institution or tuition or fee revenues generated by Florida
 46 residents to provide financial assistance to any student holding
 47 an F-1 or M-1 visa.

48 (b) The amount of funds reported pursuant to paragraph
 49 (2)(a) shall be used by an institution to provide additional
 50 need-based financial assistance to eligible Florida residents.
 51 If the unmet need for eligible Florida residents is fully
 52 satisfied without reliance on loans, any remaining funds shall
 53 be used to provide merit-based financial assistance to eligible
 54 Florida residents.

55 (4) For purposes of this section, "eligible Florida
 56 resident" means a student classified at the time of initial

57 enrollment at a state university or community college as a
 58 resident for tuition purposes pursuant to s. 1009.21, Florida
 59 Statutes.

60 (5) Funds redirected pursuant to this section shall be
 61 additional funds for need-based financial assistance for
 62 eligible Florida residents and shall not be used to reduce or
 63 supplant the level of funding for need-based financial
 64 assistance for such students.

65 (6) For purposes of this section, financial assistance
 66 does not include compensation paid to students for
 67 assistantships or participation in work-study programs.

68 (7) Each state university and community college shall
 69 report to the President of the Senate and the Speaker of the
 70 House of Representatives by July 1, 2010, the number of Florida
 71 residents benefiting from the use of financial assistance
 72 provided from the funds redirected pursuant to this section.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 745 State University Student Fees

SPONSOR(S): Precourt

TIED BILLS: IDEN./SIM. BILLS: SB 320

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Schools & Learning Council		Thomas <i>MT</i>	Cobb <i>See</i>
2) Policy & Budget Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 745 revises the eligibility criteria for state universities authorized by the Board of Governors to establish a uniform maximum undergraduate tuition differential, which does not exceed 30 percent of tuition, to require only that the institution have research expenditures from externally awarded contracts and grants of at least \$100 million per year. Accordingly, these universities would no longer have to meet the 2005 Carnegie Classifications as a research university with very high research activity to qualify for the tuition differential.

Under the new eligibility criterion, the University of Central Florida and Florida International University likely would be eligible for the tuition differential, thus making five of the 11 state universities eligible for the tuition differential.

The fiscal impact of the bill is indeterminate. (See Fiscal Comments)

The effective date of this act is July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – Revenue generated must be spent solely for improving the quality of direct undergraduate instruction and support services.

Ensure lower taxes – Students would be required to pay the tuition differential fee if they attend an institution that has received approval from the Board of Governors to implement the tuition differential.

B. EFFECT OF PROPOSED CHANGES:

Background

The 2007 Legislature authorized the Board of Governors of the State University System to establish a tuition differential for research universities that meet the criteria for Funding Level I or Level 2 under s. 1004.635(3), F.S.¹ The tuition differential is a supplemental fee that the Board of Governors could authorize research universities to charge for the purpose of improving undergraduate instruction and support services.

The Board of Governors may establish a tuition differential for Level I institutions that does not exceed 40 percent of tuition. Level I institutions are defined as meeting the following criteria:

- The number of nonprofessional doctoral degrees² awarded each year must exceed 250, and at least 25 percent of the nonprofessional doctoral degrees must be in a mathematics, science, technology, engineering, or a health-related discipline;
- The number of postdoctoral appointees reported in the most recent National Science Foundation/National Institutes of Health Survey of Graduate Students and Postdoctorates in Science and Engineering must exceed 200;
- A 4-year undergraduate graduation rate must equal 40 percent or higher;
- Expenditures from externally awarded contracts and grants must be a minimum of \$100 million per year;
- The university must have a proven track record of securing patents and licenses leading to products in the marketplace over the last five years;
- At least 75 percent of the entering freshman each academic year who are classified as residents for tuition purposes must be eligible to receive Florida Bright Futures Scholarships; and
- The Basic Classification of the university, according to the 2005 Carnegie Classification, must be as a research university with very high research activity.

Currently, Florida State University and the University of Florida meet the criteria of Level 1.

The Board of Governors may establish a tuition differential that does not exceed 30 percent of tuition for all institutions that qualify as Level 2. Level 2 institutions are defined to meet the following criteria:

¹ ch. 2007-225, L.O.F.:

² The statute specifies that for purposes of this program, nonprofessional doctoral degrees do not include degrees awarded in law, medicine, dentistry, and veterinary medicine.

- Expenditures from externally awarded contracts and grants must be a minimum of \$100 million per year; and
- The Basic Classification of the university, according to the 2005 Carnegie Classification, must be as a research university with very high research activity.

The University of South Florida meets the criteria for Level 2.

The maximum tuition differential established by the Board of Governors for Level I institutions must be at least 30 percent greater than the maximum tuition differential established by the board for Level 2 institutions. The growth of tuition plus the differential cannot exceed 15 percent for any fiscal year. Revenue generated by the tuition differential must be spent solely for improving the quality of direct undergraduate instruction and support services. The tuition differential is exempt from payment under the Bright Futures Scholarship Program and does not apply to prepaid contracts issued before July 1, 2007. The differential does not apply to any student who is in attendance, and is continuously enrolled, at the institution before July 1, 2007. Finally, the differential may be waived for need-based students.

Although the tuition differential law passed in 2007, the three eligible institutions agreed to delay imposing the tuition differential for one year.

Effect of Proposed Changes

HB 745 revises the eligibility criteria for state universities approved by the Board of Governors to establish a tuition differential that does not exceed 30 percent of tuition. The only qualifying criterion for these universities would be that the university must have research expenditures from externally awarded contracts and grand of at least \$100 million per year. The requirement for the university to be recognized as a research university with very high research activity under the 2005 Carnegie Classification is eliminated.

According to the Board of Governors, using the most recently available sponsored researched data, the University of Central Florida (UCF) would meet the threshold set in the bill, and Florida International University (FIU), which was slightly under the threshold last year, possibly could meet it by the time the bill took effect.

The bill retains the prepaid tuition contract exemption for contracts in effect on July 1, 2007, and the exemption from the Bright Futures Scholarship program. Students who are in attendance to the newly qualifying institution prior to July 1, 2007, would be exempt. However, a student who enrolled in the university subsequent to the date, but before the effective date of the act, would be subject to the increased tuition.

C. SECTION DIRECTORY:

Section 1. Amends s. 1009.24, F.S.; modifying the criteria for establishing a uniform maximum undergraduate tuition differential fee.

Section 2. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to the Board of Governors, if authorization is given to UCF for a tuition differential, it would generate approximately \$500,000 to \$745,000 in 2008-09, \$3.6 million to \$5.3 million in 2009-10, and \$10.4 million to \$15 million in 2010-11.³ Also, If FIU reached \$100 million in contracts and grant expenditures, and received authorization for a tuition differential; it would generate approximately \$500,000 to \$747,000 in 2008-09, \$3.6 million to \$5.4 million in 2009-10, and \$10.4 million to \$15.2 million in 2010-11.⁴

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Students would have to pay the tuition differential unless: 1) they were in attendance at the university before July 1, 2007, and remained continuously enrolled; 2) they were the beneficiary of a prepaid tuition contract in the Stanley G. Tate Florida Prepaid College Program that was in effect on July 1, 2007, and remained in effect; or 3) they were eligible for the Florida Public Student Assistance Grant and the university waived the fee. Also, the tuition differential is not covered by the Bright Futures Scholarship Program.

D. FISCAL COMMENTS:

The fiscal impact of the bill is indeterminate because the fee is authorized rather than required. The Board of Governors is authorized to establish a uniform maximum undergraduate tuition differential that does not exceed 30 percent, which leaves a range that the fee could fall between.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

³ Board of Governors Analysis of HB 745

⁴ Id.

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

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

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

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR

Waived by the sponsor due to time constraints.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to state university student fees; amending
 3 s. 1009.24, F.S.; modifying the criteria for establishing
 4 a uniform maximum undergraduate tuition differential;
 5 providing an effective date.

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

8
 9 Section 1. Subsection (16) of section 1009.24, Florida
 10 Statutes, is amended to read:

11 1009.24 State university student fees.--

12 (16) The Board of Governors may establish a uniform
 13 maximum undergraduate tuition differential that does not exceed
 14 40 percent of tuition for all universities that meet the
 15 criteria for Funding Level 1 under s. 1004.635(3), and may
 16 establish a uniform maximum undergraduate tuition differential
 17 that does not exceed 30 percent of tuition for all universities
 18 that have research expenditures from externally awarded
 19 contracts and grants of at least \$100 million per year ~~meet the~~
 20 ~~criteria for Funding Level 2 under s. 1004.635(3)~~. However, the
 21 board shall ensure that the maximum tuition differential it
 22 establishes for universities meeting the Funding Level 1
 23 criteria is at least 30 percent greater than the maximum tuition
 24 differential the board establishes for universities that meet
 25 the required Funding Level 2 criteria for research contracts.

26 The tuition differential is subject to the following conditions:

27 (a) The sum of tuition and the tuition differential may
 28 not be increased by more than 15 percent of the total charged

29 for these fees in the preceding fiscal year.

30 (b) The tuition differential may not be calculated as a
 31 part of the scholarship programs established in ss. 1009.53-
 32 1009.537.

33 (c) Beneficiaries having prepaid tuition contracts
 34 pursuant to s. 1009.98(2)(b) which were in effect on July 1,
 35 2007, and which remain in effect, are exempt from the payment of
 36 the tuition differential.

37 (d) The tuition differential may not be charged to any
 38 student who was in attendance at the university before July 1,
 39 2007, and who maintains continuous enrollment.

40 (e) The tuition differential may be waived by the
 41 university for students who meet the eligibility requirements
 42 for the Florida public student assistance grant established in
 43 s. 1009.50.

44 (f) A university board of trustees that has been
 45 authorized by the Board of Governors to establish a tuition
 46 differential pursuant to this subsection may establish the
 47 tuition differential at a rate lower than the maximum tuition
 48 differential established by the board, but may not exceed the
 49 maximum tuition differential established by the board.

50 (g) The revenue generated from the tuition differential
 51 must be spent solely for improving the quality of direct
 52 undergraduate instruction and support services.

53 (h) Information relating to the annual receipt and
 54 expenditure of the proceeds from the assessment of the tuition
 55 differential shall be reported by the university in accordance
 56 with guidelines established by the Board of Governors.

HB 745

2008

57

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

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 745

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Schools & Learning Council
 2 Representative(s) Pickens and Traviesa offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:
 6 Section 1. Subsection (4) of section 216.136, Florida Statutes,
 7 is amended to read:

8 216.136 Consensus estimating conferences; duties and
 9 principals.--

10 (4) EDUCATION ESTIMATING CONFERENCE.--

11 (a) The Education Estimating Conference shall develop such
 12 official information relating to the state public and private
 13 educational system, including forecasts of student enrollments,
 14 the number of students qualified for state financial aid
 15 programs, and for the William L. Boyd, IV, Florida Resident
 16 Access Grant Program, and for the Access to Better Learning and
 17 Education Grant Program and the appropriation required to fund
 18 the full award amounts for each program, fixed capital outlay
 19 needs, and Florida Education Finance Program formula needs, as
 20 the conference determines is needed for the state planning and
 21 budgeting system.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

22 (b) Public Schools.-- The conference's initial projections
23 of enrollments in public schools shall be forwarded by the
24 conference to each school district no later than 2 months prior
25 to the start of the regular session of the Legislature. Each
26 school district may, in writing, request adjustments to the
27 initial projections. Any adjustment request shall be submitted
28 to the conference no later than 1 month prior to the start of
29 the regular session of the Legislature and shall be considered
30 by the principals of the conference. A school district may amend
31 its adjustment request, in writing, during the first 3 weeks of
32 the legislative session, and such amended adjustment request
33 shall be considered by the principals of the conference. For any
34 adjustment so requested, the district shall indicate and
35 explain, using definitions adopted by the conference, the
36 components of anticipated enrollment changes that correspond to
37 continuation of current programs with workload changes; program
38 improvement; program reduction or elimination; initiation of new
39 programs; and any other information that may be needed by the
40 Legislature. For public schools, the conference shall submit its
41 full-time equivalent student consensus estimate to the
42 Legislature no later than 1 month after the start of the regular
43 session of the Legislature. No conference estimate may be
44 changed without the agreement of the full conference.

45 (c) Postsecondary Education.-- The conference shall
46 estimate a state-level demand pool for postsecondary education
47 that includes all delivery systems, public and private. The
48 conference shall calculate the level of public postsecondary
49 enrollment from the initial demand value. Once the state level
50 public sector demand has been established, the conference shall
51 use current policies and relationships to allocate the demand
52 into the appropriate delivery systems within the public sector.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

53 The conference's initial projections of enrollments in public
54 postsecondary institutions shall be forwarded by the conference
55 to the State Board of Education and the Board of Governors no
56 later than 2 months prior to the start of the regular session of
57 the Legislature for distribution to their respective
58 institutions. Each institution may, in writing, request
59 adjustments to the initial projections. Any adjustment request
60 shall be submitted to the conference no later than 1 month prior
61 to the start of the regular session of the Legislature and shall
62 be considered by the principals of the conference. A public
63 postsecondary institution may amend its adjustment request, in
64 writing, during the first 3 weeks of the legislative session,
65 and such amended adjustment request shall be considered by the
66 principals of the conference. For any adjustment so requested,
67 the institution shall indicate and explain, using definitions
68 adopted by the conference, the components of anticipated
69 enrollment changes that correspond to continuation of current
70 programs with workload changes; program improvement; program
71 reduction or elimination; initiation of new programs; and any
72 other information that may be needed by the Legislature. The
73 conference shall submit its full-time equivalent student
74 consensus estimate for public postsecondary education to the
75 Legislature no later than 1 month after the start of the regular
76 session of the Legislature. No conference estimate may be
77 changed without the agreement of the full conference.

78 (d) ~~(b)~~ Student Financial Assistance.-- No later than 2
79 months prior to the start of the regular session of the
80 Legislature, the conference shall forward to each eligible
81 postsecondary education institution its initial projections of
82 the number of students qualified for state financial aid
83 programs and the appropriation required to fund those students

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

84 at the full award amount. Each postsecondary education
85 institution may request, in writing, adjustments to the initial
86 projection. Any adjustment request must be submitted to the
87 conference no later than 1 month prior to the start of the
88 regular session of the Legislature and shall be considered by
89 the principals of the conference. For any adjustment so
90 requested, the postsecondary education institution shall
91 indicate and explain, using definitions adopted by the
92 conference, the components of anticipated changes that
93 correspond to continuation of current programs with enrollment
94 changes, program reduction or elimination, initiation of new
95 programs, award amount increases or decreases, and any other
96 information that is considered by the conference. The conference
97 shall submit its consensus estimate to the Legislature no later
98 than 1 month after the start of the regular session of the
99 Legislature. No conference estimate may be changed without the
100 agreement of the full conference.

101 Section 2. Subsection (1) of section 1005.32, Florida
102 Statutes, is amended to read:

103 1005.32 Licensure by means of accreditation.--

104 (1) An independent postsecondary educational institution
105 that meets the following criteria may apply for a license by
106 means of accreditation from the commission:

107 (a) The institution has operated legally in this state for
108 at least 5 consecutive years.

109 (b) The institution holds institutional accreditation by
110 an accrediting agency evaluated and approved by the commission
111 as having standards substantially equivalent to the commission's
112 licensure standards.

113 (c) The institution has no unresolved complaints or
114 actions in the past 12 months.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

115 (d) The institution meets minimum requirements for
116 financial responsibility as determined by the commission.

117 ~~(c) The institution is a Florida corporation.~~

118 Section 3. Subsection (3) of section 1009.01, Florida
119 Statutes, is amended and subsections (4), (5), and (6) are added
120 to read:

121 1009.01 Definitions.--The term:

122 (3) "Tuition differential" means the supplemental fee
123 charged to a student for instruction provided by a public
124 university in this state pursuant to s. 1009.24(16)~~(15)~~.

125 (4) "Undergraduate tuition" means the basic fee charged to
126 a student for instruction provided by a state university in a
127 lower level course or in an upper level course.

128 (5) "Graduate tuition" means the basic fee charged to a
129 student for instruction provided by a state university in a
130 graduate level course. Graduate level courses do not include
131 courses in professional programs.

132 (6) "Professional programs" means programs in dentistry,
133 law, medicine, pharmacy, and veterinary medicine.

134 Section 4. Section 1009.21, Florida Statutes, is amended
135 to read:

136 1009.21 Determination of resident status for tuition
137 purposes and student eligibility for state financial aid awards
138 and tuition assistance grants.-- Students shall be classified as
139 residents or nonresidents for the purpose of assessing tuition
140 in community colleges and state universities and for the purpose
141 of determining student eligibility for state financial aid
142 awards and tuition assistance grants.

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

144 (a) ~~The term~~ "Dependent child" means any person, whether
145 or not living with his or her parent, who is eligible to be

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

146 claimed by his or her parent as a dependent under the federal
147 income tax code.

148 (b) "Initial enrollment" means the first day of class at
149 an institution of higher education.

150 (c) ~~(b)~~ The term "Institution of higher education" means
151 any public community college or state university or any
152 institution eligible to participate in a program established
153 pursuant to s. 1009.50, s. 1009.505, s. 1009.51, s. 1009.52, s.
154 1009.53, s. 1009.54, s. 1009.56, s. 1009.57, s. 1009.60, s.
155 1009.62, s. 1009.63, s. 1009.68, s. 1009.72, s. 1009.73, s.
156 1009.76, s. 1009.77, s. 1009.89, or s. 1009.891.

157 (d) ~~(e)~~ A "Legal resident" or "resident" means ~~is~~ a person
158 who has maintained his or her residence in this state for the
159 preceding year, has purchased a home which is occupied by him or
160 her as his or her residence, or has established a domicile in
161 this state pursuant to s. 222.17.

162 (e) "Nonresident for tuition purposes" means a person who
163 does not qualify for the in-state tuition rate.

164 (f) ~~(d)~~ The term "Parent" means the natural or adoptive
165 parent or legal guardian of a dependent child.

166 (g) ~~(e)~~ A "Resident for tuition purposes" means ~~is~~ a person
167 who qualifies as provided in subsection (2) for the in-state
168 tuition rate; a "nonresident for tuition purposes" is a person
169 who does not qualify for the in-state tuition rate.

170 (2) (a) To qualify as a resident for tuition purposes:

171 1. A person or, if that person is a dependent child, his
172 or her parent or parents must have established legal residence
173 in this state and must have maintained legal residence in this
174 state for at least 12 consecutive months immediately prior to
175 his or her initial enrollment in an institution of higher
176 education qualification. Legal residence must be established by

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

177 written or electronic verification that includes two or more of
178 the following Florida documents that demonstrate clear and
179 convincing evidence of continuous residence in the state for at
180 least 12 consecutive months prior to the student's initial
181 enrollment in an institution of higher education: a voter
182 information card pursuant to s. 97.071; a driver's license; an
183 identification card issued by the State of Florida; a vehicle
184 registration; a declaration of domicile; proof of purchase of a
185 permanent home; a transcript from a Florida high school; a
186 Florida GED diploma and transcript; proof of permanent full-time
187 employment; proof of 12 consecutive months of payment of utility
188 bills; a domicile lease and proof of 12 consecutive months of
189 payments; or other official state or court documents evidencing
190 legal ties to Florida. No single piece of evidence shall be
191 conclusive.

192 2. Every applicant for admission to an institution of
193 higher education shall be required to make a statement as to his
194 or her length of residence in the state and, further, shall
195 establish that his or her presence or, if the applicant is a
196 dependent child, the presence of his or her parent or parents in
197 the state currently is, and during the requisite 12-month
198 qualifying period was, for the purpose of maintaining a bona
199 fide domicile, rather than for the purpose of maintaining a mere
200 temporary residence or abode incident to enrollment in an
201 institution of higher education.

202 (b) However, with respect to a dependent child living with
203 an adult relative other than the child's parent, such child may
204 qualify as a resident for tuition purposes if the adult relative
205 is a legal resident who has maintained legal residence in this
206 state for at least 12 consecutive months immediately prior to
207 the child's initial enrollment in an institution of higher

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

208 education qualification, provided the child has resided
209 continuously with such relative for the 5 years immediately
210 prior to the child's initial enrollment qualification, during
211 which time the adult relative has exercised day-to-day care,
212 supervision, and control of the child.

213 (c) The legal residence of a dependent child whose parents
214 are divorced, separated, or otherwise living apart will be
215 deemed to be this state if either parent is a legal resident of
216 this state, regardless of which parent is entitled to claim, and
217 does in fact claim, the minor as a dependent pursuant to federal
218 individual income tax provisions.

