



Full Appropriations Council on Education & Economic Development

March 30, 2009

1:15 p.m.

Morris Hall, 17 House Office Building

Meeting Packet

**Larry Cretul
Speaker**

**David Rivera
Chair**



The Florida House of Representatives

Full Appropriations Council on Education & Economic Development

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Meeting Agenda
Monday, March 30, 2009
Morris Hall, 17 House Office Building
1:15 p.m.

- I. Call to Order**
- II. Roll Call**
- III. Consideration of the following bills:**

CS/HB 61 – Timeshare Resorts by Economic Development Policy Committee and Representative Precourt

CS/HB 281 – Prepaid College Programs by State Universities & Private Colleges Policy Committee and Representative Weinstein

CS/CS/HB 391 – State Funding for Medical Student Education by State Universities & Private Colleges Appropriations Committee, State Universities & Private Colleges Policy Committee, and Representative Proctor

CS/HB 543 – High School Science Assessment by PreK-12 Policy Committee and Representative Mayfield

CS/HB 641 – Unemployment Compensation by Economic Development Policy Committee and Representative Crisafulli

CS/HB 739 – Community College Student Fees by State & Community Colleges & Workforce Policy Committee and Representative Chestnut

CS/HB 751 – Articulation by State & Community Colleges & Workforce Policy Committee and Representative Patterson

CS/CS/HB 835 – Gifted and Academically Talented Student Education by PreK-12 Appropriations Committee, PreK-12 Policy Committee, and Representative Legg

CS/HB 1293 – High School Graduation by PreK-12 Policy Committee and Representative Fresen

CS/HB 1377 – Supplemental Educational Services by PreK-12 Policy Committee and Representative Dorworth

CS/HB 7029 – Motor Vehicle Registration by Transportation & Economic Development Appropriations Committee, Roads, Bridges & Ports Policy Committee, and Representative Evers

IV. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 61 Timeshare Resort Taxation
SPONSOR(S): Economic Development Policy Committee & Precourt
TIED BILLS: IDEN./SIM. BILLS: SB 392

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Rows include Economic Development Policy Committee, Economic Development & Community Affairs Policy Council, Finance & Tax Council, Full Appropriations Council on Education & Economic Development.

SUMMARY ANALYSIS

CS/HB 61 clarifies the laws governing state and local taxes due from timeshare transactions and from transient stays at timeshare resorts. Because of the variety of timeshare transactions, such as purchases, rentals, and exchanges, there has been uncertainty surrounding which transactions were taxable and which transactions were not taxable.

The bill provides that the Tourist Development Tax, Tourist Impact Tax, Transient Rentals Tax, and the Convention Development Tax are applicable to transient stays at timeshare resorts in those instances when timeshare resorts are acting more like hotels, motels, resorts, or other public lodging facilities.

Transactions that are not taxable under the bill's provisions include timeshare exchanges, fees charged by a third party to facilitate a timeshare exchange, and inspection packages.

CS/HB 61 also provides that timeshare owners are obligated to pay all applicable assessments. In addition, timeshare resale service providers must provide certain information to the owner. Failure to provide proper information to a timeshare interest owner constitutes an unfair and deceptive trade practice. These provisions are designed to prevent timeshare resale service providers from directly or indirectly relating false or misleading information to timeshare interest owners with respect to the resale of timeshare interests.

The bill has no fiscal impact on state government and a positive fiscal impact on local governments of \$1.1 million annually.

The bill provides that the portions of the bill related to taxation are intended to be clarifying and remedial in nature, and do not provide a basis for assessments of tax, or refunds of tax, for periods prior to July 1, 2009.

The bill has an effective date of July 1, 2009.