219 (d) A person who is classified as a nonresident for
220 tuition purposes may become eligible for reclassification as a
221 resident for tuition purposes if that person or, if that person
222 is a dependent child, his or her parent presents clear and
223 convincing evidence that supports permanent residency in this
224 state rather than temporary residency for the purpose of
225 pursuing an education, such as documentation of full-time
226 permanent employment for the prior 12 months or the purchase of
227 a home in this state and residence therein for the prior 12
228 months. If a person who is a dependent child and his or her
229 parent move to this state while such child is a high school
230 student and the child graduates from a high school in this
231 state, the child may become eligible for reclassification as a
232 resident for tuition purposes when the parent qualifies for
233 permanent residency.

234 (3) (a) An individual shall not be classified as a resident
235 for tuition purposes and, thus, shall not be eligible to receive
236 the in-state tuition rate until he or she has provided such
237 evidence related to legal residence and its duration or, if that
238 individual is a dependent child, documentation of his or her

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

239 parent's legal residence and its duration, as well as
240 documentation confirming his or her status as a dependent child,
241 as may be required by law and by officials of the institution of
242 higher education from which he or she seeks the in-state tuition
243 rate. The documentation shall provide clear and convincing
244 evidence that residency in this state was for a minimum of 12
245 months prior to the student's initial enrollment in an
246 institution of higher education. No single piece of evidence
247 shall be conclusive.

248 (b) Each institution of higher learning shall:

249 1. Determine whether an applicant who has been granted
250 admission to that institution is a dependent child.

251 2. Affirmatively determine that an applicant who has been
252 granted admission to that institution as a Florida resident
253 meets the residency requirements of this section at the time of
254 initial enrollment.

255 (4) With respect to a dependent child, the legal residence
256 of such individual's parent or parents is prima facie evidence
257 of the individual's legal residence, which evidence may be
258 reinforced or rebutted, relative to the age and general
259 circumstances of the individual, by the other evidence of legal
260 residence required of or presented by the individual. However,
261 the legal residence of an individual whose parent or parents are
262 domiciled outside this state is not prima facie evidence of the
263 individual's legal residence if that individual has lived in
264 this state for 5 consecutive years prior to enrolling or
265 reregistering at the institution of higher education at which
266 resident status for tuition purposes is sought.

267 (5) In making a domiciliary determination related to the
268 classification of a person as a resident or nonresident for
269 tuition purposes, the domicile of a married person, irrespective

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

270 of sex, shall be determined, as in the case of an unmarried
271 person, by reference to all relevant evidence of domiciliary
272 intent. For the purposes of this section:

273 (a) A person shall not be precluded from establishing or
274 maintaining legal residence in this state and subsequently
275 qualifying or continuing to qualify as a resident for tuition
276 purposes solely by reason of marriage to a person domiciled
277 outside this state, even when that person's spouse continues to
278 be domiciled outside of this state, provided such person
279 maintains his or her legal residence in this state.

280 (b) A person shall not be deemed to have established or
281 maintained a legal residence in this state and subsequently to
282 have qualified or continued to qualify as a resident for tuition
283 purposes solely by reason of marriage to a person domiciled in
284 this state.

285 (c) In determining the domicile of a married person,
286 irrespective of sex, the fact of the marriage and the place of
287 domicile of such person's spouse shall be deemed relevant
288 evidence to be considered in ascertaining domiciliary intent.

289 (6) Any nonresident person, irrespective of sex, who
290 marries a legal resident of this state or marries a person who
291 later becomes a legal resident may, upon becoming a legal
292 resident of this state, accede to the benefit of the spouse's
293 immediately precedent duration as a legal resident for purposes
294 of satisfying the 12-month durational requirement of this
295 section.

296 (7) A person shall not lose his or her resident status for
297 tuition purposes solely by reason of serving, or, if such person
298 is a dependent child, by reason of his or her parent's or
299 parents' serving, in the Armed Forces outside this state.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

300 (8) A person who has been properly classified as a
301 resident for tuition purposes but who, while enrolled in an
302 institution of higher education in this state, loses his or her
303 resident tuition status because the person or, if he or she is a
304 dependent child, the person's parent or parents establish
305 domicile or legal residence elsewhere shall continue to enjoy
306 the in-state tuition rate for a statutory grace period, which
307 period shall be measured from the date on which the
308 circumstances arose that culminated in the loss of resident
309 tuition status and shall continue for 12 months. However, if the
310 12-month grace period ends during a semester or academic term
311 for which such former resident is enrolled, such grace period
312 shall be extended to the end of that semester or academic term.

313 (9) Any person who ceases to be enrolled at or who
314 graduates from an institution of higher education while
315 classified as a resident for tuition purposes and who
316 subsequently abandons his or her domicile in this state shall be
317 permitted to reenroll at an institution of higher education in
318 this state as a resident for tuition purposes without the
319 necessity of meeting the 12-month durational requirement of this
320 section if that person has reestablished his or her domicile in
321 this state within 12 months of such abandonment and continuously
322 maintains the reestablished domicile during the period of
323 enrollment. The benefit of this subsection shall not be accorded
324 more than once to any one person.

325 (10) The following persons shall be classified as
326 residents for tuition purposes:

327 (a) Active duty members of the Armed Services of the
328 United States residing or stationed in this state, their
329 spouses, and dependent children, and active members of the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

330 Florida National Guard who qualify under s. 250.10(7) and (8)
331 for the tuition assistance program.

332 (b) Active duty members of the Armed Services of the
333 United States and their spouses and dependents attending a
334 public community college or state university within 50 miles of
335 the military establishment where they are stationed, if such
336 military establishment is within a county contiguous to Florida.

337 (c) United States citizens living on the Isthmus of
338 Panama, who have completed 12 consecutive months of college work
339 at the Florida State University Panama Canal Branch, and their
340 spouses and dependent children.

341 (d) Full-time instructional and administrative personnel
342 employed by state public schools, community colleges, and
343 institutions of higher education, as defined in s. 1000.04, and
344 their spouses and dependent children.

345 (e) Students from Latin America and the Caribbean who
346 receive scholarships from the federal or state government. Any
347 student classified pursuant to this paragraph shall attend, on a
348 full-time basis, a Florida institution of higher education.

349 (f) Southern Regional Education Board's Academic Common
350 Market graduate students attending Florida's state universities.

351 (g) Full-time employees of state agencies or political
352 subdivisions of the state when the student fees are paid by the
353 state agency or political subdivision for the purpose of job-
354 related law enforcement or corrections training.

355 (h) McKnight Doctoral Fellows and Finalists who are United
356 States citizens.

357 (i) United States citizens living outside the United
358 States who are teaching at a Department of Defense Dependent
359 School or in an American International School and who enroll in

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

360 a graduate level education program which leads to a Florida
361 teaching certificate.

362 (j) Active duty members of the Canadian military residing
363 or stationed in this state under the North American Air Defense
364 (NORAD) agreement, and their spouses and dependent children,
365 attending a community college or state university within 50
366 miles of the military establishment where they are stationed.

367 (k) Active duty members of a foreign nation's military who
368 are serving as liaison officers and are residing or stationed in
369 this state, and their spouses and dependent children, attending
370 a community college or state university within 50 miles of the
371 military establishment where the foreign liaison officer is
372 stationed.

373 (11) The State Board of Education and the Board of
374 Governors shall adopt rules to implement this section.

375 Section 5. Subsection (6) of section 1009.22, Florida
376 Statutes, is amended to read:

377 1009.22 Workforce education postsecondary student fees.--

378 (6) Each district school board and community college board
379 of trustees may establish a separate fee for capital
380 improvements, technology enhancements, or equipping buildings
381 which may not exceed 5 percent of tuition for resident students
382 or 5 percent of tuition and out-of-state fees for nonresident
383 students. Funds collected by community colleges through these
384 fees may be bonded only for the purpose of financing or
385 refinancing new construction and equipment, renovation, or
386 remodeling of educational facilities. The fee shall be collected
387 as a component part of the tuition and fees, paid into a
388 separate account, and expended only to construct and equip,
389 maintain, improve, or enhance the certificate career education
390 or adult education facilities of the school district or

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

391 community college. Projects funded through the use of the
392 capital improvement fee must meet the survey and construction
393 requirements of chapter 1013. Pursuant to s. 216.0158, each
394 district school board and community college board of trustees
395 shall identify each project, including maintenance projects,
396 proposed to be funded in whole or in part by such fee. Capital
397 improvement fee revenues may be pledged by a board of trustees
398 as a dedicated revenue source to the repayment of debt,
399 including lease-purchase agreements and revenue bonds, with a
400 term not to exceed 20 years, and not to exceed the useful life
401 of the asset being financed, only for the new construction and
402 equipment, renovation, or remodeling of educational facilities.
403 Community colleges may use the services of the Division of Bond
404 Finance of the State Board of Administration to issue any bonds
405 authorized through the provisions of this subsection. Any such
406 bonds issued by the Division of Bond Finance shall be in
407 compliance with the provisions of the State Bond Act. Bonds
408 issued pursuant to the State Bond Act shall be validated in the
409 manner provided by chapter 75. The complaint for such validation
410 shall be filed in the circuit court of the county where the seat
411 of state government is situated, the notice required to be
412 published by s. 75.06 shall be published only in the county
413 where the complaint is filed, and the complaint and order of the
414 circuit court shall be served only on the state attorney of the
415 circuit in which the action is pending. A maximum of 15 percent
416 ~~cents per credit hour~~ may be allocated from the capital
417 improvement fee for child care centers conducted by the district
418 school board or community college board of trustees.

419 Section 6. Subsections (7) and (12) of s. 1009.23, Florida
420 Statutes, are amended to read:

421 1009.23 Community college student fees.--

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

422 (7) Each community college board of trustees may establish
423 a separate activity and service fee not to exceed 10 percent of
424 the tuition fee, according to rules of the State Board of
425 Education. The student activity and service fee shall be
426 collected as a component part of the tuition and fees. The
427 student activity and service fees shall be paid into a student
428 activity and service fund at the community college and shall be
429 expended for lawful purposes to benefit the student body in
430 general. These purposes include, but are not limited to, student
431 publications and grants to duly recognized student
432 organizations, the membership of which is open to all students
433 at the community college without regard to race, sex, or
434 religion. ~~No community college shall be required to lower any
435 activity and service fee approved by the board of trustees of
436 the community college and in effect prior to June 27, 2007, in
437 order to comply with the provisions of this subsection.~~

438 (12) (a) In addition to tuition, out-of-state, financial
439 aid, capital improvement, student activity and service, and
440 technology fees authorized in this section, each community
441 college board of trustees is authorized to establish fee
442 schedules for the following user fees and fines: laboratory
443 fees; parking fees and fines; library fees and fines; fees and
444 fines relating to facilities and equipment use or damage; access
445 or identification card fees; duplicating, photocopying, binding,
446 or microfilming fees; standardized testing fees; diploma
447 replacement fees; transcript fees; application fees; graduation
448 fees; and late fees related to registration and payment. Such
449 user fees and fines shall not exceed the cost of the services
450 provided and shall only be charged to persons receiving the
451 service. A community college may not charge any fee except as
452 authorized by law ~~or rules of the State Board of Education.~~

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

453 Parking fee revenues may be pledged by a community college board
454 of trustees as a dedicated revenue source for the repayment of
455 debt, including lease-purchase agreements and revenue bonds with
456 terms not exceeding 20 years and not exceeding the useful life
457 of the asset being financed. Community colleges shall use the
458 services of the Division of Bond Finance of the State Board of
459 Administration to issue any revenue bonds authorized by the
460 provisions of this subsection. Any such bonds issued by the
461 Division of Bond Finance shall be in compliance with the
462 provisions of the State Bond Act. Bonds issued pursuant to the
463 State Bond Act shall be validated in the manner established in
464 chapter 75. The complaint for such validation shall be filed in
465 the circuit court of the county where the seat of state
466 government is situated, the notice required to be published by
467 s. 75.06 shall be published only in the county where the
468 complaint is filed, and the complaint and order of the circuit
469 court shall be served only on the state attorney of the circuit
470 in which the action is pending.

471 (b) The State Board of Education may adopt rules pursuant
472 to ss. 120.536(1) and 120.54 to administer the provisions of
473 this section.

474 Section 7. Subsections (4) and (7) of section 1009.24,
475 Florida Statutes, are amended to read:

476 1009.24 State university student fees.--

477 (4) (a) 1. Effective January 1, 2008, ~~the resident~~
478 undergraduate tuition ~~for lower-level and upper-level coursework~~
479 shall be \$77.39 per credit hour.

480 2. (b) Beginning with the 2008-2009 fiscal year and each
481 year thereafter, the ~~resident~~ undergraduate tuition per credit
482 hour shall increase at the beginning of each fall semester at a
483 rate equal to inflation, unless otherwise provided in the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

484 General Appropriations Act. The Office of Economic and
485 Demographic Research shall report the rate of inflation to the
486 President of the Senate, the Speaker of the House of
487 Representatives, the Governor, and the Board of Governors each
488 year prior to March 1. For purposes of this paragraph, the rate
489 of inflation shall be defined as the rate of the 12-month
490 percentage change in the Consumer Price Index for All Urban
491 Consumers, U.S. City Average, All Items, or successor reports as
492 reported by the United States Department of Labor, Bureau of
493 Labor Statistics, or its successor for December of the previous
494 year. In the event the percentage change is negative, the
495 ~~resident~~ undergraduate tuition shall remain at the same level as
496 the prior fiscal year.

497 3. The Board of Governors, or the board's designee, may
498 establish the out-of-state fee for undergraduate courses. The
499 sum of the undergraduate tuition and the out-of-state fee
500 assessed to nonresident students for undergraduate courses must
501 be sufficient to offset the full instructional cost of serving
502 such students. However, adjustments to the out-of-state fee
503 pursuant to this paragraph may not exceed 10 percent in any
504 year.

505 (b)(e) The Board of Governors, or the board's designee,
506 may establish ~~tuition for graduate~~ tuition and professional
507 ~~programs,~~ and the out-of-state fees for graduate level courses
508 ~~all programs.~~ The sum of graduate tuition and the out-of-state
509 ~~fees~~ assessed to nonresident students for graduate level courses
510 must be sufficient to offset the full instructional cost of
511 serving such students. However, adjustments to the out-of-state
512 fees or graduate tuition for graduate and professional programs
513 pursuant to this paragraph ~~section~~ may not exceed 10 percent in
514 any year.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

515 (c) Each university board of trustees may establish the
516 tuition and out of state fee for each professional program
517 offered by the university. The sum of tuition and the out-of-
518 state fee assessed to nonresident students in professional
519 programs must be sufficient to offset the full instructional
520 cost of serving such students. Adjustments to the tuition or
521 out-of-state fee for any student who was enrolled in a
522 professional program prior to the Fall 2008 term and maintains
523 continuous enrollment in good academic standing in such program
524 as determined by the university may not exceed 10 percent in any
525 year.

526 (7) A university board of trustees is authorized to
527 collect for financial aid purposes an amount not to exceed 5
528 percent of the tuition and out-of-state fee. The revenues from
529 fees are to remain at each campus and replace existing financial
530 aid fees. Such funds shall be disbursed to students as quickly
531 as possible. ~~A minimum of 75 percent of funds from the student~~
532 ~~financial aid fee for new financial aid awards shall be used to~~
533 ~~provide financial aid based on absolute need.~~ A student who has
534 received an award prior to July 1, 1984, shall have his or her
535 eligibility assessed on the same criteria that were used at the
536 time of his or her original award. The Board of Governors shall
537 develop criteria for making financial aid awards. Each
538 university shall report annually to the Board of Governors and
539 the Department of Education on the revenue collected pursuant to
540 this subsection, the amount carried forward, the criteria used
541 to make awards, the amount and number of awards for each
542 criterion, and a delineation of the distribution of such awards.
543 The report shall include an assessment by category of the
544 financial need of every student who receives an award,
545 regardless of the purpose for which the award is received.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

546 Awards which are based on financial need shall be distributed in
547 accordance with a nationally recognized system of need analysis
548 approved by the Board of Governors. An award for academic merit
549 shall require a minimum overall grade point average of 3.0 on a
550 4.0 scale or the equivalent for both initial receipt of the
551 award and renewal of the award.

552 (16) The Board of Governors may establish a uniform
553 maximum undergraduate tuition differential that does not exceed
554 40 percent of tuition for all universities that meet the
555 criteria for Funding Level 1 under s. 1004.635(3), and may
556 establish a uniform maximum undergraduate tuition differential
557 that does not exceed 30 percent of tuition for all universities
558 that have total research and development expenditures for all
559 fields of at least \$100 million per year as reported annually to
560 the National Science Foundation ~~meet the criteria for Funding~~
561 ~~Level 2 under s. 1004.635(3)~~. However, the board shall ensure
562 that the maximum tuition differential it establishes for
563 universities meeting the Funding Level 1 criteria is at least 30
564 percent greater than the maximum tuition differential the board
565 establishes for universities that meet the required Funding
566 Level 2 criteria for research and development expenditures. The
567 tuition differential is subject to the following conditions:

568 (a) The sum of tuition and the tuition differential may
569 not be increased by more than 15 percent of the total charged
570 for these fees in the preceding fiscal year.

571 (b) The tuition differential may not be calculated as a
572 part of the scholarship programs established in ss. 1009.53-
573 1009.537.

574 (c) Beneficiaries having prepaid tuition contracts
575 pursuant to s. 1009.98(2)(b) which were in effect on July 1,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

576 2007, and which remain in effect, are exempt from the payment of
577 the tuition differential.

578 (d) The tuition differential may not be charged to any
579 student who was in attendance at the university before July 1,
580 2007, and who maintains continuous enrollment.

581 (e) The tuition differential may be waived by the
582 university for students who meet the eligibility requirements
583 for the Florida public student assistance grant established in
584 s. 1009.50.

585 (f) A university board of trustees that has been
586 authorized by the Board of Governors to establish a tuition
587 differential pursuant to this subsection may establish the
588 tuition differential at a rate lower than the maximum tuition
589 differential established by the board, but may not exceed the
590 maximum tuition differential established by the board.

591 (g) The revenue generated from the tuition differential
592 must be spent solely for improving the quality of direct
593 undergraduate instruction and support services.

594 (h) Information relating to the annual receipt and
595 expenditure of the proceeds from the assessment of the tuition
596 differential shall be reported by the university in accordance
597 with guidelines established by the Board of Governors.

598 Section 8. Subsection (3) of section 1009.25, Florida
599 Statutes, is amended to read:

600 1009.25 Fee exemptions.--

601 (3) At the discretion of the community college board of
602 trustees, each community college is authorized to grant student
603 fee exemptions from all fees authorized in s. 1009.23 adopted by
604 the State Board of Education and the community college board of
605 trustees for up to 0.5 percent of the community college's prior
606 year fee-paying full-time equivalent students or 54 40 full-time

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

607 equivalent students, whichever is greater at each institution.
608 A fee-paying student means a student enrolled in college-
609 preparatory courses, an associate in arts degree program, an
610 associate in science degree program, career preparatory
611 instruction, an educator preparation institute, or a
612 baccalaureate degree program.

613 Section 9. Section 1009.286, Florida Statutes, is created
614 to read:

615 1009.286 Additional student payment required for hours
616 exceeding graduation requirements.-

617 (1) It is the intent of the Legislature to encourage each
618 undergraduate student who enrolls in a state university to
619 complete the student's respective degree program in the most
620 efficient way possible while, at the same time, providing for
621 access to additional college coursework. The Legislature
622 therefore intends to enact a policy that provides incentives for
623 efficient degree completion and requires a student to pay an
624 excess hour surcharge equal to 50 percent of the tuition rate
625 for each credit hour in excess of 120 percent of the number of
626 credit hours required to complete the degree program in which he
627 or she is enrolled.

628 (2) The provisions of this section shall become effective
629 for students who enter a community college or a state university
630 for the first time in the 2008-2009 academic year and
631 thereafter.

632 (3) Except as otherwise provided by law, the following
633 hours shall be included when calculating, for purposes of this
634 section, the number of hours taken by a student:

635 (a) All credit hours for courses taken at the state
636 university from which the student is seeking a degree, including
637 repeated courses and failed courses, except as provided in s.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

638 1009.285, and courses that are dropped after the university's
639 advertised last day of drop and add.

640 (b) All credit hours earned at another institution and
641 accepted for transfer by the state university toward the
642 student's undergraduate degree.

643 (4) Credit hours earned under the following circumstances
644 are not calculated as hours required to earn a degree:

645 (a) College credits earned through an accelerated
646 mechanism identified in s. 1007.27;

647 (b) Credit hours earned through internship programs;

648 (c) Credit hours required for certification,
649 recertification, or certificate programs;

650 (d) Credit hours in courses from which a student must
651 withdraw due to reasons of medical or personal hardship;

652 (e) Credit hours taken by active-duty military personnel;

653 (f) Credit hours required to achieve a dual major
654 undertaken while pursuing a degree;

655 (g) Remedial and English as a Second Language credit
656 hours; and

657 (h) Credit hours earned in military science courses
658 (R.O.T.C).

659 (5) Each postsecondary institution shall implement a
660 process for notifying students regarding this section. The
661 notice must be provided upon the student's initial enrollment in
662 the institution and again upon the student's having earned the
663 credit hours required to complete the degree program in which he
664 or she is enrolled. The notice must include a recommendation
665 that each student who intends to earn credit hours at the
666 institution beyond those required for his or her enrolled degree
667 program meet with his or her academic advisor.

Amendment No. (for drafter's use only)

668 (6) A student may be granted an exemption from the excess
669 hour surcharge imposed pursuant to this section only if an
670 appeal has been granted by the state university based upon
671 documented extenuating circumstances.

672 Section 10. This act shall take effect July 1, 2008.

673

674

675

676

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

677

678 Remove the entire title and insert:

678

 A bill to be entitled

679

680 An act relating to postsecondary education; amending s.
681 216.136, F.S.; revising provisions relating to the
682 Education Estimating Conference; amending s. 1005.32,
683 F.S.; revising provisions relating to licensure by
684 accreditation; amending s. 1009.01, F.S.; providing
685 definitions; amending s. 1009.21, F.S.; revising
686 provisions relating to determination of residency status;
687 amending s. 1009.22, F.S.; revising provisions relating to
688 workforce education postsecondary student fees; amending
689 s. 1009.23, F.S., revising provisions relating to
690 community college student fees; amending s. 1009.24, F.S.;
691 revising provisions relating to state university student
692 fees; amending s. 1009.25, F.S.; revising provisions
693 relating to fee exemptions; creating s. 1009.286, F.S.,
694 providing for an excess hour surcharge; providing for
695 exemptions; providing an effective date.

696

697

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 893

Tax on Sales, Use, and Other Transactions

SPONSOR(S): Coley

TIED BILLS:

IDEN./SIM. BILLS: SB 2094

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Schools & Learning Council		Eggers <i>ME</i>	Cobb <i>cc</i>
2) Policy & Budget Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 893 establishes a sales tax holiday on August 2-11, 2008 (10 days). During the sales tax holiday, books, clothing, footwear, wallets, and bags that cost \$50 or less, and school supplies that cost \$10 or less, are exempt from the state sales tax and county discretionary sales surtaxes (commonly called "local option sales taxes"). The bill specifies that the sales tax holiday does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport. The bill provides a \$224,110 appropriation to the Department of Revenue for the administration of the sales tax holiday.

The bill is estimated to reduce state revenues by \$40.7 million and local revenues by \$9.0 million in FY 08-09.

This bill reduces the authority that counties have to raise revenue through local option discretionary sales surtaxes by \$7.7 million. No exemption applies, therefore the bill must have a 2/3 vote of the membership of each house.

This bill provides an effective date of July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: The bill reduces state and local tax collections.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Current law imposes a 6-percent tax on the retail sale of tangible personal property,¹ which includes books, clothing, footwear, wallets, bags, and school supplies.

In addition, county governments may impose discretionary sales surtaxes (e.g., indigent care and trauma center surtax, county public hospital surtax, school capital outlay surtax).² County discretionary sales surtaxes (commonly called "local option sales taxes") apply to all transactions in the county which are subject to the state sales tax.³

History of Sales Tax Holidays:

Since 1998, the Legislature has enacted eight temporary exemptions (commonly called "sales tax holidays") from the state sales tax and county discretionary sales surtaxes.⁴ The 1998 sales tax holiday exempted clothing and footwear that cost \$50 or less from taxation for 7 days.

From 1999 through 2006, each sales tax holiday has lasted for 9 days. The 2007 sales tax holiday lasted for 10 days.

Beginning in 1999, in addition to exempting clothing and footwear from taxation, each sales tax holiday has also exempted wallets and bags.

Except for 1999 and 2000, the sales tax holiday has been limited to clothing, footwear, wallets, and bags that cost \$50 or less. In 1999 and 2000, the Legislature increased the exemption to \$100 or less.

Beginning in 2001, each sales tax holiday has also exempted school supplies that cost \$10 or less from taxation. Since 2004, the Legislature has also exempted books that cost \$50 or less from taxation.

For each sales tax holiday, the Legislature has provided the Department of Revenue with an appropriation ranging from \$200,000 to \$224,110 to administer the sales tax holiday.

¹ Sections 212.02(19) and 212.05(1)(a)1.a., Florida Statutes.

² Section 212.055, Florida Statutes.

³ Section 212.054(2)(a), Florida Statutes.

⁴ Chapters 98-341, 99-229, 2000-175, 2001-148, 2004-73, 2005-271, 2006-63, and 2007-144, Laws of Florida.

The following table summarizes the history of the sales tax holidays:

Dates	Length	TAX EXEMPTION THRESHOLDS				Appropriation/ DOR
		Clothing/ Footwear	Wallets/ Bags	Books	School Supplies	
August 15-21, 1998	7 days	\$50 or less	N/A	N/A	N/A	\$200,000
July 31-August 8, 1999	9 days	\$100 or less	\$100 or less	N/A	N/A	\$200,000
July 29-August 6, 2000	9 days	\$100 or less	\$100 or less	N/A	N/A	\$215,000
July 28-August 5, 2001	9 days	\$50 or less	\$50 or less	N/A	\$10 or less	\$200,000
July 24-August 1, 2004	9 days	\$50 or less	\$50 or less	\$50 or less	\$10 or less	\$206,000
July 23-31, 2005	9 days	\$50 or less	\$50 or less	\$50 or less	\$10 or less	\$206,000
July 22-30, 2006	9 days	\$50 or less	\$50 or less	\$50 or less	\$10 or less	\$206,000
August 4-13, 2007	10 days	\$50 or less	\$50 or less	\$50 or less	\$10 or less	\$224,110

Tax Information Publications:

Since 2004, the Department of Revenue has published a Tax Information Publication (“TIP”) for each sales tax holiday.⁵ A TIP provides detailed information about the sales tax holiday, including instructions and specific examples, for dealers who collect the tax.

Proposed Changes:

The bill establishes a 2008 sales tax holiday on August 2-11, 2008 (10 days). During the sales tax holiday, the following items that cost \$50 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Books (defined as “printed sheets bound together and published in a volume,” but excluding newspapers, magazines, and other periodicals);
- Clothing and Footwear (defined as an “article of wearing apparel, including all footwear, except skis, swim fins, roller blades, and skates, intended to be worn on or about the human body,” but excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);
- Wallets; and
- Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags).

During the 10-day sales tax holiday, the bill also exempts school supplies that cost \$10 or less per item. From 2001 through 2007, the school supplies exempted were “pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators.” In addition to these items, the bill includes the following for the 2008 exemption, “binders, lunch boxes, construction paper, markers, folders, and poster board.”

The bill provides that the sales tax holiday does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport. Thus, any sales in these locations will be subject to taxation during the sales tax holiday.

The bill authorizes the Department of Revenue to adopt rules to carry out the sales tax holiday.

The bill provides an appropriation of \$224,110 to the Department of Revenue for administering the sales tax holiday. The funds are appropriated from the General Revenue Fund, although the bill does

⁵ See Florida Department of Revenue, *2004 Sales Tax Holiday*, TIP# 04A01-05 (June 10, 2004); *2005 Sales Tax Holiday*, TIP# 05A01-02 (June 1, 2005), *2006 Sales Tax Holiday*, TIP# 06A01-04 (June 9, 2006), and *2007 Sales Tax Holiday*, TIP# 07A01-07 (June 15, 2007).

not specify the fiscal year for which the funds are appropriated or whether recurring or nonrecurring funds are provided.

The bill provides an effective date of July 1, 2008.

C. SECTION DIRECTORY:

Section 1. Creates an unnumbered section of law which creates a temporary exemption from the state sales tax and county discretionary sales surtaxes.

Section 2. Provides an appropriation.

Section 3. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has estimated that the sales tax holiday will reduce state general revenue by \$40.7 million.⁶

2. Expenditures:

According to the Department of Revenue, the bill is estimated to have a nonrecurring appropriations impact of \$232,593. This estimate is based on printing and postage for a Tax Information Publication ("TIP") on the 2008 Sales Tax Holiday to be mailed to the state's 650,000 projected active sales tax accounts. In addition, the estimate includes printing of an additional 10,000 copies of the TIP to be used for taxpayer education seminars and distribution to the public upon request.

Printing	650,000	X	\$.1148	personalized TIP	=	\$74,620
Printing	10,000	X	\$.1323	non-personalized TIP	=	\$1,323
Postage	650,000	X	\$.241	standard postage	=	<u>\$156,650</u>
				Total	=	\$232,593

The bill provides an appropriation of \$224,110 for the Department of Revenue to administer the sales tax holiday, which is \$8,483 less than the estimated cost.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has estimated that the sales tax holiday will have the following impact on local government.⁷

	FY 2008-09
Revenue Sharing	(1.3)
Local Gov't Half Cent	(3.9)
Local Option	<u>(3.8)</u>
Total Local Impact	(9.0)

⁶ Revenue Estimating Conference, Florida Office of Economic and Demographic Research, available at <http://edr.state.fl.us/conferences/revenueimpact/2008/pdf/impact0229.pdf> (Feb. 29, 2008).

⁷ Revenue Estimating Conference, *supra* note 6.

2. Expenditures

None.

DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Due to the timing of the sales tax holiday, families will be able to save money on books, clothing, footwear, wallets, bags, and school supplies before the beginning of the school year. In addition, the tax exemption will likely increase the sales of exempt items during the 10-day sales tax holiday.

Although retail sellers may incur costs of reprogramming cash registers and accounting systems, the costs would likely be mitigated by the use of existing procedures developed for previous sales tax holidays.

C. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Section 18(b), Article VII of the State Constitution specifies that, "[e]xcept upon approval of each house of the legislature by two-thirds of the membership, the legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989."

This bill reduces the authority that counties have to raise revenue through local option discretionary sales surtaxes by \$7.7 million. No exemption applies, therefore the bill must have a 2/3 vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides that "[n]otwithstanding chapter 120, Florida Statutes, the Department of Revenue may adopt rules to carry out this section." Thus, the bill authorizes, but does not require, the department to adopt rules concerning the sales tax holiday. If the department decides to adopt rules, the bill appears to exempt the department from the rulemaking requirements in chapter 120, Florida Statutes (Administrative Procedure Act). According to the Department of Revenue, it has not adopted rules for the previous sales tax holidays but instead has issued a Tax Information Publication ("TIP") and other written interpretations of law issued to taxpayers and dealers who collect the tax.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the tax on sales, use, and other
 3 transactions; specifying a period during which the sale of
 4 books, clothing, and school supplies are exempt from the
 5 tax; providing definitions; providing exceptions;
 6 authorizing the Department of Revenue to adopt rules;
 7 providing an appropriation; providing an effective date.
 8

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

10
 11 Section 1. (1) No tax levied under the provisions of
 12 chapter 212, Florida Statutes, shall be collected on the sale
 13 of:

14 (a)1. Books, clothing, wallets, or bags, including
 15 handbags, backpacks, fanny packs, and diaper bags, but excluding
 16 briefcases, suitcases, and other garment bags, having a sales
 17 price of \$50 or less per item during the period from 12:01 a.m.,
 18 August 2, 2008, through 11:59 p.m., August 11, 2008.

19 2. As used in this paragraph, the term:

20 a. "Book" means a set of printed sheets bound together and
 21 published in a volume. For purposes of this paragraph, the term
 22 "book" does not include newspapers, magazines, or other
 23 periodicals.

24 b. "Clothing" means any article of wearing apparel,
 25 including all footwear, except skis, swim fins, roller blades,
 26 and skates, intended to be worn on or about the human body. For
 27 purposes of this paragraph, the term "clothing" does not include
 28 watches, watchbands, jewelry, umbrellas, or handkerchiefs.

HB 893

2008

29 (b)1. School supplies having a sales price of \$10 or less
 30 per item during the period from 12:01 a.m., August 2, 2008,
 31 through 11:59 p.m., August 11, 2008.

32 2. As used in this paragraph, the term "school supplies"
 33 means pens, pencils, erasers, crayons, notebooks, notebook
 34 filler paper, legal pads, binders, lunch boxes, construction
 35 paper, markers, folders, poster board, composition books, poster
 36 paper, scissors, cellophane tape, glue or paste, rulers,
 37 computer disks, protractors, compasses, and calculators.

38 (2) This section does not apply to sales within a theme
 39 park or entertainment complex as defined in s. 509.013(9),
 40 Florida Statutes, within a public lodging establishment as
 41 defined in s. 509.013(4), Florida Statutes, or within an airport
 42 as defined in s. 330.27(2), Florida Statutes.

43 (3) Notwithstanding chapter 120, Florida Statutes, the
 44 Department of Revenue may adopt rules to carry out this section.

45 Section 2. The sum of \$224,110 is appropriated from the
 46 General Revenue Fund to the Department of Revenue for purposes
 47 of administering section 1.

48 Section 3. This act shall take effect July 1, 2008.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 893

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Schools & Learning Council
2 Representative(s) Coley offered the following:
3

4 **Amendment**

5 Remove lines 45-47 and insert:

6 Section 2. The sum of \$232,593 in non-recurring funds is
7 appropriated from the General Revenue Fund to the Department of
8 Revenue for purposes of administering section 1 of this act
9 during the 2007-2008 fiscal year.
10
11
12

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB SLC 08-03 State College System

SPONSOR(S): Schools & Learning Council

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

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

SUMMARY ANALYSIS

The PCB establishes the Florida College System for the purposes of maximizing open access for students; responding to needs for postsecondary academic education and career degree education; and to provide, in a cost-effective manner, the associate and baccalaureate degrees that will best meet community, regional, and statewide employment needs.

The PCB establishes the Florida College System Task Force for the purpose of developing findings and issuing recommendations regarding the migration of community colleges to baccalaureate degree-granting colleges and the criteria for establishing and funding Florida state colleges.

The PCB creates the Florida State College Pilot Project for the purposes of recommending to the Legislature: an approval process for transition of baccalaureate degree-granting community colleges to state colleges; criteria for migration of institutions in the Florida College System to "state colleges"; and a funding model for the Florida College System.

The PCB changes the name of the following institutions: Broward Community College to Broward College, Daytona Beach Community College to Daytona Beach College, and Indian River Community College to Indian River College.

The fiscal impact of the PCB is indeterminate. See FISCAL COMMENTS section.

The effective date provided is July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – The PCB creates the Florida College System Task Force and the Florida State College Pilot Project for the purposes of maximizing open access for students; responding to needs for postsecondary academic education and career degree education; and to provide, in a cost-effective manner, the associate and baccalaureate degrees that will best meet statewide employment needs.

B. EFFECT OF PROPOSED CHANGES:

Background

Community College Mission

Section 1004.65, F.S., defines the primary mission and responsibilities of community colleges as responding to community needs for postsecondary academic education and career degree education. Their mission and responsibilities include being responsible for: providing lower level undergraduate instruction and awarding associate degrees; preparing students directly for careers requiring less than baccalaureate degrees; providing student development services; promoting economic development within a college's respective district; and providing dual enrollment instruction. Providing upper level instruction and awarding baccalaureate degrees as specifically authorized by law is a separate and secondary role.

Community College Names

Section 1000.21, F.S., names Florida's 28 community colleges. Four community colleges that offer baccalaureate degrees have changed their name from community college to college. Currently, a community college would change its name and use the designation "college" by a vote of the community college's boards of trustees followed by a legislative change of the institution's name in statute. There is no review of community college name changes by the State Board of Education.

Options for Expanding Access to Baccalaureate Degrees on Community College Campuses

Florida has two primary options for increasing the provision of baccalaureate degrees on community college campuses:

- The community college may enter into a formal agreement with another postsecondary institution to provide undergraduate programs.
- The community college may submit a proposal to the State Board of Education (SBE) to deliver specified baccalaureate degree programs in the district to meet local workforce needs.

These methods are not mutually exclusive. Some community colleges offer baccalaureate degrees and also have partnerships with public or private 4-year institutions, and through these programs students may receive academic advising, financial aid assistance, and other student services.

Community colleges are authorized to offer baccalaureate degrees by two separate provisions of law. Under s. 1004.73, F.S., St. Petersburg College is authorized to offer baccalaureate degrees to address

the state's workforce needs for professionals in elementary education, special education, high school science education, nursing, and applied science under some circumstances.

Under s. 1007.33, F.S., all community colleges may receive authorization to provide upper division coursework and award baccalaureate degrees. To receive this authorization, a community college must obtain approval from the SBE. Approval is contingent upon documented demand for the program, unmet need in the area, and the community college having the necessary facilities and academic resources to deliver the program.

At least 90 days prior to its submission to the SBE of a plan to offer a baccalaureate degree, a community college must notify the SBE of its intention to do so. The SBE must notify each state university and each regionally accredited private college and university chartered in Florida of the community college's intent. State universities have 60 days to submit an alternative plan to offer the baccalaureate degree on the community college's campus. In the absence of a state university proposal, the SBE must provide regionally accredited private colleges and universities 30 days to submit an alternative proposal to the SBE. The SBE must take the alternative proposals into account in making its decision to approve or deny a community college's proposal. Upon approval by the SBE, the college must seek the proper accreditation for the program. If the college wants to offer additional degree programs, it must go through the same evaluation cycle for each degree request.

Effect of Proposed Changes

Florida College System

The PCB establishes the Florida College System for the purposes of maximizing open access for students; responding to community and regional needs for postsecondary academic education and career degree education; and to provide the associate and baccalaureate degrees that will best meet statewide employment needs.

The PCB provides that the Florida College System will consist of institutions that are identified in s. 1000.21(3), F.S., that grant 2-year and 4-year academic degrees as provided by law. Section 1000.21(3), F.S., lists the 28 community colleges in Florida. Institutions within the Florida College System are not permitted to offer graduate degree programs. Programs and services must be provided in a cost effective manner that demonstrates substantial savings to the student and to the state over the cost of providing the degree at a state university.

The PCB allows an institution of the Florida College System to change its name and use the designation "college" if it has the approval of its local board of trustees and has been authorized to grant baccalaureate degrees pursuant to ss. 1004.73 or 1007.33, F.S., or if it has received approval from the State Board of Education (SBE). To receive approval from the SBE to make this name change, the institution's local board of trustees must first approve and the institution must enter an agreement with the SBE to do the following:

- Maintain as the institution's primary mission responsibility for responding to community needs for postsecondary academic education and career degree education as prescribed in s. 1004.65(6), F.S.;
- Maintain an open-door admissions policy for associate level degree programs and workforce education programs;
- Continue to provide outreach to underserved populations;
- Continue to provide remedial education; and,

- Comply with all provisions of the statewide articulation agreement that relate to 2-year and 4-year public degree-granting institutions as adopted by the SBE pursuant to s. 1007.23, F.S.

The PCB requires that each institution of the Florida College System be governed by a local board of trustees.

Florida College System Task Force

The PCB establishes the Florida College System Task Force for the purpose of developing findings and issuing recommendations regarding the migration of community colleges to baccalaureate degree-granting colleges and the criteria for establishing and funding state colleges.

The PCB establishes the Florida College System Task Force within the Division of Community Colleges of the Department of Education, being staffed with existing employees of that office. The Commissioner of Education will be a voting member and the chair of the task force, and will appoint 11 other members to the task force. The members will include eight community college presidents, a state university president, a president of an institution eligible to participate in the William L. Boyd IV, Federal Resident Access Grant (FRAG), and a member at large. The eight presidents of the community colleges may not include the presidents of the institutions named to participate in the State College Pilot Project, and must reflect the diversity of the 28 community colleges in regards to size, location, and whether or not the institution offers baccalaureate degrees. The members must be appointed on or before August 30, 2008, and the task force must hold its first meeting on or before September 15, 2008.