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Taxation of Transient Rentals

Transient rentals are potentially subject to the following taxes:

1. The local option tourist development tax under s. 125.0104(3)(a), F.S., which provides that the tax is levied on the "total consideration charged for such lease or rental." The tourist development tax may be levied at the rate of 1 or 2 percent.
2. The local option tourist impact tax under s. 125.0108, F.S., which is levied at the rate of 1 percent of the total rental charged.
3. The transient rentals tax under s. 212.03, F.S. The transient rental tax is levied in the amount of 6 percent of the total rental charged for the living quarters or sleeping or housekeeping accommodations in, from, or part of, or in connection with any hotel, apartment house, roominghouse, or tourist or trailer camp.
4. The convention development tax under s. 212.0305, F.S. Each county operating under a home rule charter, as defined in s. 125.011(1), F.S., may levy the tax at 3 percent (Miami-Dade County); each county operating under a consolidated government may levy the tax at 2 percent (Duval County); and each county chartered under Article VIII of the State Constitution that had a tourist advertising district on January 1, 1984, may levy the tax at up to 3 percent (Volusia County).

Counties may increase the tourist development tax under s. 125.0104, F.S., with a one cent tax on transient rentals under s. 125.0101(3)(d), F.S. An additional one percent tax may also be imposed by counties under s. 125.0104(3)(m)2., F.S., which high tourism impact counties are authorized to levy for professional sports facilities or tourism promotion.

Timeshare Taxation

A timeshare interest is a form of ownership of real property. The real property is typically a condominium unit or a cooperative unit. A timeshare property is typically a resort in which multiple parties hold the right to use the property. Each owner of a timeshare interest is allotted a period of time (typically one week) in which they may use the property.

At sale, an interest in a timeshare resort is treated as any other real estate transaction. However, transient stays at timeshares, timeshare exchanges, rentals, fees charged by third parties to facilitate a timeshare exchange, or other similar activities are not specifically addressed in Florida's tax code.

Historically, timeshare developers have collected and remitted sales tax and tourist development tax on timeshare units held out for rental to the general public. However, there is uncertainty regarding the application of transient rental taxes to transient stays at timeshares, timeshare exchanges, rentals, fees charged by third parties to facilitate a timeshare exchange, or other similar activities. At times, timeshare owners collected taxes on some transactions and not on others leading to confusion in the timeshare industry and by local governments as to what transactions are taxable.

Court Ruling

A timeshare "inspection package" is a timeshare marketing practice in which the seller or operator of a timeshare offers a one-time inspection privilege package to prospective timeshare buyers. The prospective buyers pay for the inspection package and acquire points for use of a timeshare within a twelve-month period. The money spent on the inspection package can be credited towards the future purchase price of a timeshare. Inspection packages may be purchased anywhere in the United States, but the inspection package may be used anywhere in which the seller has a timeshare property that is part of its inspection package program.

In *Broward County v. Fairfield Resorts, Inc.*, Fairfield Resorts provided inspection packages to prospective timeshare buyers. For some of its resorts Fairfield paid the tourist development tax on the inspection package stay but for others it did not. Broward County assessed the county tourist development tax against Fairfield on all its resorts based on Broward's local ordinance and state law. Fairfield appealed the tax assessment. The appellate court found that timeshares inspection packages were not subject to the tourist development tax because timeshare inspection packages were not specifically included in the statute or the ordinance.¹ The Court noted that timeshares and inspection privilege packages did not exist when the statute and ordinance were enacted.

Timeshare Ownership and Advertising

In recent years, some owners of timeshare interests have reported being deceived by timeshare resale service providers. The timeshare resale industry is currently unregulated. It appears that some timeshare resale service providers engaged in or are still engaging in advertising practices that make false or misleading claims as it relates to the ability to resell timeshare interests. In these instances, owners of timeshare interests or potential owners of timeshare interests are led to believe that timeshare resale service providers are able to sell their timeshare interest quickly, should the owner decide to sell his or her interest at a later date. Timeshare interest owners that use resale service providers often face long delays in selling their interest in a timely fashion leaving owners with the costs associated with owning a timeshare interest.

¹ *Broward County v. Fairfield Resorts, Inc.* 946 So.2d 1144. (Fla. App. 4 dist. 2006).