The PCB requires the Florida College System Task Force to:

- Recommend a program approval process for new baccalaureate degrees to meet the employment needs of Florida, including approval as a baccalaureate-degree-granting community college and as a state college.
- Recommend a funding model that considers projected enrollment, adjustments for actual enrollment, program mix, and comparable support for similar programs across all institutions. The funding model must be designed so that associate and baccalaureate degrees can be delivered in a cost-effective manner.
- Identify the areas of need for increased baccalaureate degree production to meet regional and statewide workforce needs.
- Monitor implementation of the Florida State College Pilot Program.
- Recommend priorities and criteria for baccalaureate programs that can be offered without specific approval by the SBE.

In performing these duties, the task force will be given the authority to procure information and assistance from community colleges, state universities, the Commission for Independent Education, and the Agency for Workforce Innovation. Independent postsecondary educational institutions, representatives of the business community, and other stakeholders will be encouraged to provide the task force with information that will assist in its deliberations.

A report, including any comments regarding the final report of the State College Pilot Project and the recommendations required of the task force, must be submitted to the Governor, SBE, the President of the Senate, and the Speaker of the House of Representatives by March 2, 2009, and must include specific recommendations for legislative action during the 2009 Regular Session of the Legislature. A 2/3 vote of the membership of the task force will be required for any recommendations that will be

included in the report. The task force will be dissolved June 30, 2010, prior to which time it shall issue its final report with recommended detailed criteria for establishing the State College System as a permanent part of the state system of higher education.

Florida State College Pilot Project

The PCB creates the Florida State College Pilot Project for the purposes of recommending to the Legislature:

- An approval process for transition of baccalaureate degree-granting community colleges to state colleges;
- Criteria for migration of institutions in the Florida College System to state colleges; and,
- A funding model for the Florida College System.

The institutions participating in the pilot project will collaborate with the Florida College System Task Force to make recommendations to the SBE and the Legislature on specific issues that should be addressed in the transition of a community college to a state college. At a minimum, the following areas should be addressed during the course of the pilot project:

- The development of a program-approval process to be followed by the SBE when considering proposals for new baccalaureate degree programs.
- The formulation of criteria for the migration of an institution from a community college to a state college.
- The development of a funding model for state colleges.

The pilot project recommendations, along with a status report on the transition of institutions participating in the pilot project, will be combined into a final report that will be submitted to the President of the Senate, the Speaker of the House of Representatives, and the Florida College System Task Force by January 1, 2009. A 2/3 vote of the institutions participating in the task force will be required for any recommendations that will be included in the report.

The PCB provides that the pilot project begin with the 2008-2009 fiscal year and be piloted by St. Petersburg College, Okaloosa-Walton College, and Indian River College in collaboration with the Florida College System Task Force. The institutions participating in the pilot project must:

- Maintain as the institution's primary mission responsibility for responding to community needs for postsecondary academic education and career degree education.
- Maintain an open-door admissions policy for associate level degree programs and workforce education programs.
- Require, as a condition of admission to upper-division programs, successful completion of the college-level communication and mathematics skills examination (CLAST), unless the student has been awarded an associate of arts degree from a community college or state university.
- Continue to provide outreach to underserved populations.
- Continue to provide remedial education.
- Comply with all provisions of the statewide articulation agreement that relate to 2-year and 4-year public degree-granting institutions.
- Deliver the programs and services in providing associate and baccalaureate degrees in a cost-effective manner.

Institutions participating in the pilot project are prohibited from awarding graduate credit or graduate degrees and from participating in intercollegiate athletics beyond the 2-year level.

The PCB provides that an institution participating in the State College Pilot Project can change its name and use the designation "state college" if it complies with the requirements of the pilot project and has the approval of its board of trustees.

Community College Name Changes

The PCB amends s. 1000.21(3)(b), F.S., to provide for the name change of Broward Community College to Broward College.

The PCB amends s. 1000.21(3)(e), F.S., to provide for the name change of Daytona Beach Community College to Daytona Beach College.

The PCB amends s. 1000.21(3)(k), F.S., to provide for the name change of Indian River Community College to Indian River College.

C. SECTION DIRECTORY:

Section 1. Amends s. 1000.21, F.S., re-naming certain community colleges as colleges.

Section 2. Creates s. 1001.60, F.S., establishing the Florida College System.

Section 3. Creates s. 1004.87, F.S., establishing the Florida College System Task Force.

Section 4. Creates s. 1004.875, F.S., establishing the State College Pilot Project.

Section 5. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

Currently, the state universities expend \$201 per credit hour for upper division instruction; however, the community colleges that offer baccalaureate programs are funded at \$139 per credit hour, resulting in a savings to the state of \$62 per credit hour.¹ Additionally, the tuition price in the 2007-08 academic year for community college baccalaureate programs is less than tuition at state universities: \$65.47 at community colleges compared to \$77.39 at state universities.²

The Fiscal Year 2008-09 budget recommendations presented to the Schools and Learning Council on March 25, 2008, included an appropriation of \$375,000 in nonrecurring funds for the State College Pilot Project.³

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

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

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

¹ 2005-06 State University Expenditure Analysis (Report IV); 2007 Community College Fact Book (Table 23).

² Sections 1009.23 and 1009.24, Florida Statutes, as amended in Session C.

³ Schools and Learning Council, 2008-2009 Chair Recommendations.

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to postsecondary education; amending s.
 3 1000.21, F.S.; redesignating the names of certain
 4 community colleges as colleges; creating s. 1001.60, F.S.,
 5 relating to the Florida College System; providing system
 6 purposes; defining the system; providing limitations;
 7 authorizing a name change under certain conditions;
 8 providing for local boards of trustees; providing
 9 membership for the boards; creating s. 1004.87, F.S.;
 10 creating the Florida College System Task Force for the
 11 purpose of developing recommendations for the migration of
 12 community colleges to baccalaureate-degree-granting
 13 colleges; providing for membership and appointments;
 14 providing duties of the task force and reporting
 15 requirements; providing for the task force to be dissolved
 16 unless extended by general law; creating s. 1004.875,
 17 F.S.; creating the State College Pilot Project;
 18 designating certain institutions to participate in the
 19 project; providing duties and reporting requirements for
 20 the institutions; providing an effective date.

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

23
 24 Section 1. Paragraphs (b), (e), and (k) of subsection (3)
 25 of section 1000.21, Florida Statutes, are amended to read:

26 1000.21 Systemwide definitions.--As used in the Florida K-
 27 20 Education Code:

PCB SLC 08-03

ORIGINAL

2008

28 (3) "Community college," except as otherwise specifically
 29 provided, includes the following institutions and any branch
 30 campuses, centers, or other affiliates of the institution:

- 31 (b) Broward ~~Community~~ College.
- 32 (e) Daytona Beach ~~Community~~ College.
- 33 (k) Indian River ~~Community~~ College.

34 Section 2. Section 1001.60, Florida Statutes, is created
 35 to read:

36 1001.60 Florida College System.-

37 (1) PURPOSES.--In order to maximize open access for
 38 students, respond to community needs for postsecondary academic
 39 education and career degree education, and provide associate and
 40 baccalaureate degrees that will best meet the state's employment
 41 needs, the Legislature establishes a system of governance for
 42 the Florida College System.

43 (2) FLORIDA COLLEGE SYSTEM.--There shall be a single
 44 Florida College System comprised of the public postsecondary
 45 educational institutions identified in s. 1000.21 (3) that grant
 46 2-year and 4-year academic degrees as provided by law. An
 47 institution within the Florida College System may not offer
 48 graduate degree programs.

49 (a) The programs and services offered by institutions in
 50 the Florida College System in providing associate and
 51 baccalaureate degrees shall be delivered in a cost-effective
 52 manner that demonstrates substantial savings to the student and
 53 to the state over the cost of providing the degree at a state
 54 university.

55 (b)1. With the approval of the institution's local board
 56 of trustees, an institution in the Florida College System may
 57 change the institution's name and use the designation "college"
 58 if it has been authorized to grant baccalaureate degrees
 59 pursuant to ss. 1004.73 or 1007.33 or if it has received
 60 approval from the State Board of Education pursuant to this
 61 paragraph.

62 2. With the approval of an institution's local board of
 63 trustees, any institution in the Florida College System may
 64 request approval from the State Board of Education to change the
 65 institution's name and use the designation "college". The State
 66 Board of Education may approve the request if the institution
 67 enters into an agreement with the State Board of Education to do
 68 the following:

69 a. Maintain as the institution's primary mission
 70 responsibility for responding to community needs for
 71 postsecondary academic education and career degree education as
 72 prescribed in s. 1004.65(6).

73 b. Maintain an open-door admissions policy for associate
 74 level degree programs and workforce education programs.

75 c. Continue to provide outreach to underserved
 76 populations.

77 d. Continue to provide remedial education.

78 e. Comply with all provisions of the statewide
 79 articulation agreement that relate to 2-year and 4-year public
 80 degree-granting institutions as adopted by the State Board of
 81 Education pursuant to s. 1007.23.

PCB SLC 08-03

ORIGINAL

2008

82 (3) LOCAL BOARDS OF TRUSTEES.--Each institution within the
 83 Florida College System shall be governed by a local board of
 84 trustees as provided in s. 1001.64. The membership of each local
 85 board of trustees shall be as provided in s. 1001.61.

86 Section 3. Section 1004.87, Florida Statutes, is created
 87 to read:

88 1004.87 Florida College System Task Force.--

89 (1) The Florida College System Task Force is established
 90 within the Division of Community Colleges of the Department of
 91 Education for the purpose of developing findings and issuing
 92 recommendations regarding the migration of community colleges to
 93 baccalaureate-degree-granting colleges and the criteria for
 94 establishing and funding state colleges.

95 (2) (a) All members of the task force must be appointed on
 96 or before August 30, 2008, and the task force shall hold its
 97 first meeting on or before September 15, 2008.

98 (b) The task force shall be comprised of 11 members
 99 appointed by the Commissioner of Education. The appointees shall
 100 include eight community college presidents, one state university
 101 president, the president of an institution that is eligible to
 102 participate in the William L. Boyd, IV, Florida Resident Access
 103 Grant Program, and one member at large. The community college
 104 presidents appointed to the task force may not include the
 105 presidents of the institutions named to participate in the State
 106 College Pilot Project. The community college presidents
 107 appointed to the Task Force must reflect the diversity of
 108 program offerings and service areas of the 28 community colleges

PCB SLC 08-03

ORIGINAL

2008

109 and include representatives of community colleges that are
110 authorized to grant baccalaureate degrees, community colleges
111 that are not authorized to grant baccalaureate degrees,
112 community colleges that have urban service areas, community
113 colleges that have rural service areas, community colleges the
114 service areas of which have populations of 500,000 or more, and
115 community colleges the service areas of which have populations
116 of fewer than 500,000. The Commissioner of Education shall be a
117 voting member of the task force and the chair of the task force.

118 (3) The task force shall:

119 (a) Recommend a program-approval process for new
120 baccalaureate degree programs that are designed to meet the
121 employment needs of Florida, including approval as a
122 baccalaureate-degree-granting community college and as a state
123 college.

124 (b) Recommend a funding model that considers projected
125 enrollment, adjustments for actual enrollment, program mix, and
126 comparable support for similar programs across all institutions,
127 including community colleges authorized by the State Board of
128 Education to award baccalaureate degrees pursuant to s. 1007.33
129 and state colleges. The funding model must ensure that the
130 programs and services offered by institutions in the Florida
131 College System in providing associate and baccalaureate degrees
132 are delivered in a cost-effective manner that demonstrates
133 substantial savings to the student and to the state over the
134 cost of providing the degree at a state university.

PCB SLC 08-03

ORIGINAL

2008

135 (c) Identify the areas, both geographic and academic, in
 136 which an increased number of graduates who have baccalaureate
 137 degrees are necessary in order to meet regional and statewide
 138 workforce needs.

139 (d) Monitor implementation of the State College Pilot
 140 Project.

141 (e) Recommend priorities and criteria for baccalaureate
 142 programs that may be offered without specific approval by the
 143 State Board of Education.

144 (4) Any recommendation from the Task Force to the
 145 Legislature requires approval by two-thirds of the membership
 146 of the Task Force.

147 (5) The task force shall exist within the Division of
 148 Community Colleges of the Department of Education and shall be
 149 staffed by existing employees of that office.

150 (6) (a) Community colleges, state universities, the
 151 Commission for Independent Education, and the Agency for
 152 Workforce Innovation shall provide information and assistance to
 153 the task force.

154 (b) Independent postsecondary educational institutions,
 155 representatives of the business community, and other
 156 stakeholders are encouraged to provide the task force with
 157 information to assist the task force in its deliberations.

158 (7) The task force shall submit a report and
 159 recommendations to the Governor, the State Board of Education,
 160 the President of the Senate, and the Speaker of the House of
 161 Representatives by March 2, 2009. The report must include any

PCB SLC 08-03

ORIGINAL

2008

162 comments from the task force regarding the final report
 163 resulting from the State College Pilot Project and any specific
 164 recommendations of the task force for legislative action during
 165 the 2009 Regular Session of the Legislature.

166 (7) The task force shall be dissolved effective June 30,
 167 2010, prior to which time it shall issue its final report with
 168 recommended detailed criteria for establishing the state college
 169 system as a permanent part of the state system of higher
 170 education.

171 Section 4. Section 1004.875, Florida Statutes, is created
 172 to read:

173 1004.875 State College Pilot Project.-

174 (1) The Legislature finds it is in the best interest of
 175 the state to provide the residents of the state affordable
 176 access to baccalaureate degree programs that are designed to
 177 meet regional and statewide employment needs.

178 (2) (a) Beginning with the 2008-2009 fiscal year, the State
 179 College Pilot Project is created which shall be conducted as a
 180 pilot project by St. Petersburg College, Okaloosa-Walton
 181 College, and Indian River College in collaboration with the
 182 Florida College System Task Force. The purpose of the project is
 183 to recommend to the Legislature an approval process for the
 184 transition of baccalaureate-degree-granting community colleges
 185 to state colleges in order to meet the employment needs of
 186 Florida, criteria for the migration of institutions in the
 187 Florida College System to state colleges, and a funding model
 188 for the Florida College System.

PCB SLC 08-03

ORIGINAL

2008

189 (b) With the approval of the community college's board of
 190 trustees and continued compliance with the provisions of
 191 subsection (3), a community college identified in paragraph (a)
 192 as a participant in the State College Pilot Project may change
 193 the institution's name and use the designation "state college."

194 (3) The institutions participating in the pilot project
 195 shall:

196 (a) Maintain, as the institution's primary mission,
 197 responsibility for responding to community needs for
 198 postsecondary academic education and career degree education as
 199 prescribed in s. 1004.65(6), Florida Statutes.

200 (b) Maintain an open-door admissions policy for associate-
 201 level degree programs and workforce education programs.

202 (c) Require, as a condition of admission to upper-division
 203 programs, successful completion of the college-level
 204 communication and mathematics skills examination established
 205 pursuant to s. 1008.29, Florida Statutes, unless the student has
 206 been awarded an associate degree from a community college or
 207 state university.

208 (d) Continue to provide outreach to underserved
 209 populations.

210 (e) Continue to provide remedial education.

211 (f) Comply with all provisions of the statewide
 212 articulation agreement which relate to 2-year and 4-year public
 213 degree-granting institutions as adopted by the State Board of
 214 Education pursuant to s. 1007.23, Florida Statutes.

215 (g) Be prohibited from awarding graduate credit or
 216 graduate degrees.

217 (h) Be prohibited from participating in intercollegiate
 218 athletics beyond the 2-year level.

219 (i) Deliver the programs and services in providing
 220 associate and baccalaureate degrees in a cost-effective manner
 221 that demonstrates substantial savings to the student and the
 222 state over the cost of providing the degree at a state
 223 university.

224 (4) (a) The institutions participating in the pilot project
 225 shall collaborate with the Florida College System Task Force to
 226 make recommendations to the State Board of Education and the
 227 Legislature on specific issues that should be addressed in the
 228 transition of a community college to a state college. Any
 229 recommendations of the institutions participating in the pilot
 230 project require approval by two-thirds of the participating
 231 institutions. At a minimum, the following areas should be
 232 addressed during the course of the pilot project:

233 1. The development of a program-approval process to be
 234 followed by the State Board of Education when considering
 235 proposals for new baccalaureate degree programs that are
 236 designed to meet the employment needs of Florida. Proposals for
 237 new baccalaureate degree programs are not limited to proposals
 238 designed to meet regional workforce needs.

239 2. The formulation of criteria for the migration of an
 240 institution from a community college to a state college.

241 3. The development of a funding model for state colleges.

PCB SLC 08-03

ORIGINAL

2008

242 (b) A final report, including a status report on the
243 transition of the institutions participating in the pilot
244 project and recommendations on the issues outlined in paragraph
245 (a), shall be submitted to the President of the Senate, the
246 Speaker of the House of Representatives, and the Florida College
247 System Task Force by January 1, 2009.

248 Section 5. This act shall take effect July 1, 2008.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB SLC 08-05 College and Career Preparation

SPONSOR(S): Schools & Learning Council

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Schools & Learning Council		Thomas ^{NOT}	Cobb <i>ccc</i>
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The PCB requires each standard high school diploma to include, as applicable: a designation of the student's major area of interest; a designation reflecting completion of accelerated college credit courses; a designation reflecting career education certification; and a designation reflecting Ready to Work Certification.

The PCB requires each public high school to provide students access to at least four Advanced Placement (AP), International Baccalaureate (IB), Advanced International Certificate of Education (AICE), or dual enrollment courses and at least four courses in career and technical dual enrollment.

The PCB requires state universities to weigh dual enrollment courses the same as comparable AP, IB, and AICE courses when calculating grade point averages for admission decisions.

The PCB creates the Remediation Reform Pilot Project to identify strategies that are effective in reducing the need for and the cost of remediation for recent high school graduates who enter postsecondary education.

The PCB modifies provisions relating to the common placement test.

The fiscal impact of the PCB is indeterminate. See FISCAL COMMENTS section.

The effective date is July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower families –

- The PCB provides for diploma designations to be added to a student's high school diploma that will identify unique course work or accomplishments for the purposes of postsecondary education or the workforce.
- The PCB provides students access to at least four Advanced Placement, International Baccalaureate, Advanced International Certificate of Education, or dual enrollment courses and at least four courses in career and technical dual enrollment.
- The PCB requires the State Board of Education to adopt a comprehensive plan that provides students with access to a substantive and rigorous curriculum. The plan must address professional development activities, long-term and annual statewide goals, funding, communications and include an evaluation component.

Ensures lower taxes – The PCB creates the Remediation Reform Pilot Project, to reduce the need for and the costs of remediation for recent high school graduates entering postsecondary education and for the State of Florida.

Promote personal responsibility – The PCB provides an opportunity for students to have access to a program that will prepare students for success in a postsecondary education institution.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Standard High School Diploma

Current law requires students to complete required credits, earn the required grade point average, and earn a passing score on the grade 10 Florida Comprehensive Assessment Test (FCAT) in order to receive a standard high school diploma.¹

Major Area of Interest

A major area of interest consists of 4 credits in sequential courses in an academic content area, career and technical area, or fine and performing arts. A student selects a major area of interest as part of his or her personalized academic and career plan developed in 7th or 8th grade. A student may annually change his or her major area of interest at registration. To be selected, a major area of interest must be offered at the student's high school. Each major area of interest offered by a high school must be submitted by the school district for approval by the Commissioner of Education. Once approved, a major area of interest may be offered by any school district.²

Articulated Acceleration Mechanisms

Articulated acceleration mechanisms serve to shorten the time necessary for students to complete the requirements for a high school diploma or postsecondary degree, broaden the scope of courses

¹ s. 1003.428, F.S.

² Id.

available to students, or increase the depth of study available for a particular subject. Participation in articulated acceleration programs allows students to save time and money by earning academic credit that may apply toward postsecondary degree/certificate requirements. A variety of articulated acceleration mechanisms are available in Florida: dual enrollment, advanced placement, early admission, credit by examination, the International Baccalaureate Program (IB) and the Advanced International Certificate of Education Program (AICE).³

Advanced Placement (AP) program

The AP program is a nationwide program consisting of over 30 college-level courses and exams ranging from art to statistics which provides secondary students the opportunity to complete college-level studies during high school. To receive college credit for an AP course at a public postsecondary institution, students must score a minimum of three, on a five-point scale, on the corresponding AP Examination. The Department of Education determines the specific courses for which students receive credit.

International Baccalaureate (IB) Diploma Program

The IB Diploma Program is a rigorous pre-university course of study leading to internationally standardized examinations. The program is designed as a comprehensive two-year curriculum that allows its graduates to fulfill the requirements of many different nations' education systems. The State Board of Education specifies the cutoff scores and the IB examinations that will be used to grant postsecondary credit at community colleges and universities. If a student achieves the required score on an IB exam, state universities and community colleges must award the minimum recommended credit for the course or course numbers. Up to 30 semester credit hours may be awarded. The specific courses for which students receive credit is determined by the Department of Education.

Advanced International Certificate of Education (AICE) program

The AICE program is an international curriculum and examination program modeled on the British pre-college curriculum and includes "A-level" and "AS-level" exams. The State Board of Education specifies the cutoff score and the AICE examination that will be used to grant postsecondary credit at community colleges and state universities. If a student achieves the required score on an AICE exam, state universities and community colleges must award the minimum recommended credit for the course or course numbers. Up to 30 semester credit hours may be awarded. The community college or university that accepts the student for admission into the program must determine the specific course for which a student receives credit.

Dual Enrollment

The dual enrollment program allows an eligible high school or home education student to enroll in a postsecondary course creditable toward a career certificate or an associate or baccalaureate degree. Upon successful completion of a dual enrollment course, the student simultaneously receives high school and college credit. Dual enrollment may serve to shorten the time and money necessary for a student to complete the requirements for a postsecondary degree.

³ s. 1007.27, F.S.

Career Education Certification

The career education certification is designed to indicate that a student is prepared for both postsecondary education and the workplace. A certification is placed on a student's diploma when the student meets the following requirements:

- Completes the requirements for high school graduation and the requirements for a comprehensive career education program of study.
- Receives a passing score on the college entry-level placement test or an equivalent test identified by DOE, which demonstrates that the student does not require college preparatory or career preparatory instruction.

Ready to Work Certificate Program

The 2006 Florida Legislature created the Florida Ready to Work Certificate Program to enhance the workplace skills of Florida's students to better prepare them for successful employment in specific occupations. A student who earns a Ready to Work Credential will be considered equipped with the necessary skills to enter the workforce. A credential is awarded to a student who successfully passes 3 WorkKeys assessments in Reading for Information, Applied Mathematics, and Locating Information. The credential will demonstrate to current and future employers that students have the skills to meet employment expectations. Knowing a job applicant possesses a credential, an employer can be more confident that he or she can begin the job with the skills necessary for successful job performance. In addition, the credential ensures that students have the skills necessary to enter college or the workforce based on objective, standardized skill assessments which are aligned to FCAT objectives.

Weighting Courses for Purposes of GPA Calculations

In order to be well prepared for postsecondary education, students are encouraged to take the most rigorous courses available to them during high school. Recommended courses for capable students include International Baccalaureate (IB), Advanced Placement (AP), Advanced International Certificate in Education (AICE), and dual enrollment.

Section 1007.271(16), F.S., requires school districts and community colleges to weigh college-level dual enrollment courses the same as honors courses and advanced placement courses when grade point averages are calculated.

The Board of Governors approved an amendment to Board of Governors Regulation 6.006 regarding Acceleration Mechanisms on March 27, 2008. This amendment included a clarification regarding the weighting of dual enrollment courses. The amendment requires that early college dual enrollment courses that meet core state university admission requirements in English/Language Arts, mathematics, natural science, social sciences, or foreign languages must receive the same weighting as Advanced Placement, International Baccalaureate, and Advanced International Certificate of Education courses in the calculation of the high school grade point average used for admission decisions. This requirement would be implemented beginning with students admitted during the 2009 summer semester.⁴

Postsecondary Remediation

⁴ Phone call with Board of Governors' staff member on March 27, 2008.

Current law requires the State Board of Education in conjunction with the Board of Governors to develop and implement a common placement test for the purpose of assessing the basic computation and communication skills of students who intend to enter a degree program at any public postsecondary educational institution. The State Board of Education must adopt rules that would require high schools to give the common placement test, or an equivalent test identified by the State Board of Education, at the beginning of the tenth grade year before enrollment in the eleventh grade year in public high school for the purpose of obtaining remedial instruction prior to entering public postsecondary education.⁵

Student readiness for college is determined based on the student's performance in reading, writing/language, and mathematics using scores on the Florida College Placement Test (CPT), the SAT, or the ACT. A student is considered "ready" for college in a given area if the student achieves the required score of competency for that area. Below is a list of remedial cutoff scores for the CPT, SAT and ACT. Students earning scores less than those listed below must enroll in college preparatory communication and computation instruction.⁶

Remedial Cutoff Scores					
CPT		SAT		ACT	
Elementary Algebra	72	Verbal	440	Reading	18
Reading	83	Math	440	English	17
Sentence Skills	83			Math	19

In 2003-04, over half (55%) of the first-time-in college students attending state universities and community colleges required remediation. Most (89%) of these students required remediation in mathematics, and almost two-thirds (62%) needed remediation in multiple subject areas.⁷

Florida community college or state university students who score below the passing scores on the Florida Common Placement Test (or other comparable exam) must enroll in college-preparatory or other adult education courses to develop needed college-entry skills. Florida law permits only the state's 28 community colleges and Florida Agricultural and Mechanical University to offer college preparatory courses.⁸ The other 10 state universities may contract with community colleges to provide these courses for university students who need remediation.

Effect of Proposed Changes:

Standard High School Diploma Designations

By the 2008-2009 school year, each standard high school diploma must include, as applicable:

- A designation of the student's major area of interest pursuant to the student's completion of 4 credits in sequential courses in an academic content area, a career and technical area, or fine and performing arts.
- A designation reflecting completion of accelerated college credit courses if the student is eligible for college credit in four or more Advanced Placement, International Baccalaureate, Advanced

⁵ s. 1008.30, F.S.

⁶ Retrieved on March 27, 2008 <http://www.fldoe.org/articulation/perfCPT/>

⁷ OPPAGA Report No. 07-31, *Half of College Students Needing Remediation Drop Out; Remediation Completers Do Almost as Well as other Students.*

⁸ s. 1008.30(4)(b), F.S.

International Certificate of Education, or dual enrollment courses. The Commissioner of Education must establish guidelines for successful passage of examinations or coursework in each of the accelerated college credit options.

- A designation reflecting career education certification.
- A designation reflecting Ready to Work Certification.

Postsecondary Education Credit Courses

The PCB defines “postsecondary education credit courses” to mean a course through which a high school student may earn postsecondary credit and includes Advanced Placement (AP) courses, International Baccalaureate (IB) courses, Advanced International Certificate of Education (AICE) courses, and dual enrollment courses.

By 2009-2010, each public high school must provide students access to at least four Advanced Placement, International Baccalaureate, Advanced International Certificate of Education, or dual enrollment courses, one each in English, mathematics, science, and social studies and at least four courses in career and technical dual enrollment. In order to fulfill this requirement, schools may utilize courses offered by the Florida Virtual School, a career center, a charter technical career center, a community college, a state university, or an independent college or university eligible for inclusion in the dual enrollment program.

The State Board of Education must develop and adopt a comprehensive plan that:

- Provides all students with access to a substantive and rigorous curriculum that is designed to challenge their minds, enhance their knowledge and skills, and provide opportunities to acquire postsecondary education credits while in high school.
- Supports school administrators and guidance counselors in the receipt of professional development that enables them to create strong and effective postsecondary opportunities for their students.
- Assists teachers and school leaders in middle schools and high schools with implementation of training to prepare students for success in postsecondary education credit courses.
- Creates long-term and annual statewide goals for increasing:
 - The number and percentage of students enrolling in and completing postsecondary education credits courses.
 - The number and percentage of students receiving postsecondary credits in such courses.
 - The number and percentage of low-income and underrepresented students enrolling in and completing postsecondary education credit courses.
 - The number and percentage of low-income and underrepresented students receiving postsecondary credit in such courses.
- Leverages federal and private funding available for incentives and training.
- Focuses state and federal funding to carry out activities that target school districts serving high concentrations of low-income and underrepresented students.

- Provides a plan of communication that emphasizes the importance of postsecondary education credit courses to a student's ability to gain access to and succeed in postsecondary education.
- Annually evaluates the impact of the implementation of efforts to provide students with access to a substantive curriculum on the rates of student enrollment and success in postsecondary education credit courses, on high school graduation rates, and college enrollment rates. The evaluation must include a review of the progress toward meeting long-term and annual statewide goals.

Grades in Dual Enrollment Courses

State universities must weigh dual enrollment courses the same as comparable Advanced Placement, International Baccalaureate, and Advanced International Certificate of Education courses when calculating grade point averages for purposes of making admission decisions. This requirement would be implemented beginning with students applying for admission to a state university for the 2009-2010 academic year.

The district interinstitutional articulation agreement between a district school superintendent and a community college president must include an identification of the responsibility of the postsecondary institution for the assigning letter grades for dual enrollment courses.

A school district must post the dual enrollment course grade to the high school transcript as assigned by the postsecondary institution awarding the credit and the postsecondary institution assigning the grade must be identified.

Remediation Reform Pilot Project

The PCB creates the Remediation Reform Pilot Project. The goal of the project is to reduce the need for and the cost of remediation for recent high school graduates who enter postsecondary education.

The Department of Education must develop an application process for the pilot project by August 1, 2008. Each application must represent a collaborative effort between one or more community colleges and one or more school districts in each community college's service area.

Each application must:

- Identify the specific area or areas of remediation to be addressed as part of the pilot project.
- Provide the most recent data available for each participant from the postsecondary feedback report for the area or areas of remediation that will be addressed during the course of the project.
- Describe the strategies currently used by the participating institutions to address remediation needs, including mechanisms used to identify students who need remediation as well as corrective actions employed to address identified needs, and methods used to evaluate the effectiveness of these strategies.
- Describe any proposed changes to current strategies that have been designed to reduce the need for postsecondary remediation including, but not limited to:
 - Specific intervention efforts that will be employed to address identified deficiencies.

- The process the community college and the school district will use to determine the effectiveness of the changes.
- A projected timeline for implementation of the changes.
- Describe specific professional development activities that will be provided for secondary faculty.
- Provide itemized estimates of the costs to each participant of implementing the proposal.
- Identify any local, federal or private funding that may be available to support the project.
- Project the reductions in the need for and cost of remediation that are anticipated following implementation and describe the method used to develop the projections.

The Commissioner of Education must evaluate the applications and, no later than October 1, 2008, recommend a maximum of four proposals to the President of the Senate and the Speaker of the House of Representatives for consideration and final approval. If possible, the proposals recommended by the Commissioner must be representative of the geographic regions of the state and representative of small, medium, and large school districts.

Each community college and school district selected to participate in the pilot project must submit an annual status report that includes a description of the strategies implemented, any costs incurred, and the effectiveness of the strategies used in reducing the need for and cost of postsecondary remediation to students and the state.

The Office of Program Policy Analysis and Government Accountability must analyze the annual status reports and identify the policies and practices that are most effective in reducing the need for and cost of remediation, including any cost savings that have been realized.

College Placement Test (CPT)

The PCB requires the CPT developed and implemented by the State Board of Education and the Board of Governors to assess the students need to continue their education at the postsecondary level or to enter into the workforce.

The State Board of Education must adopt rules that require high schools to evaluate during the 11th grade the college or career readiness of each student who passed the reading or mathematics portion of the grade 10 FCAT. High schools must perform this evaluation using results from the Common Placement Test (CPT) or an equivalent test identified by the State Board of Education. The SBE must establish in rule the minimum test scores a student must achieve to demonstrate readiness. The high school must use the results of the test to advise the student of any identified deficiencies and provide students any necessary remedial instruction prior to, or the summer immediately following, high school graduation. The remedial instruction provided must be developed as a collaborative effort between secondary and postsecondary institutions.

C. SECTION DIRECTORY:

Section 1. Creates s. 1003.4285, F.S.; providing for designations on standard high school diplomas.

Section 2. Creates s. 1003.4287, F.S.; providing for access to postsecondary education credit courses in public high schools; requiring the State Board of Education to develop a comprehensive plan.

Section 3. Creates s. 1007.212, F.S.; providing legislative findings; creating the Remediation Reform Pilot Project to be piloted by community colleges and school districts; requiring the Department of Education to develop an application process; specifying contents of the application; requiring the Commissioner of Education to evaluate the applications and recommend proposals to the Legislature for final approval; requiring annual status reports by participants and analysis by the Office of Program Policy Analysis and Government Accountability; providing for funding.

Section 4. Amends s. 1007.271, F.S.; revising provisions relating to dual enrollment courses.

Section 5. Amends s. 1007.235, F.S.; providing for assignment of grades in dual enrollment courses.

Section 6. Amends s. 1008.30, F.S.; revising provisions relating to the common placement test.

Section 7. Providing an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

2. Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

2. Expenditures:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

The fiscal impact of this PCB is indeterminate.

To the extent that the PCB provides additional opportunities for high school students to earn college credit during high school, there may be long term cost savings to the state and to students for postsecondary education; however, specific cost savings are indeterminate at this time. In Fiscal Year 2006-07, the state paid \$104 per credit hour for lower level coursework at community colleges⁹ and \$114 per credit hour at state universities¹⁰. Additionally, students paid approximately \$60 per credit hour at community colleges and \$74 at state universities.

The requirements in the PCB for high schools to provide access to specific numbers and subjects of accelerated courses may result in additional costs. Currently, the maximum FTE reported by a district for a student is 1.0. School districts with seven-period days that provide a student with course access through the Florida Virtual School (FLVS) for one of the seven periods will generate 1.0 FTE for the six periods of traditional classroom instruction and the FLVS will generate an additional .167 (one-sixth) of an FTE for the course provided by the FLVS. Under this example, a student would generate 1.167 FTE for the year, resulting in an additional Florida Education Finance Program cost of approximately \$1,000 for the .167 FTE. The additional number of students that may be served by the FLVS by enactment of this bill is unknown; therefore, the cost is indeterminate.

The cost of remediation was \$118.3 million in 2004-05 with the state paying 53% (\$62.9 million) of this amount.¹¹ The cost of remediation was \$129.8 million in 2005-06 with the state paying 54% (\$70 million) of these costs.¹² In Fiscal Year 2006-07, the total cost of postsecondary remediation was \$130.8 million, including \$129.1 million at community colleges¹³ and \$1.7 million at state universities¹⁴. Of this amount, the state paid more than half (\$74.4 million or 57%), while students paid \$49.8 million (38%) of remediation costs. Additionally, community colleges paid \$6.5 million (5%) from other revenue sources. To the extent the pilot project results in the development of policies that reduce the need for postsecondary remediation, the cost to the state and to students for remediation may decrease.

The pilot project will be funded as provided in the General Appropriations Act. Although funding for the pilot project may provide an incentive for community colleges and school districts to participate, it also may be possible for community colleges and school districts to redirect existing resources in an effort to reduce the need for and costs of remediation.

⁹ 2008 Community College Fact Book, Table 23

¹⁰ 2006-07 State University Expenditure Analysis, Report IV, and 2006-07 Tuition and Required Fees Chart posted at <http://www.flbog.org/about/budget/current.php>

¹¹ OPPAGA Report No. 06-40, *Steps Can Be Taken to Reduce Remediation Rates; 78% of Community College Students, 10% of University Students Need Remediation.*

¹² OPPAGA Report No. 07-31, *Half of College Students Needing Remediation Drop Out; Remediation Completers Do Almost as Well as Other Students.*

¹³ 2008 Community College Fact Book, Table 23.

¹⁴ 2006-07 Student Data Course File, Report 6S, and 2006-07 Expenditure Analysis pp 167 and 170. Florida A&M University is the only state university authorized by law (s. 1008.30(4)(b), F.S.) to offer remediation.

There may be costs associated with the requirement for high schools to make provisions for certain students to take the CPT, or an equivalent test, in the 11th grade year. In 2007, the Department of Education reported that 241,315 students passed either the reading or mathematics portion of the grade 10 FCAT and would be required to take the CPT, or an equivalent exam, in the 11th grade should this bill be enacted.¹⁵

Based on the 2007 FCAT data, the statewide cost to implement this provision of the bill would be approximately \$796,340 in Fiscal Year 2008-09. Currently, the Department of Education has a statewide procurement contract for the CPT, which provides that the cost for each core component of the CPT is \$1.10 in the 2008 academic year.¹⁶ Under the current contract, each community college purchases in advance a set number of test components for the year. The cost to implement this provision of the bill may be reduced to the extent community colleges are able to administer the CPT to these 11th grade students within the pre-paid number of CPT components. Additional savings may be realized should students elect to take the SAT or ACT rather than the CPT.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

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

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

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

¹⁵ FCAT 2007 Reading and Mathematics Scores, available at <http://fcats.fldoe.org/fcainfopg.asp>

¹⁶ Information provided by the Department of Education (March 17, 2008)

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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A bill to be entitled
 An act relating to college and career preparation;
 creating s. 1003.4285, F.S.; providing for designations on
 standard high school diplomas; creating s. 1003.4287,
 F.S.; providing for access to postsecondary education
 credit courses in public high schools; requiring the State
 Board of Education to develop a comprehensive plan;
 creating s. 1007.212, F.S.; providing legislative
 findings; creating the Remediation Reform Pilot Project to
 be piloted by community colleges and school districts;
 requiring the Department of Education to develop an
 application process; specifying contents of the
 application; requiring the Commissioner of Education to
 evaluate the applications and recommend proposals to the
 Legislature for final approval; requiring annual status
 reports by participants and analysis by the Office of
 Program Policy Analysis and Government Accountability;
 providing for funding; amending s. 1007.271, F.S.;
 revising provisions relating to dual enrollment courses;
 amending s. 1007.235, F.S.; providing for assignment of
 grades in dual enrollment courses; amending s. 1008.30,
 F.S.; revising provisions relating to the common placement
 test; providing an effective date.

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

PCB SLC 08-05

ORIGINAL

2008

27 Section 1. Section 1003.4285, Florida Statutes, is created
 28 to read:

29 1003.4285 Standard high school diploma designations.—By
 30 the 2008-2009 school year, each standard high school diploma
 31 shall include, as applicable:

32 (1) A designation of the student's major area of interest
 33 pursuant to the student's completion of credits as provided in
 34 s. 1003.428.

35 (2) A designation reflecting completion of accelerated
 36 college credit courses if the student is eligible for college
 37 credit pursuant to s. 1007.27 in four or more Advanced
 38 Placement, International Baccalaureate, Advanced International
 39 Certificate of Education, or dual enrollment courses. The
 40 Commissioner of Education shall establish guidelines for
 41 successful passage of examinations or coursework in each of the
 42 accelerated college credit options for purposes of this
 43 subsection.

44 (3) A designation reflecting career education
 45 certification in accordance with the provisions of s. 1003.431.

46 (4) A designation reflecting Ready to Work Certification
 47 in accordance with s. 1004.99.

48 Section 2. Section 1003.4287, Florida Statutes, is created
 49 to read:

50 1003.4287 Postsecondary education credit courses;
 51 comprehensive plan.—

52 (1) The purpose of this section is to provide each public
 53 high school student with access to a substantive and rigorous

54 curriculum that is designed to challenge the student's mind,
 55 enhance the student's knowledge and skills, and prepare the
 56 student for success in college and work.

57 (2) For purposes of this section, the term "postsecondary
 58 education credit course" means a course through which a high
 59 school student may earn postsecondary credit and includes
 60 Advanced Placement courses, International Baccalaureate courses,
 61 Advanced International Certificate of Education courses, and
 62 dual enrollment courses.

63 (3) By the 2009-2010 school year, each public high school
 64 in the state must provide students access to at least four
 65 Advanced Placement, International Baccalaureate, Advanced
 66 International Certificate of Education, or dual enrollment
 67 courses, one each in English, mathematics, science, and social
 68 studies, and at least four courses in career and technical dual
 69 enrollment. To fulfill this requirement, schools may utilize
 70 course offerings provided by the Florida Virtual School, a
 71 career center, a charter technical career center, a community
 72 college, a state university, or an independent college or
 73 university eligible for inclusion in the dual enrollment program
 74 pursuant to s. 1011.62.

75 (4) To assist with implementation of this section, the
 76 State Board of Education shall develop and adopt a comprehensive
 77 plan that:

78 (a) Provides all students with access to a substantive and
 79 rigorous curriculum that is designed to challenge their minds

80 and enhance their knowledge and skills and opportunities to
 81 acquire postsecondary education credits while in high school.

82 (b) Supports school administrators and guidance counselors
 83 in the receipt of professional development that enables them to
 84 create strong and effective postsecondary opportunities for
 85 their students.

86 (c) Assists teachers and school leaders in middle schools
 87 and high schools with implementation of training to prepare
 88 students for success in postsecondary education credit courses.