Effect of Proposed Changes

Tax Provisions

The bill clarifies the laws governing state and local taxation of timeshares. CS/HB 61 provides that certain transactions are taxable and other transactions are not taxable.

Non-Taxable Transactions

The bill provides that the occupancy of a timeshare unit by the owner, a non-paying guest, or another timeshare owner as a result of an exchange is not taxable. Fees charged by third parties to facilitate a timeshare exchange are considered service fees or membership fees and are not subject to taxation.

Inspection packages are short-term stays at a timeshare resort intended to entice the guest to purchase a timeshare resort or become a member of a timeshare program. Such packages are not taxable transactions.

Taxable Transactions

Timeshare owners or potential owners must pay all taxes and fees associated with the purchase of real property including annual property taxes. The purchase of a timeshare resort is taxed no differently than standard real estate purchases.

The short-term occupancy of a timeshare unit in a manner similar to that of a hotel, motel, resort, or other public lodging facility stay, is subject to tourist development tax, tourist impact tax, transient rental tax, and convention development tax, when applicable. In cases where a timeshare is acting as a public lodging facility, those transactions will be taxed as such.

The changes regarding the taxation of timeshares provided in the bill are clarifying and remedial in nature and do not provide a basis for assessments of tax or tax refunds for periods of time prior to the effective date of the bill.

Timeshare Ownership and Advertising

Assessments

Timeshare owners must pay applicable assessments for as long as he or she owns a timeshare interest. Any person that inherits a timeshare interest is responsible for paying applicable assessments.

Advertising for Timeshare Resale

Timeshare resale service providers must provide a description of the fees or costs that relate to advertising, listing, or resale of the timeshare interest owed to a resale provider or third party. The description must include a fee due date and the percentage of the number of listings of timeshare interests for sale versus the number of timeshare interests sold by the resale service provider for the previous two years.

Unfair Trade Practices

The bill provides that failure of the timeshare resale provider to include a description of the fees and costs constitutes an unfair and deceptive trade practice pursuant to chapter 501, F.S. Any contract that violates this section of the bill is void and the purchaser is entitled to a full refund.

The bill provides an effective date of July 1, 2009.

B. SECTION DIRECTORY:

Section 1: Amends paragraph (a) of subsection (3) of s. 125.0104, F.S., to provide for application of the Tourist Development Tax on short-term stays at timeshare resorts.

Section 2: Amends paragraph (b) of subsection (1) of s. 125.0108, F.S., to provide for application of the Tourist Impact Tax on short-term stays at timeshare resorts.

Section 3: Amends subsection (1) of s. 212.03, F.S., to provide for application of the Transient Rentals Tax on short-term stays at timeshare resorts.

Section 4: Amends paragraph (a) of subsection (3) of s. 212.0305, F.S., to provide for application of the Convention Development Tax on short-term stays at timeshare resorts.

Section 5: Provides that amendments to sections 125.0104, 125.0108, 212.03, and 212.0305, F.S., are clarifying in nature and do not provide a basis for assessments of taxes or tax refunds for any time prior to July 1, 2009.

Section 6: Adds paragraph (ii) to subsection (5) of s. 721.07, F.S., to provide that timeshare interest owners and those that inherit a timeshare interest are obligated to pay applicable assessments.

Section 7: Adds subsection (9) to s. 721.20, F.S., to provide that timeshare resale service providers must provide owners with certain information and failure to do so constitutes an unfair and deceptive trade practice pursuant to ch. 501, F.S.

Section 8: Provides an effective date of July 1, 2009

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference (REC) determined that the provisions of this legislation had no fiscal impact on state government.