89 (d) Creates long-term and annual statewide goals for
 90 increasing:

91 1. The number and percentage of students enrolling in and
 92 completing postsecondary education credit courses.

93 2. The number and percentage of students receiving
 94 postsecondary credits in such courses.

95 3. The number and percentage of low-income and
 96 underrepresented students enrolling in and completing
 97 postsecondary education credit courses.

98 4. The number and percentage of low-income and
 99 underrepresented students receiving postsecondary credit in such
 100 courses.

101 (e) Leverages federal and private funding available for
 102 incentives and training.

103 (f) Focuses state and federal funding to carry out
 104 activities that target school districts serving high
 105 concentrations of low-income and underrepresented students.

PCB SLC 08-05

ORIGINAL

2008

106 (g) Provides a plan of communication that emphasizes the
 107 importance of postsecondary education credit courses to a
 108 student's ability to gain access to and succeed in postsecondary
 109 education. The plan for such communication should include
 110 information to students, teachers, counselors, administrators,
 111 school districts, community colleges, and state universities.

112 (h) Annually evaluates the impact of the implementation of
 113 this section on the rates of student enrollment and success in
 114 postsecondary education credit courses, on high school
 115 graduation rates, and on college enrollment rates. The
 116 evaluation must include a review of the progress toward meeting
 117 goals established pursuant to paragraph (d).

118 Section 3. Subsection (16) of section 1007.271, Florida
 119 Statutes, are amended to read:

120 1007.271 Dual enrollment programs.--

121 (16) Beginning with students entering grade 9 in the 2006-
 122 2007 school year, school districts and community colleges must
 123 weigh dual enrollment courses the same as advanced placement,
 124 International Baccalaureate, and Advanced International
 125 Certificate of Education courses when grade point averages are
 126 calculated. Alternative grade calculation or weighting systems
 127 that discriminate against dual enrollment courses are
 128 prohibited. Beginning with students applying for admission to a
 129 state university for the 2009-2010 academic year, state
 130 universities must weigh dual enrollment courses the same as
 131 comparable Advanced Placement, International Baccalaureate, and
 132 Advanced International Certificate of Education courses when

PCB SLC 08-05

ORIGINAL

2008

133 calculating grade point averages for purposes of making
 134 admissions decisions.

135 Section 4. Paragraph (b) of subsection (2) of section
 136 1007.235, Florida Statutes, is amended to read:

137 1007.235 District interinstitutional articulation
 138 agreements.--

139 (2) The district interinstitutional articulation agreement
 140 for each school year must be completed before high school
 141 registration for the fall term of the following school year. The
 142 agreement must include, but is not limited to, the following
 143 components:

144 (b)1. A delineation of courses and programs available to
 145 students eligible to participate in dual enrollment. This
 146 delineation must include a plan for the community college to
 147 provide guidance services to participating students on the
 148 selection of courses in the dual enrollment program. The process
 149 of community college guidance should make maximum use of the
 150 automated advisement system for community colleges. The plan
 151 must assure that each dual enrollment student is encouraged to
 152 identify a postsecondary education objective with which to guide
 153 the course selection. At a minimum, each student's plan should
 154 include a list of courses that will result in an Applied
 155 Technology Diploma, an Associate in Science degree, or an
 156 Associate in Arts degree. If the student identifies a
 157 baccalaureate degree as the objective, the plan must include
 158 courses that will meet the general education requirements and

PCB SLC 08-05

ORIGINAL

2008

159 any prerequisite requirements for entrance into a selected
160 baccalaureate degree program.

161 2. A delineation of the process by which students and
162 their parents are informed about opportunities to participate in
163 articulated acceleration programs.

164 3. A delineation of the process by which students and
165 their parents exercise their option to participate in an
166 articulated acceleration program.

167 4. A delineation of high school credits earned for
168 completion of each dual enrollment course.

169 5. Provision for postsecondary courses that meet the
170 criteria for inclusion in a district articulated acceleration
171 program to be counted toward meeting the graduation requirements
172 of s. 1003.43.

173 6. An identification of eligibility criteria for student
174 participation in dual enrollment courses and programs.

175 7. A delineation of institutional responsibilities
176 regarding student screening prior to enrollment and monitoring
177 student performance subsequent to enrollment in dual enrollment
178 courses and programs.

179 8. An identification of the criteria by which the quality
180 of dual enrollment courses and programs are to be judged and a
181 delineation of institutional responsibilities for the
182 maintenance of instructional quality.

183 9. A delineation of institutional responsibilities for
184 assuming the cost of dual enrollment courses and programs that

PCB SLC 08-05

ORIGINAL

2008

185 includes such responsibilities for student instructional
 186 materials.

187 10. An identification of responsibility for providing
 188 student transportation if the dual enrollment instruction is
 189 conducted at a facility other than the high school campus.

190 11. A delineation of the process for converting college
 191 credit hours earned through dual enrollment and early admission
 192 programs to high school credit based on mastery of course
 193 outcomes as determined by the Department of Education in
 194 accordance with s. 1007.271(6).

195 12. An identification of the responsibility of the
 196 postsecondary institution for assigning letter grades for dual
 197 enrollment courses. School districts must post dual enrollment
 198 course grades to the high school transcript as assigned by the
 199 postsecondary institution awarding the credit.

200 Section 5. Section 1007.212, Florida Statutes, is created
 201 to read:

202 1007.212 Remediation Reform Pilot Project.-

203 (1) The Legislature finds that the cost to the state and
 204 to students for remedial education has exceeded \$100 million in
 205 recent years. The Legislature further finds that it is in the
 206 public's best interest to identify policies and best practices
 207 that reduce the need for and the cost of remediation for recent
 208 high school graduates who enter postsecondary education.

209 (2) Beginning with the 2008-2009 school year, there is
 210 created the Remediation Reform Pilot Project to be piloted by
 211 community colleges and school districts selected to participate

PCB SLC 08-05

ORIGINAL

2008

212 in the project. The goal of the pilot project is to reduce the
213 need for and the cost of remediation for recent high school
214 graduates who enter postsecondary education.

215 (3) The Department of Education shall develop by August 1,
216 2008, an application process for community colleges and school
217 districts to participate in the pilot project. Each application
218 must represent a collaborative effort between one or more
219 community colleges and one or more school districts in each
220 community college's service area.

221 (4) Each application shall:

222 (a) Identify the specific area or areas of remediation to
223 be addressed as part of the pilot project.

224 (b) Provide the most recent data available from the
225 postsecondary feedback reports produced pursuant to s. 1008.37
226 for each community college and school district that will
227 participate in the pilot project for the area or areas of
228 remediation that will be addressed during the course of the
229 project.

230 (c) Describe the strategies currently used by the
231 participating institutions to address remediation needs,
232 including mechanisms used to identify students who need
233 remediation, corrective actions employed to address identified
234 needs, and methods used to evaluate the effectiveness of these
235 strategies.

236 (d) Describe any proposed changes to current strategies
237 that have been designed to reduce the need for postsecondary
238 remediation including, but not limited to:

239 1. Specific intervention efforts that will be employed to
 240 address identified deficiencies.

241 2. The process the community college and the school
 242 district will use to determine the effectiveness of the changes.

243 3. A projected timeline for implementation of the changes.

244 (e) Describe specific professional development activities
 245 that will be provided for secondary faculty.

246 (f) Provide itemized estimates of the costs to each
 247 participating community college and school district of
 248 implementing the proposal.

249 (g) Identify any local, federal, or private funding that
 250 may be available to support the project.

251 (h) Project any reductions in the need for and the cost of
 252 remediation that are anticipated following implementation and
 253 describe the method used to develop the projections.

254 (5) By October 1, 2008, the Commissioner of Education
 255 shall evaluate the applications and recommend no more than four
 256 proposals to the President of the Senate and the Speaker of the
 257 House of Representatives for consideration and final approval.
 258 To the extent possible, the proposals recommended by the
 259 Commissioner shall be representative of the geographic regions
 260 of the state and representative of large, medium, and small
 261 school districts.

262 (6) Each community college and school district
 263 participating in the pilot project shall submit an annual status
 264 report, including a description of the strategies implemented,
 265 any costs incurred, and the effectiveness of the strategies used

PCB SLC 08-05

ORIGINAL

2008

266 in reducing the need for and the cost of postsecondary
 267 remediation to students and the state. This report shall be
 268 submitted to the Executive Office of the Governor, the President
 269 of the Senate, the Speaker of the House of Representatives, the
 270 Commissioner of Education, and the Office of Program Policy
 271 Analysis and Government Accountability by September 1. The
 272 Office of Program Policy Analysis and Government Accountability
 273 shall analyze the reports submitted pursuant to this subsection
 274 to identify the policies and practices that are most effective
 275 in reducing the need for and the cost of remediation, including
 276 any cost savings realized as a result of implementation.

277 (7) The pilot project shall be funded as provided in the
 278 General Appropriations Act. The Department of Education, school
 279 districts, and community colleges may redirect existing
 280 resources for purposes of the pilot project and are encouraged
 281 to seek and accept grants from additional public and private
 282 sources to implement the pilot project.

283 Section 6. Section 1008.30, Florida Statutes, is amended
 284 to read:

285 1008.30 Common placement testing for public postsecondary
 286 education.--

287 (1) The State Board of Education, in conjunction with the
 288 Board of Governors, shall develop and implement a common
 289 placement test for the purpose of assessing the basic
 290 computation and communication skills students need to continue
 291 their education at the postsecondary level or enter the
 292 workforce of students who intend to enter a degree program at

PCB SLC 08-05

ORIGINAL

2008

293 ~~any public postsecondary educational institution.~~ Public
 294 postsecondary educational institutions shall provide appropriate
 295 modifications of the test instruments or test procedures for
 296 students with disabilities.

297 (2) The common placement testing program shall include at
 298 a minimum the following: the capacity to diagnose basic
 299 competencies in the areas of English, reading, and mathematics
 300 which are essential to perform at the postsecondary-level or
 301 enter the workforce ~~college-level work~~; prerequisite skills that
 302 relate to progressively advanced instruction in mathematics,
 303 such as algebra and geometry; prerequisite skills that relate to
 304 progressively advanced instruction in language arts, such as
 305 English composition and literature; prerequisite skills which
 306 relate to the College Level Academic Skills Test (CLAST); and
 307 provision of test information to students on the specific
 308 deficiencies.

309 (3) The State Board of Education shall adopt rules that
 310 ~~would~~ require high schools to evaluate during the 11th grade the
 311 college or career readiness of each student who passed the
 312 reading or mathematics portion of the grade 10 FCAT. High
 313 schools shall perform this evaluation using results from ~~give~~
 314 the common placement test prescribed in this section, or an
 315 equivalent test identified by the State Board of Education~~7~~.
 316 The State Board of Education shall establish in rule the minimum
 317 test scores a student must achieve to demonstrate readiness.
 318 The high school shall use the results of the test to advise the
 319 students of any identified deficiencies and provide students any

PCB SLC 08-05

ORIGINAL

2008

320 necessary remedial instruction prior to, or the summer
 321 immediately following, high school graduation. The remedial
 322 instruction provided pursuant to this subsection shall be
 323 developed as a collaborative effort between secondary and
 324 postsecondary institutions.~~at the beginning of the tenth grade~~
 325 ~~year before enrollment in the eleventh grade year in public high~~
 326 ~~school for the purpose of obtaining remedial instruction prior~~
 327 ~~to entering public postsecondary education.~~

328 Section 7. This act shall take effect July 1, 2008.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **PCB SLC 08-05**

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Schools & Learning Council
2 Representative(s) Coley and Flores offered the following:

3
4 **Amendment**

5 Remove line(s) 86-88 and insert:

6 (c) Establishes guidelines and timelines for teachers and
7 school leaders in middle schools and high schools to receive
8 training in content knowledge and instructional skills to
9 prepare students for success in a rigorous curriculum that leads
10 to postsecondary education credit.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

Bill No. **PCB SLC 08-05**

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Schools & Learning Council
2 Representative(s) Pickens offered the following:

3
4 **Amendment**

5 Remove line(s) 324 and insert:
6 postsecondary institutions. Contingent upon appropriation of
7 funds in the General Appropriations Act, the Florida Virtual
8 School shall partner with one or more community colleges to
9 develop remedial content that may be offered online.~~at the~~
10 ~~beginning of the tenth grade~~

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3

Bill No. PCB SLC 08-05

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Schools & Learning Council
 2 Representative(s) Coley offered the following:

Amendment (with title amendments)

Between line(s) 327-328 insert:

Section 7. Paragraph (i) of subsection (3) of section
 1003.413, Florida Statutes, is amended to read:

1003.413 Florida Secondary School Redesign Act.--

(3) Based on these guiding principles, district school
 boards shall establish policies to implement the requirements of
 ss. 1003.4156, 1003.428, and 1003.493. The policies must
 address:

(i) An annual review of each high school student's
 electronic personal education plan pursuant to s. 1003.4156 and
 procedures for high school students who have not prepared an
 electronic personal education plan pursuant to s. 1003.4156 to
 prepare such plan.

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

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3

22 Remove line(s) 23 and insert:
23 test; amending s. 1003.413, F.S.; providing for an annual review
24 of each high school student's electronic personal education
25 plan; providing an effective date.
26

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4

Bill No. PCB SLC 08-05

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Schools & Learning Council
2 Representative(s) Coley offered the following:
3

4 **Amendment (with title amendments)**

5 Remove line(s) 327-328 and insert:

6 Section 7. Subsection (3) of section 1004.91, Florida
7 Statutes, is amended to read:

8 1004.91 Career-preparatory instruction.--

9 (3) An adult student with a disability may be exempted
10 from the provisions of this section. A student who possesses a
11 college degree at the associate in applied science level or
12 higher is exempt from this section. A student who has completed
13 or who is exempt from the college-level communication and
14 computation skills examination pursuant to s. 1008.29, or who is
15 exempt from the college entry-level examination pursuant to s.
16 1008.29, is exempt from the provisions of this section. Students
17 who have passed a state, national, or industry licensure exam
18 are exempt from this section. An adult student who is enrolled
19 in an apprenticeship program that is registered with the
20 Department of Education in accordance with the provisions of
21 chapter 446 is exempt from the provisions of this section.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4

22
23
24
25
26
27
28

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

Remove line(s) 23 and insert:


test; amending s. 1004.91, F.S.; providing an exemption;
providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB SLC 08-09 K-8 Virtual Education

SPONSOR(S): Schools & Learning Council

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Schools & Learning Council		White ^{TW}	Cobb 
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

Proposed Council Bill 08-09 amends provisions governing the K-8 Virtual Schools Program. Under the bill, the program's statewide enrollment capacity will be substantially expanded from 1,881 students currently to approximately more than 4,500 students by the 2009-2010 school year. Additionally, school districts will be afforded the authority to operate or contract for their own K-8 Virtual School Programs, rather than current law's provisions which only authorize state-contracted K-8 virtual schools. Students currently in a state-contracted K-8 virtual school will have the opportunity to remain in their current school until they reach the ninth grade.

Specifically, the bill provides for the following:

- *District K-8 Virtual School Program* -- Each school district will be authorized in the 2008-2009 school year, and required in the 2009-2010 school year and thereafter, to offer a K-8 Virtual School Program for students residing within the district. Each district program may consist of district-operated and/or contracted K-8 virtual schools. Districts may administer their programs individually or through a regional consortium or multi-district contract. The minimum annual enrollment capacity required for each district program will be the *greater* of: (a) $\frac{1}{4}$ of one percent of the number of K-8 public school students in the district (currently a total of 4,515 students statewide); or (b) the number of students in the district who were enrolled in a K-8 virtual school during the previous school year. Funding for students in a district program will be through the Florida Education Finance Program.
- *State-Contracted K-8 Virtual Schools:* Students currently enrolled in one of the two Department of Education contracted K-8 virtual schools will have the choice of remaining in their current provider's school in the 2008-2009 school year and thereafter if that provider does not offer a K-8 virtual school in their parent's district of residence. Funding for this program will be an amount per full-time equivalent student as established in the General Appropriations Act.

The bill may have a positive fiscal impact on state government and school districts. Please see "**FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT.**"

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

STORAGE NAME: pcb09.SLC.doc
DATE: 3/28/2008

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower Families-- The bill expands access to an existing school choice option by increasing the statewide enrollment capacity for K-8 virtual schools and by expanding enrollment eligibility to children of military families who are relocated to this state.

Safeguard Individual Liberty-- The bill expands access to an existing school choice option by increasing the statewide enrollment capacity for K-8 virtual schools and by expanding enrollment eligibility to children of military families who are relocated to this state.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Background: The K-8 Virtual School Program is an educational choice program established within the DOE. The program delivers academic instruction via on-line and distance learning technology to full-time students in kindergarten through eighth grade.¹ Participation is free to the student. Students are instructed by Florida-certified teachers. Learning coaches, usually a parent or other adult living in the student's home, supervise the student's in-home learning activities. The virtual school curriculum is aligned to the Sunshine State Standards and students enrolled in the program must participate in the statewide assessment program required under s.1008.22, F.S.

Providers of virtual schools must apply and be approved by the DOE to participate in the K-8 Virtual School Program. A K-8 virtual school may be a non-profit or for profit entity. Participating schools must provide each enrolled student with all necessary instructional materials, computer equipment, and a stipend for internet access. K-8 virtual schools are subject to the Florida school grading system² and adequate yearly progress (AYP) provisions under Title I of the No Child Left Behind Act of 2001. At present, the Florida Connections Academy and Florida Virtual Academy have been approved by the DOE to deliver program instruction.

Currently, the K-8 Virtual School Program is funded by specific appropriation in the General Appropriations Act. In 2007, the Legislature appropriated \$9,500,000 in general revenues for the program. Students are funded based on a maximum grant amount of \$5,050 per student.³ Thus, enrollment capacity is limited to approximately 1,881 students. According to the DOE, there is a large waiting list of students wishing to participate in the program.⁴

Student Eligibility: The K-8 Virtual School Program is available to full-time students in kindergarten through eighth grade. Eligibility for the program is limited to:

- Students who spent the previous school year in attendance at a Florida public school and who were reported by the school district for funding through the Florida Education Finance Program;

¹ Section 1002.415, F.S.

² Section 1008.34, F.S.

³ Specific Appropriation 99B of the Conference Committee Report on SB 2800, Enrolled Chapter 2007-72, L.O.F., as amended by Chapter 2007-326, L.O.F.

⁴ Florida Department of Education, 2007 Bill Analysis for House Bill 799.

- Students who were enrolled during the previous school year in a K-8 virtual school and their siblings; or
- Students who are eligible to enroll in kindergarten or the first grade.⁵

School Attendance: Students enrolled in the K-8 Virtual School Program are subject to the compulsory school attendance requirements of s. 1003.21, F.S. State Board of Education Rule 6A-6.0980(2)(b), F.A.C., requires each K-8 Virtual School to keep daily attendance for each enrolled student and to verify the continued attendance of each student to the DOE four times during the academic year.

Performance: According to the DOE website for the K-8 Virtual School Program, students in the Florida Connections Academy and Florida Virtual Academy are performing the same or better than their peers statewide on the Florida Comprehensive Assessment Test (FCAT) in most subjects and grade levels.⁶ Further, each school earned a school performance grade of "A" and met 90% of the criteria required for AYP in 2006-07.⁷

Effect of Proposed Changes

The bill amends s. 1002.415, F.S., to substantially revise provisions governing the K-8 Virtual Schools Program. Under the bill, the program's statewide enrollment capacity will be substantially expanded from 1,881 students currently to approximately more than 4,500 students by the 2009-2010 school year. Additionally, school districts will be afforded the authority to operate or contract for their own K-8 Virtual School Programs, rather than current law's provisions which only authorize state-contracted virtual schools. Students currently in a state-contracted K-8 virtual school will have the opportunity to remain in their current school until they reach the ninth grade.

The specific provisions of the bill are detailed below.

District K-8 Virtual School Program – Each school district will be authorized in the 2008-2009 school year, and required in the 2009-2010 school year and thereafter, to offer a K-8 Virtual School Program for students residing within the district. Each district program:

- Must be approved by the DOE before it begins student enrollment.
- May consist of district-operated and/or contracted K-8 virtual schools. Districts may administer their programs individually or through a regional consortium or multi-district contract. Contracted providers must be approved by the DOE.
- Must comply with the requirements, discussed below, which are generally applicable to K-8 virtual schools and which govern: provider qualifications; staff qualifications, curriculum, materials, and equipment; and state assessments, accountability, and school grading.

The minimum enrollment capacity for each district program must be the *greater* of: (a) $\frac{1}{4}$ of one percent of the number of K-8 public school students in the district (currently a total of 4,515 students statewide); or (b) the number of students in the district who were enrolled in a K-8 virtual school during the previous school year. Additionally, each school within the district's program must have a sufficient number of students to permit assignment of a school performance grade under s. 1008.34, F.S. and State Board of Education (SBE) rule.⁸ Beginning with the 2010-2011 school year, the enrollment in a K-8 virtual school may not be increased in excess of the prior year unless the school has received a grade of "C" or better.

⁵ Section 1002.415(5), F.S.

⁶ Florida Department of Education, K-8 Program FAQs (Accessed March, 27, 2008) available at http://www.floridaschoolchoice.org/Information/virtual_schools/faqs_pilot.asp.

⁷ Florida Department of Education, Florida's K-8 Virtual Schools Program (January 2008) available at http://www.floridaschoolchoice.org/Information/Virtual_Schools/files/K8_Virtual_Facts.pdf.

⁸ See Rule 6A-1.09981, F.A.C. (requiring for the assignment of a school performance grade at least 30 eligible students with valid FCAT scores for reading and math in the previous and current years).

Any student residing within the district's attendance area is eligible to enroll in a district K-8 virtual school if, during the previous year, the student:

- Was enrolled in a Florida public school and was reported for funding during the preceding October and February Florida Education Finance Program (FEFP) surveys;
- Was enrolled in a K-8 virtual school under the section;
- Is the sibling of a current K-8 virtual school student who completed the previous year at a K-8 virtual school under the section; or
- Is a dependent child of a military family that was transferred within the past 12 months to this state pursuant to a parent's permanent change of station orders.

School districts must enroll eligible students until the program meets full capacity. Priority for enrollment must be granted to: (a) students who were enrolled during the prior school year and their siblings; (b) students who need a home environment to meet their educational needs; (c) children of relocated military families; and (d) students seeking to learn at an accelerated pace. If student applications exceed capacity, students are to be admitted through a random selection process.

Funding for a district program will be through the FEFP. Each district will be required to report the number of full-time equivalent (FTE) students in its K-8 Virtual School Program to the DOE. Section 1011.61(1)(c), F.S., is amended by the bill to provide that a K-8 virtual school FTE student is a student who has successfully completed a basic program and who is promoted to a higher grade level. Districts are also permitted to receive grants and donations for their programs.

State-Contracted K-8 Virtual Schools: The bill provides, subject to appropriation, that the two providers of K-8 virtual schools during the 2007-2008 school year may continue operation under contract with the DOE during the 2008-2009 school year and thereafter. Enrollment in each of these two virtual schools is limited to students who attended that school in the 2007-2008 school year and who live in a district that does not offer a K-8 virtual school operated by the same provider.

The two providers and their schools must continue to comply with the requirements, discussed below, which are generally applicable to K-8 virtual schools and which govern: provider qualifications; staff qualifications, curriculum, materials, and equipment; and state assessments, accountability, and school grading.

Funding for the two DOE-contracted K-8 virtual schools will be based on total program enrollment and an amount per FTE student to be established annually in the General Appropriations Act. Payments are to be made quarterly during the school year as specified in the bill.

Provider Qualifications: The bill requires the DOE on or before March 1, 2009, and annually thereafter, to provide school districts with a list of K-8 virtual school providers that are approved to contract with one or more districts or regional consortia. To be approved, each provider must annually document that it: (a) is nonsectarian; (b) complies with s. 1000.05, prohibiting discrimination; (c) locates its administrative office in this state and requires its staff to be state residents; (d) possesses prior experience offering elementary or secondary online courses; (e) is accredited by specified entities;⁹ and (f) is capable of complying with all requirements under s. 1002.415, F.S., for a K-8 virtual school.

K-8 Virtual School Requirements: Each K-8 virtual school operated by a school district or a provider must: (a) require all instructional personnel to be Florida certified educators; (b) require all school employees to undergo background screening under s. 1012.32, F.S.; (c) offer a full-time, 180-day program of instruction that is aligned to the Sunshine State Standards that is 180 days in duration; and

⁹ The specified accrediting entities are: the Commission on Colleges of the Southern Association of Colleges and Schools, the Middle States Association of Colleges and Schools, the North Central Association of Colleges and Schools, the New England Association of Colleges and Schools, or the Commission on International and Trans-Regional Accreditation.

(d) provide each student with all instructional materials, equipment, and internet services necessary to participate in the program. Students may not be charged tuition or registration fees.

Student Requirements: All K-8 virtual school students must: (a) satisfy the compulsory attendance requirements of s. 1008.22, F.S., which must be verified by his or her school district; and (b) take the Florida Comprehensive Assessment Test (FCAT).

Assessment and Accountability: All K-8 virtual schools are required to participate in the statewide assessment program under s. 1008.22, F.S., i.e., the FCAT, and in the state's school accountability system under s. 1008.31, F.S. Each school must receive a school grade under s. 1008.34, F.S. If the school receives a grade of "D" or "F", it is required to file a school improvement plan with the DOE. The DOE must work in consultation with such a school to identify the causes of the school's poor performance and develop a plan for correcting it.

If a K-8 virtual school receives a "D" or "F" for two years during any consecutive four-year period, the bill requires: (a) a district or regional consortium to terminate the contract for a provider-operated school; and (b) a district to terminate operation of a district-operated school and to contract for a provider-operated school during the next school year.

The DOE is required to annually review each school district's program, and submit a report to the SBE, Governor, and presiding officers of the Legislature that compares the performance of each district's K-8 Virtual School Program with the performance of: (a) the district's K-8 students in traditional public schools; and (b) other school district K-8 Virtual School Programs. The report must also analyze and aggregate the overall performance of such students by contracted provider.

A school district or regional consortium is authorized under the bill to terminate or not renew a provider's contract if the provider:

- Fails to participate in the state assessment program;
- Fails to obtain DOE approval in any year;
- Fails to meet generally accepted standards of fiscal management;
- Violates the law;
- Is not funded by the Legislature; or
- Meets any other ground listed in the contract.

If a contract is terminated or not renewed, the contracted provider of the K-8 virtual school is responsible for all debts of the school. Students who are enrolled in such schools must be allowed to enroll in another K-8 virtual school in the district; the public school to which the student would be assigned under the district's attendance area policies; or a public school that the student could choose under district or interdistrict controlled open enrollment provisions.

Class Size Reduction: The bill amends the definition of "core-curricula courses" in s. 1003.01, F.S., to provide that the term does not include a course by the Florida Virtual School, a School District K-8 Virtual School Program, or a state-contracted K-8 virtual school, under ss. 1002.37 and 1002.415, F.S., respectively; thereby, clarifying that the class size reduction requirements of s. 1, Art. IX of the State Constitution and s. 1003.03, F.S., do not apply to virtual schools.

Conforming Provisions: Effective July 1, 2009, the bill amends ss. 1000.04, 1002.20, and 1002.31, F.S., to cross-reference K-8 virtual schools as public school choice options.

Effective Date: The bill provides an effective date of July 1, 2008, except as otherwise provided in the act.

C. SECTION DIRECTORY:

Section 1.: Amending s. 1000.04, F.S.; providing that K-8 virtual schools are public K-12 schools.

Section 2.: Amending s. 1002.20, F.S.; requiring school districts to provide information to parents on public school choices, including K-8 virtual schools.

Section 3.: Amending s. 1002.31, F.S.; providing that K-8 virtual schools are a public school choice.

Section 4.: Amending s. 1002.415, F.S.; establishing the K-8 Virtual School Program; authorizing school districts for the 2008-2009 school year to offer a K-8 Virtual School Program; requiring school districts to offer such program beginning with the 2009-2010 school year; specifying qualifications for and requiring DOE approval of contracted providers; requiring DOE approval for a district-operated school; specifying requirements for a K-8 virtual school relating to employees, curriculum, student equipment, and fees; requiring specified capacity and limiting future enrollment increases; providing student eligibility and enrollment requirements; requiring student compliance with specified attendance provisions; requiring students to take state assessment tests; providing funding through the FEFP for district K-8 virtual schools; requiring K-8 virtual schools to participate in the state accountability system and receive grades; requiring school improvement plans for specified grades; requiring annual DOE review and reporting of student performance; specifying reasons for non-renewal or termination of provider contracts; providing for continuation of existing K-8 virtual schools for specified students; providing funding requirements; and requiring rules.

Section 5.: Amending s. 1003.01, F.S.; revising the definition of "core-curricula courses" to exclude Florida Virtual School and K-8 virtual school courses from class size requirements.

Section 6.: Amending s. 1011.61, F.S.; defining a K-8 virtual school FTE student.

Section 7.: 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 government revenues.

2. Expenditures:

The expanded capacity for student enrollment required by the bill may generate an indeterminate savings in future state capital outlay expenditures as these students will receive services in their homes and will not require a classroom.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

The bill does not appear to have a fiscal impact on local government. Please see "Fiscal Comments" below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private providers of K-8 virtual schools may have expanded opportunities to contract in this state due to the bill's required increase in statewide enrollment capacity.

D. FISCAL COMMENTS:

The bill authorizes school districts to contract with K-8 virtual school providers and report FTE through the FEFP for students who are promoted to a higher grade level. The per-student amount that will be agreed upon by a district and a K-8 provider is unknown. For the 2008-09 school year, funding models project that the statewide average funding for a basic student will be approximately \$5,800 per FTE. The appropriation in ch. 2007-72, L.O.F., as adjusted by chs. 2007-326 and 2008-1, L.O.F., authorizes the DOE to spend up to \$4,848 per student for K-8 virtual education services, which would be a district savings of \$952 per student. However, the per-student amount agreed to in a district contract may be higher than \$4,848, because providers will only be paid for students who are promoted to a higher grade. The percentage of students who enroll in a K-8 virtual program and who are not promoted to the next grade is unknown.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the SBE to adopt rules to administer s. 1002.415, F.S., establishing the School District K-8 Virtual School Program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

PCB SLC 08-09

ORIGINAL

2008

1 A bill to be entitled
2 An act relating to virtual education; amending s. 1000.04,
3 F.S.; providing that K-8 virtual schools are public K-12
4 schools; amending ss. 1002.20 and 1002.31, F.S.; providing
5 that K-8 virtual schools are a public school choice;
6 amending s. 1002.415, F.S.; establishing the K-8 Virtual
7 School Program; authorizing school districts for the 2008-
8 2009 school year to offer K-8 Virtual School Program;
9 requiring school districts to offer such program beginning
10 with the 2009-2010 school year; specifying qualifications
11 for and requiring Department of Education approval of
12 contracted providers; requiring department approval for a
13 district-operated school; specifying requirements for a K-
14 8 virtual school, relating to employees, curriculum,
15 student equipment, and fees; requiring specified capacity
16 and limiting future enrollment increases; providing
17 student eligibility and enrollment requirements; requiring
18 student compliance with specified attendance provisions;
19 requiring students to take state assessment tests;
20 providing funding through the Florida Education Finance
21 Program for district K-8 Virtual School Programs;
22 requiring K-8 virtual schools to participate in the state
23 accountability system and receive grades; requiring school
24 improvement plans for specified grades; requiring annual
25 department review and reporting of student performance;
26 specifying reasons for non-renewal or termination of
27 provider contracts; providing for continuation of existing
28 K-8 virtual schools under contract with the department for

29 specified students; providing requirements for the funding
 30 of such schools; requiring rules; amending s. 1003.01,
 31 F.S.; amending the definition of "core-curricula courses"
 32 to exclude Florida Virtual School and K-8 virtual school
 33 courses; amending s. 1011.61, F.S.; defining a K-8 virtual
 34 school full-time equivalent student; providing effective
 35 dates.

36

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

38

39 Section 1. Effective July 1, 2009, subsection (1) of
 40 section 1000.04, Florida Statutes, is amended to read:

41 1000.04 Components for the delivery of public education
 42 within the Florida K-20 education system.--Florida's K-20
 43 education system provides for the delivery of public education
 44 through publicly supported and controlled K-12 schools,
 45 community colleges, state universities and other postsecondary
 46 educational institutions, other educational institutions, and
 47 other educational services as provided or authorized by the
 48 Constitution and laws of the state.

49 (1) PUBLIC K-12 SCHOOLS.--The public K-12 schools include
 50 charter schools and consist of kindergarten classes; elementary,
 51 middle, and high school grades and special classes; K-8 virtual
 52 schools; workforce education; career centers; adult, part-time,
 53 and evening schools, courses, or classes, as authorized by law
 54 to be operated under the control of district school boards; and
 55 lab schools operated under the control of state universities.

56 Section 2. Effective July 1, 2009, paragraph (a) of

PCB SLC 08-09

ORIGINAL

2008

57 subsection (6) of section 1002.20, Florida Statutes, is amended
58 to read:

59 1002.20 K-12 student and parent rights.--Parents of public
60 school students must receive accurate and timely information
61 regarding their child's academic progress and must be informed
62 of ways they can help their child to succeed in school. K-12
63 students and their parents are afforded numerous statutory
64 rights including, but not limited to, the following:

65 (6) EDUCATIONAL CHOICE.--

66 (a) Public school choices.--Parents of public school
67 students may seek whatever public school choice options that are
68 applicable to their students and are available to students in
69 their school districts. These options may include controlled
70 open enrollment, lab schools, K-8 virtual schools, charter
71 schools, charter technical career centers, magnet schools,
72 alternative schools, special programs, advanced placement, dual
73 enrollment, International Baccalaureate, International General
74 Certificate of Secondary Education (pre-AICE), Advanced
75 International Certificate of Education, early admissions, credit
76 by examination or demonstration of competency, the New World
77 School of the Arts, the Florida School for the Deaf and the
78 Blind, and the Florida Virtual School. These options may also
79 include the public school choice options of the Opportunity
80 Scholarship Program and the McKay Scholarships for Students with
81 Disabilities Program.

82 Section 3. Effective July 1, 2009, subsections (2) and (8)
83 of section 1002.31, Florida Statutes, are amended to read:

84 1002.31 Public school parental choice.--

85 (2) Each district school board may offer controlled open
 86 enrollment within the public schools. The controlled open
 87 enrollment program shall be offered in addition to the existing
 88 choice programs such as K-8 virtual schools, magnet schools,
 89 alternative schools, special programs, advanced placement, and
 90 dual enrollment.

91 (8) Each district school board shall annually report the
 92 number of students applying for and attending the various types
 93 of public schools of choice in the district, including schools
 94 such as K-8 virtual schools, magnet schools, and public charter
 95 schools, according to rules adopted by the State Board of
 96 Education.

97 Section 4. Section 1002.415, Florida Statutes is amended
 98 to read:

99
 100 (Substantial rewording of section. See s. 1002.415, F.S.,
 101 for present text.)

102
 103 1002.415 School District K-8 Virtual Program.--

104 (1) PROGRAM.--

105 (a) Beginning with the 2009-2010 school year, each school
 106 district in the state shall offer a K-8 Virtual School Program
 107 that serves students residing within the district's attendance
 108 area. The purpose of the program is to make academic
 109 instruction available to full-time students in kindergarten
 110 through grade 8 using on-line and distance learning technology.

111 (b) Each school district's program may consist of one or
 112 more schools operated by the district or by contracted providers

113 approved by the department under subsection (2). School
 114 districts may participate in multi-district contractual
 115 arrangements, which may include contracts executed by a regional
 116 consortium for its member districts, for provision of the
 117 schools.

118 (c) Each K-8 virtual school operated or contracted under
 119 this section must have a sufficient number of students enrolled
 120 in each grade to permit a school performance grade to be
 121 assigned to the school pursuant to s. 1008.34 and State Board of
 122 Education rule.

123 (2) PROVIDER QUALIFICATIONS.— On or before March 1, 2009,
 124 and annually thereafter, the department shall provide school
 125 districts with a list of providers approved to contract with one
 126 or more school districts or regional consortia for the operation
 127 of one or more K-8 virtual schools. To be approved by the
 128 department, each provider must annually document that it:

129 (a) Is nonsectarian in its programs, admission policies,
 130 employment practices, and operations;

131 (b) Complies with the antidiscrimination provisions of s.
 132 1000.05;

133 (c) Locates its administrative office in this state and
 134 requires its administrative and instructional staff members to
 135 be state residents;

136 (d) Possesses prior, successful experience offering online
 137 courses to elementary, middle, or high school students;

138 (e) Is accredited by the Commission on Colleges of the
 139 Southern Association of Colleges and Schools, the Middle States
 140 Association of Colleges and Schools, the North Central

141 Association of Colleges and Schools, the New England Association
 142 of Colleges and Schools, or the Commission on International and
 143 Trans-Regional Accreditation; and

144 (f) Is capable of complying with all requirements for a K-8
 145 virtual school under this section.

146 (3) DISTRICT-OPERATED SCHOOLS.- Prior to offering a
 147 district-operated K-8 virtual school, each school district shall
 148 submit a proposal to the department that documents how the
 149 school's planned operations and curriculum will comply with all
 150 requirements for a K-8 virtual school under this section. A
 151 district may not enroll students in a district-operated K-8
 152 virtual school until it has received department approval for the
 153 school.

154 (4) K-8 VIRTUAL SCHOOL REQUIREMENTS.- Each K-8 virtual
 155 school operated or contracted by a school district or regional
 156 consortium must:

157 (a) Require all members of the school's instructional staff
 158 to be certified professional educators under the provisions of
 159 chapter 1012. .

160 (b) Background screen all of the school's employees as
 161 required by s. 1012.32.

162 (c) Align its curriculum and course content to the Sunshine
 163 State Standards under s. 1003.41.

164 (d) Offer an online program of instruction that is full
 165 time and of 180 days' duration.

166 (e) Provide each student enrolled in the virtual school
 167 with:

168 1. All necessary instructional materials;

PCB SLC 08-09

ORIGINAL

2008

169 2. All equipment, including, but not limited to, a
170 computer, computer monitor, and printer for each household that
171 has a student enrolled in the virtual school; and

172 3. Access to or reimbursement for all Internet services
173 necessary for on-line delivery of instruction for each household
174 that has a student enrolled in the virtual school.

175 (f) Not require tuition or student registration fees.

176 (5) PROGRAM CAPACITY; ENROLLMENT.—

177 (a) Each school district's K-8 Virtual School Program must
178 have at least the capacity to serve the greater of the following
179 number of students:

180 1. One-quarter of one percent of the school district's
181 total population of public school students in kindergarten
182 through grade 8; or

183 2. The number of students who reside in the district and
184 were enrolled during the prior school year in a K-8 virtual
185 school under this section.

186 (b) Each school district's K-8 Virtual School Program shall
187 enroll eligible students who meet the profile for success in
188 this educational delivery context and who submit timely
189 applications, prioritized in accordance with paragraph (6)(b),
190 unless the number of such applications exceeds the capacity of
191 the program. In such case, students who have submitted timely
192 applications shall have an equal chance of being admitted
193 through a random selection process.

194 (c) Beginning with the 2010-2011 school year and
195 thereafter, the enrollment for a K-8 virtual school may not be
196 increased in excess of its prior school year enrollment unless

PCB SLC 08-09

ORIGINAL

2008

197 the school has achieved a performance grade category of "C" or
 198 better under the school grading system created by s. 1008.34.

199 (6) STUDENT ELIGIBILITY; PRIORITY.--

200 (a) Enrollment in a K-8 Virtual School Program is open to
 201 any K-8 student residing within the district's attendance area
 202 if the student meets at least one of the following conditions:

203 1. Spent the prior school year in attendance at a public
 204 school in this state and was enrolled and reported by a public
 205 school district for funding during the preceding October and
 206 February for purposes of the Florida Education Finance Program
 207 surveys;

208 2. Was enrolled during the prior school year in a K-8
 209 virtual school under this section;

210 3. Has a sibling who is currently enrolled in a K-8
 211 virtual school and was enrolled at the end of the prior school
 212 year; or

213 4. Is a dependent child of a member of the United States
 214 Armed Forces who was transferred within the past 12 months to
 215 this state from out of state or from a foreign country pursuant
 216 to a parent's permanent change of station orders.

217 (b) Priority for admission to a K-8 virtual school shall
 218 be given to:

219 1. Students who were enrolled during the prior school year
 220 in a K-8 virtual school under this section.

221 2. The siblings of students under subparagraph 1.

222 3. Students who need access to a K-8 virtual school in
 223 order to meet their educational needs and goals in a home
 224 environment.

PCB SLC 08-09

ORIGINAL

2008

225 4. Students who are eligible under subparagraph (a)4.

226 5. Students seeking accelerated access to move at their
 227 own pace in their educational progress.