2. Expenditures:

The Department of Revenue estimates a non-recurring cost of \$25,651 in FY 08-09 to administer the bill. The Department would send a two-page Tax Information Publication to approximately 52,265 businesses to notify them of the requirements of the bill. The recipients would include timeshare resorts, condominium associations, and others in the business of making transient rentals.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The REC determined that the provisions of this legislation may have a positive fiscal impact to local government of \$1.1 million annually.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill requires timeshare resale service providers to disclose all costs and fees associated with the services they provide and the number of sales versus the number of timeshare interests for sale for the previous two years. The bill further clarifies what timeshare transactions are taxable for the timeshare industry. Direct economic impact on the private sector will likely be insignificant.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On February 4, 2009, the Economic Development Policy Committee reported the bill favorably with one amendment. The amendment provided that:

- Timeshare owners are under obligation to pay applicable assessments for as long as he or she owns the timeshare interest and any person that inherits a timeshare interest shall be responsible for payment of applicable assessments;
- Prior to listing or advertising a timeshare interest for resale, resale service providers must provide to the timeshare interest owner a description of fees or costs that relate to advertising, listing or sale of the timeshare interest that a person must pay to the resale service provider or any third party, when such fees are due, and the percentage of the number of listings of timeshare interests for sale versus the number of timeshare interests sold by the resale service provider for the previous two years; and
- Failure to comply with the provisions of the bill constitutes an unfair and deceptive trade practice pursuant to chapter 501, F.S., and any contract that violates provisions of the legislation is void and the purchaser is entitled to a full refund.

1 A bill to be entitled
 2 An act relating to timeshare resorts; amending ss.
 3 125.0104, 125.0108, 212.03, and 212.0305, F.S.; revising
 4 application of provisions imposing certain taxes upon
 5 consideration paid for occupancy of certain timeshare
 6 resort products; providing application and construction;
 7 amending s. 721.07, F.S.; specifying additional
 8 information required in certain public offering statements
 9 for timeshare plans; amending s. 721.20, F.S.; requiring
 10 resale service providers to provide certain fee or cost
 11 and listings information to timeshare interest owners;
 12 specifying that failure to disclose constitutes an unfair
 13 and deceptive trade practice; providing that certain
 14 contracts are void and purchasers are entitled to refunds
 15 of certain moneys; providing an effective date.

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

18
 19 Section 1. Paragraph (a) of subsection (3) of section
 20 125.0104, Florida Statutes, is amended to read:

21 125.0104 Tourist development tax; procedure for levying;
 22 authorized uses; referendum; enforcement.--

23 (3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.--

24 (a)1. It is declared to be the intent of the Legislature
 25 that every person who rents, leases, or lets for consideration
 26 any living quarters or accommodations in any hotel, apartment
 27 hotel, motel, resort motel, apartment, apartment motel,
 28 roominghouse, mobile home park, recreational vehicle park, ~~or~~

29 condominium, or timeshare resort for a term of 6 months or less
 30 is exercising a privilege which is subject to taxation under
 31 this section, unless such person rents, leases, or lets for
 32 consideration any living quarters or accommodations which are
 33 exempt according to the provisions of chapter 212.

34 2.a. Tax shall be due on the consideration paid for
 35 occupancy in the county pursuant to a regulated short-term
 36 product, as defined in s. 721.05, or occupancy in the county
 37 pursuant to a product that would be deemed a regulated short-
 38 term product if the agreement to purchase the short-term right
 39 were executed in this state. Such tax shall be collected on the
 40 last day of occupancy within the county unless such
 41 consideration is applied to the purchase of a timeshare estate.
 42 The occupancy of an accommodation of a timeshare resort pursuant
 43 to a timeshare plan, a multisite timeshare plan, or an exchange
 44 transaction in an exchange program, as defined in s. 721.05, by
 45 the owner of a timeshare interest or such owner's guest, which
 46 guest is not paying monetary consideration to the owner or to a
 47 third party for the benefit of the owner, is not a privilege
 48 subject to taxation under this section. A membership or
 49 transaction fee paid by a timeshare owner that does not provide
 50 the timeshare owner with the right to occupy any specific
 51 timeshare unit but merely provides the timeshare owner with the
 52 opportunity to exchange a timeshare interest through an exchange
 53 program is a service charge and not subject to taxation under
 54 this section.