228 (7) STUDENT PARTICIPATION REQUIREMENTS.- Each student
 229 enrolled in a K-8 virtual school must:

230 (a) Comply with the compulsory attendance requirements of
 231 s. 1003.21. Student attendance must be verified by the school
 232 district.

233 (b) Take state assessment tests within the student's
 234 school district of residence, which must provide that student
 235 with access to the district's testing facilities.

236 (8) FUNDING.--

237 (a) A "full-time equivalent student" for a K-8 Virtual
 238 School Program shall be as defined in s. 1011.61(1)(c)1.b.III.

239 (b) Full-time equivalent students for a K-8 Virtual School
 240 Program shall be reported only by the school district to the
 241 department in the manner prescribed by the department and shall
 242 be funded through the Florida Education Finance Program.

243 (c) In addition to the funds provided in the General
 244 Appropriations Act, a school district may receive other funds
 245 from grants and donations for its K-8 Virtual School Program.

246 (9) ASSESSMENT AND ACCOUNTABILITY.--

247 (a) Each K-8 virtual school must:

248 1. Participate in the statewide assessment program created
 249 under s. 1008.22 and in the state's school accountability system
 250 created in s. 1008.31.

251 2. Receive a school grade under s. 1008.34.

252 (b) A K-8 virtual school that has a performance grade

PCB SLC 08-09

ORIGINAL

2008

253 category of "D" or "F" must file a school improvement plan with
 254 the department for consultation to determine the causes for low
 255 performance and to develop a plan for correction and
 256 improvement.

257 (c) If a K-8 virtual school receives a performance grade
 258 category of "D" or "F" for 2 years during any consecutive 4-year
 259 period:

260 1. The school district or regional consortium shall
 261 terminate the contract for a provider-operated school.

262 2. The school district shall terminate operation of a
 263 district-operated school and the school district or regional
 264 consortium shall contract for a provider-operated school for the
 265 next school year.

266 (d) The department shall annually review each school
 267 district's K-8 Virtual School Program and provide a report to
 268 the State Board of Education, Governor, and presiding officers
 269 of the Legislature that:

270 1. Analyzes the overall performance of students enrolled in
 271 each school district's K-8 Virtual School Program as compared to
 272 the overall performance of students in grades kindergarten
 273 through 8 who are enrolled in:

- 274 a. The school district's non-virtual public schools; and
- 275 b. Other school district K-8 Virtual School Programs.

276 2. Analyzes and aggregates the overall performance of
 277 students enrolled in K-8 virtual schools statewide according to
 278 each contracted provider.

279 (10) CAUSES FOR NONRENEWAL OR TERMINATION OF A CONTRACT.-

280 (a) A school district or regional consortium may choose

281 not to renew a contract for a K-8 virtual school for grounds
 282 that include, but are not limited to:

- 283 1. Failure to comply with paragraph (9)(a);
- 284 2. Failure to annually receive approval from the
 285 department under subsection (2);
- 286 3. Failure to meet generally accepted standards of fiscal
 287 management;
- 288 4. Violation of law; or
- 289 5. Failure of the Legislature to fund the program.

290 (b) A school district or regional consortium:

- 291 1. Shall terminate a contract for a K-8 virtual school as
 292 provided under paragraph (9)(c); and
- 293 2. May terminate a contract for a K-8 virtual school during
 294 its term for any ground listed in subparagraphs (a)1. through
 295 (a)5. or for any termination ground specified in the contract.

296 (c) If a contract is not renewed or is terminated, the
 297 contracted provider of the K-8 virtual school is responsible for
 298 all debts of the school.

299 (d) If a contract is not renewed or is terminated, a
 300 student who attended the K-8 virtual school must be allowed to
 301 enroll in: another K-8 virtual school offered by the school
 302 district; the public school to which the student would be
 303 assigned according to the school district's attendance area
 304 policies; or a public school that the student could choose to
 305 attend under district or interdistrict controlled open
 306 enrollment provisions.

307 (11) CONTINUITY OF EXISTING SCHOOLS.-

308 (a) Subject to appropriation, the two K-8 virtual schools

309 operated under this section during the 2007-2008 school year by
 310 providers under contract with the department may continue
 311 operation under contract with the department during the 2008-
 312 2009 school year and thereafter. These schools must comply with
 313 the requirements of subsections (2) and (4) and paragraphs
 314 (9)(a) and (b), and may only enroll students described in
 315 subparagraph (b)1.

316 (b) The parent of a student who was enrolled in a K-8
 317 virtual school under this section during the 2007-2008 school
 318 year may choose to:

319 1. Continue the student's enrollment in that school for the
 320 2008-2009 school year and thereafter if the school district in
 321 which the parent resides does not offer a K-8 virtual school
 322 operated by the same provider; or

323 2. Enroll the student in the K-8 virtual school offered by
 324 the school district in which the parent resides.

325 (c) State funding for students enrolled in a K-8 virtual
 326 school under subparagraph (b)1. shall be based on a total
 327 program enrollment and an amount per full-time equivalent
 328 student established annually in the General Appropriations Act.
 329 Upon documentation of proper student enrollment, which must be
 330 reviewed and approved by the department, payments shall be made
 331 to the provider in four equal payments no later than September
 332 1, November 1, February 1, and April 15 of each academic year.
 333 The initial payment shall be made after the department verifies
 334 each student's admission to the school, and subsequent payments
 335 shall be made upon verification of the continued enrollment and
 336 attendance of the student.

PCB SLC 08-09

ORIGINAL

2008

337 (d) Students enrolled under paragraph (b)1. must comply
 338 with the requirements of subsection (7).

339 (12) 2008-2009 DISTRICT PROGRAM.--

340 (a) For the 2008-2009 school year, each school district in
 341 the state may offer a K-8 Virtual School Program that serves
 342 students residing within the district's attendance area. Each
 343 school district's program may consist of one or more schools
 344 operated by the district, if approved by the department under
 345 (3), or by contracted providers approved by the department under
 346 subsection (2). School districts may participate in multi-
 347 district contractual arrangements, which may include contracts
 348 executed by a regional consortium for its member districts, for
 349 provision of the schools.

350 (b) A K-8 virtual school under this subsection must comply
 351 with the requirements of paragraph (1)(c) and subsections (4),
 352 (6), (8), (9), and (10).

353 (c) Students enrolled in a K-8 virtual school under this
 354 subsection must comply with the requirements of subsection (7).

355 (13) RULES.--The State Board of Education shall adopt
 356 rules under ss. 120.536(1) and 120.54 to administer this
 357 section.

358 Section 5. Subsection (14) of section 1003.01, Florida
 359 Statutes, is amended to read:

360 1003.01. Definitions.

361 As used in this section, the term:

362 (14) "Core-curricula courses" means courses defined by the
 363 Department of Education as mathematics, language arts/reading,
 364 science, social studies, foreign language, English for Speakers

365 of Other Languages, exceptional student education, and courses
 366 taught in traditional self-contained elementary school
 367 classrooms. The term is limited in meaning and used for the sole
 368 purpose of designating classes that are subject to the maximum
 369 class size requirements established in s. 1, Art. IX of the
 370 State Constitution. This term does not include courses offered
 371 under ss. 1002.37 or 1002.415.

372 Section 6. Paragraph (c) of subsection (1) of section
 373 1011.61, Florida Statutes, is amended to read:

374 1011.61 Definitions.--Notwithstanding the provisions of s.
 375 1000.21, the following terms are defined as follows for the
 376 purposes of the Florida Education Finance Program:

377 (c)1. A "full-time equivalent student" is:

378 a. A full-time student in any one of the programs listed
 379 in s. 1011.62(1)(c); or

380 b. A combination of full-time or part-time students in any
 381 one of the programs listed in s. 1011.62(1)(c) which is the
 382 equivalent of one full-time student based on the following
 383 calculations:

384 (I) A full-time student, except a postsecondary or adult
 385 student or a senior high school student enrolled in adult
 386 education when such courses are required for high school
 387 graduation, in a combination of programs listed in s.
 388 1011.62(1)(c) shall be a fraction of a full-time equivalent
 389 membership in each special program equal to the number of net
 390 hours per school year for which he or she is a member, divided
 391 by the appropriate number of hours set forth in subparagraph
 392 (a)1. or subparagraph (a)2. The difference between that fraction

PCB SLC 08-09

ORIGINAL

2008

393 or sum of fractions and the maximum value as set forth in
394 subsection (4) for each full-time student is presumed to be the
395 balance of the student's time not spent in such special
396 education programs and shall be recorded as time in the
397 appropriate basic program.

398 (II) A prekindergarten handicapped student shall meet the
399 requirements specified for kindergarten students.

400 (III) A K-8 virtual school full-time equivalent student
401 shall consist of a student who has successfully completed a
402 basic program listed in s. 1011.62(1)(c)1.a. or b. and who is
403 promoted to a higher grade level.

404 (IV) A Florida Virtual School full-time equivalent student
405 shall consist of six full credit completions in the programs
406 listed in s. 1011.62(1)(c)1. and 4. Credit completions can be a
407 combination of either full credits or half credits.

408 2. A student in membership in a program scheduled for more
409 or less than 180 school days is a fraction of a full-time
410 equivalent membership equal to the number of instructional hours
411 in membership divided by the appropriate number of hours set
412 forth in subparagraph (a)1.; however, for the purposes of this
413 subparagraph, membership in programs scheduled for more than 180
414 days is limited to students enrolled in juvenile justice
415 education programs and the Florida Virtual School.

416 Section 7. Except as otherwise provided herein, this act
417 shall take effect July 1, 2008.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

Bill No. **PCB SLC 08-09**

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Schools and Learning Council
 2 Representative(s) Pickens offered the following:

Amendment (with title amendment)

Between lines 122 and 123 insert:

6 (d) Notwithstanding any other provision of this section, a
 7 school district shall be in compliance with the requirements of
 8 this section for students in grades 6 through 8 if it offers a
 9 full-time, 180-day program of on-line academic instruction to
 10 such students pursuant to a franchise agreement with the Florida
 11 Virtual School under s. 1002.37. Such school district must
 12 still comply with the requirements of this section for students
 13 in kindergarten through grade 5.

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

16 On line 10 after the ";" insert:
 17 authorizing the provision of specified on-line instruction to
 18 students in grades 6 through 8 through a franchise agreement
 19 with the Florida Virtual School;

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

Bill No. PCB SLC 08-09

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Schools and Learning Council
 2 Representative(s) Pickens offered the following:
 3

Amendment with title amendment

Remove line(s) 146-153 and insert:

6 (3) PROGRAM APPROVAL.- Each school district shall submit
 7 a description of its proposed K-8 Virtual School Program to the
 8 department. Students may not be enrolled in the program until
 9 it is approved by the department.

12 -----
 13 **T I T L E A M E N D M E N T**


14 Remove line(s) 12-13 and insert:
 15 contracted providers; requiring department approval for district
 16 programs; specifying requirements for a K-

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 65 Supplemental Educational Services

SPONSOR(S): Schools & Learning Council

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Schools & Learning Council		Hassell	Cobb 
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The Proposed Council Substitute for HB 65 requires the Department of Education (DOE), beginning with the 2007-2008 school year, to annually assign a grade of "A," "B," "C," "D," or "F," as defined by State Board of Education rule, to each state-approved supplemental education services (SES) provider. The SES provider's grade must be based on a combination of student learning gains and student proficiency levels, as measured by the statewide assessment for students in grades four through 12, and-norm referenced tests approved by the DOE for students in kindergarten through grade three.

The bill assigns each letter grade the following meaning:

- "A" for providing superior service.
- "B" for providing above satisfactory service.
- "C" for providing satisfactory service.
- "D" for providing below satisfactory service.
- "F" for providing unsatisfactory service.

The DOE must annually report the grades to the SES providers, the respective school districts, the parents, and the public by March 1, 2009, and each March 1st thereafter.

The bill does not appear to have a fiscal impact on state or local governments. **(See FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT).**

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower Families- The bill benefits families of low-income students eligible to receive supplemental education services by increasing a parent's ability to make an informed choice before choosing the SES provider for their child.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Federal law sets forth specific testing requirements for public school students which is used to measure whether states and schools are making "adequate yearly progress (AYP)" toward state student proficiency goals under the federal Title I requirements.¹ The definition of AYP is established by the state's educational agency within the parameters of requirements set forth in the No Child Left Behind (NCLB) Act. In Florida, the Department of Education (DOE) sets the standards for AYP for all public elementary and secondary schools, local education agencies, and the state itself. The determination of AYP must be based on academic assessments.²

A school that fails to make AYP for two consecutive years is designated as "in need of improvement." Such schools must develop a school improvement plan and provide students with the option of transferring to another school that is not "in need of improvement." Low-income students attending Title I schools that have not made AYP for three or more years are eligible for supplemental education services (SES).³ Supplemental education services must take place outside of the regular school day and consist of tutoring, remediation, and academic intervention to increase student achievement, particularly in reading and mathematics.⁴

Approved providers may be for-profit companies, non-profit groups, local community programs, colleges or universities, national organizations, faith-based groups, private schools, charter schools, traditional public schools, and school districts that have not been identified as in need of improvement.⁵ Parents choose a provider from a state-approved list which is available on-line and includes information on the type of instruction available, the cost of services, grade levels, and location of services.⁶ Providers must meet the terms of their agreements with the school districts. Such agreements must include, but are not limited to: specific achievement goals for each eligible student; requirements for the measurement of student progress and a timeline for improving achievement; requirements for the

¹ See 20 U.S.C. s. 6311(b)(2)

² Part A of Title I of the Elementary and Secondary Education Act (Title I) as reauthorized by the No Child Left Behind Act of 2001, P.L. 107-110. NCLB was subsequently amended by P.L. 108-446, the reauthorization of the Individuals with Disabilities Act (IDEA).

³ *Supplemental Educational Services Non-regulatory Guidance*, U.S. Department of Education, June 13, 2005. See <http://www.ed.gov/policy/elsec/guid/suppsvcsguid.doc>

⁴ 34 C.F.R. § 200.45 and *Supplemental Educational Services: Quick Reference for Parents*, U.S. Department of Education, see <http://www.ed.gov/parents/academic/help/supplemental-services.pdf>

⁵ 34 C.F.R. § 200.47 and *Power Point: Workshop for Potential Applicants for Supplemental Educational Services Providers*, DOE, February 28, 2007. See <http://www.fldoe.org/flbpos/pdf/rfa-ta-pt1.pdf>

⁶ See <http://data.fldoe.org/ses/search>

provision of progress reports to parents; and reimbursement procedures for services provided to students.⁷

The DOE has approved 219 providers to serve students in Florida for the 2007-2008 school year. During the 2006-2007 school year, approximately 70,000 students participated in SES programs. The DOE maintains an on-line list of schools with students who are eligible for these services.

The DOE's responsibilities include the following:⁸

- Promoting maximum participation by service providers;
- Developing and applying objective criteria for approving potential providers;
- Identifying eligible providers with a description of their services;
- Maintaining an updated list of providers, by district, which includes any technology-based or distance-learning providers;
- Ensuring the participation of students with disabilities and students with limited English proficiency;
- Developing, implementing, and publicly reporting on standards to monitor the quality and effectiveness of services; and
- Withdrawing approval from unsuccessful providers.

The DOE has designed an accountability model for state-approved SES providers based on compliance, monitoring, and data analysis. To ensure compliance with state and federal requirements, the DOE has developed a provider approval process consistent with NCLB requirements.⁹

Once providers have been approved, compliance with stated obligations is determined through ongoing monitoring plans and data analysis. The DOE monitors school districts and state-approved providers using work papers consistent with federal and state law to determine compliance and to ensure that providers implement the approved program consistent with their approved application.¹⁰

The DOE is required by NCLB to evaluate the SES program and all state-approved providers. It must determine whether the services that providers offer to students are contributing to an increase in their academic achievement. NCLB requires the state to remove any provider from the state-approved list, which fails to increase the academic proficiency of students in each district where the provider is approved to serve students.¹¹

According to the DOE's bill analysis, it is currently in the process of developing a plan to grade state-approved providers.¹² The analysis indicates that the DOE intends to determine increased student academic achievement through the following:¹³

- For students in grades 4 through 12, an increase of Normal Curve Equivalent (NCE) points on the norm-referenced portion (NRT) of the FCAT Reading and Mathematics.
- For students in grades 2 through 3, an increase in NCE points on other norm--referenced assessments approved by the DOE.¹⁴

⁷ 34 C.F.R. § 200.47

⁸ 34 C.F.R. § 200.47 and *Supplemental Educational Services: Non-Regulatory Guidance*, U.S. Department of Education, June 13, 2005.

⁹ Florida Department of Education. *Analysis for HB 065 on Supplemental Education Services for the 2008 Legislative Session*.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ According to the DOE, FCAT scores cannot be used to calculate an increase in academic achievement for students in kindergarten through grade three. FCAT scores are available only for students in grades three through 10. In 2004-2005 and 2005-2006, approximately 70 percent of all students served in SES programs were in kindergarten through grade three.

- Calculated return on investment using student learning gains and the providers' reimbursement rate as stated on the provider's state-approved application.

Additionally, the DOE will identify components and indicators for use in the grading system with student data submitted by school districts for 2006-2007, via the DOE's automated student data base and stored in the PK20 Education Data Warehouse.¹⁵

Effect of Proposed Changes

The bill requires the DOE, beginning with the 2007-2008 school year, to annually assign a grade of "A," "B," "C," "D," or "F," as defined by State Board of Education (SBE) rule, to each state-approved SES provider. The bill assigns each letter grade the following meaning:

- "A" for providing superior service.
- "B" for providing above satisfactory service.
- "C" for providing satisfactory service.
- "D" for providing below satisfactory service.
- "F" for providing unsatisfactory service.

Under the bill, each SES provider's grade must be based on a combination of student learning gains and student proficiency levels, as measured by the statewide assessments¹⁶ for students in grades four through 12, and norm-referenced tests approved by the DOE for students in kindergarten through grade three. The DOE is required to annually report the grades to the SES providers, the respective school districts, the parents, and the public by March 1, 2009, and each March 1st thereafter.

C. SECTION DIRECTORY:

Section 1. Amends s. 1008.331, F.S., requiring the DOE to annually evaluate and grade SES providers; requiring SBE rule; specifying criteria to determine each provider's grade; requiring the DOE to report grades.

Section 2. Provides for 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 government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state government expenditures. Please see "FISCAL COMMENTS" below.

¹⁵ Florida Department of Education. *Analysis for HB 065 on Supplemental Education Services for the 2008 Legislative Session.*

¹⁶ S. 1008.22, F.S, providing for the student assessment program for public schools.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to the DOE, it is in the process of developing a plan to grade state-approved providers and it intends to use student data that is submitted by school districts via the DOE's automated student data base and stored in the PK20 Education Data Warehouse to identify components and indicators for use in the grading system. Thus, the bill does not appear to have a fiscal impact on state or local governments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the SBE to adopt rules to define SES provider grades.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

None.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to supplemental educational services;
 3 amending s. 1008.331, F.S.; requiring the Department of
 4 Education to annually evaluate and grade supplemental
 5 educational services providers; specifying evaluation
 6 criteria; requiring the department to report grades;
 7 providing an effective date.

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

10
 11 Section 1. Current subsection (5) of section 1008.331,
 12 Florida Statutes, is renumbered as subsection (6), and a new
 13 subsection (5) is added to that section to read:

14 1008.331 Supplemental educational services in Title I
 15 schools; school district, ~~and provider, and department~~
 16 responsibilities.--

17 (5) RESPONSIBILITIES OF THE DEPARTMENT OF EDUCATION.--

18 (a) Beginning with the 2007-2008 school year, the
 19 department shall annually assign to each state-approved
 20 supplemental educational services provider one of the following
 21 grades, defined according to rules of the State Board of
 22 Education:

- 23 1. "A," providing superior service.
- 24 2. "B," providing above satisfactory service.
- 25 3. "C," providing satisfactory service.
- 26 4. "D," providing below satisfactory service.
- 27 5. "F," providing unsatisfactory service.
- 28 (b) A state-approved supplemental educational services

PCS for HB 65

ORIGINAL

2008

29 provider's grade shall be based on a combination of student
30 learning gains and student proficiency levels, as measured by
31 the statewide assessment pursuant to s. 1008.22 for students in
32 grades 4 through 12, and norm-referenced tests approved by the
33 department for students in kindergarten through grade 3.

34 (c) The department shall report by March 1, 2009, and by
35 March 1 each year thereafter, the grades it assigns under this
36 subsection to the supplemental educational services providers,
37 the school districts, parents, and the public.

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