55 b. Consideration paid for the purchase of a timeshare
 56 license in a timeshare plan, as defined in s. 721.05, is rent
 57 subject to taxation under this section.

58 Section 2. Paragraph (b) of subsection (1) of section
 59 125.0108, Florida Statutes, is amended to read:

60 125.0108 Areas of critical state concern; tourist impact
 61 tax.--

62 (1)

63 (b)1. It is declared to be the intent of the Legislature
 64 that every person who rents, leases, or lets for consideration
 65 any living quarters or accommodations in any hotel, apartment
 66 hotel, motel, resort motel, apartment, apartment motel,
 67 roominghouse, mobile home park, recreational vehicle park, ~~or~~
 68 condominium, or timeshare resort for a term of 6 months or less,
 69 unless such establishment is exempt from the tax imposed by s.
 70 212.03, is exercising a taxable privilege on the proceeds
 71 therefrom under this section.

72 2.a. Tax shall be due on the consideration paid for
 73 occupancy in the county pursuant to a regulated short-term
 74 product, as defined in s. 721.05, or occupancy in the county
 75 pursuant to a product that would be deemed a regulated short-
 76 term product if the agreement to purchase the short-term right
 77 were executed in this state. Such tax shall be collected on the
 78 last day of occupancy within the county unless such
 79 consideration is applied to the purchase of a timeshare estate.
 80 The occupancy of an accommodation of a timeshare resort pursuant
 81 to a timeshare plan, a multisite timeshare plan, or an exchange
 82 transaction in an exchange program, as defined in s. 721.05, by

83 the owner of a timeshare interest or such owner's guest, which
 84 guest is not paying monetary consideration to the owner or to a
 85 third party for the benefit of the owner, is not a privilege
 86 subject to taxation under this section. A membership or
 87 transaction fee paid by a timeshare owner that does not provide
 88 the timeshare owner with the right to occupy any specific
 89 timeshare unit but merely provides the timeshare owner with the
 90 opportunity to exchange a timeshare interest through an exchange
 91 program is a service charge and not subject to taxation under
 92 this section.

93 b. Consideration paid for the purchase of a timeshare
 94 license in a timeshare plan, as defined in s. 721.05, is rent
 95 subject to taxation under this section.

96 Section 3. Subsection (1) of section 212.03, Florida
 97 Statutes, is amended to read:

98 212.03 Transient rentals tax; rate, procedure,
 99 enforcement, exemptions.--

100 (1) (a) It is hereby declared to be the legislative intent
 101 that every person is exercising a taxable privilege who engages
 102 in the business of renting, leasing, letting, or granting a
 103 license to use any living quarters or sleeping or housekeeping
 104 accommodations in, from, or a part of, or in connection with any
 105 hotel, apartment house, roominghouse, ~~or~~ tourist or trailer
 106 camp, mobile home park, recreational vehicle park, condominium,
 107 or timeshare resort. However, any person who rents, leases,
 108 lets, or grants a license to others to use, occupy, or enter
 109 upon any living quarters or sleeping or housekeeping
 110 accommodations in any apartment house houses, roominghouse

111 ~~roominghouses, tourist camp camps, or trailer camp camps, mobile~~
 112 home park, recreational vehicle park, condominium, or timeshare
 113 resort and who exclusively enters into a bona fide written
 114 agreement for continuous residence for longer than 6 months in
 115 duration at such property is not exercising a taxable privilege.
 116 For the exercise of such taxable privilege, a tax is hereby
 117 levied in an amount equal to 6 percent of and on the total
 118 rental charged for such living quarters or sleeping or
 119 housekeeping accommodations by the person charging or collecting
 120 the rental. Such tax shall apply to hotels, apartment houses,
 121 roominghouses, ~~or~~ tourist or trailer camps, mobile home parks,
 122 recreational vehicle parks, condominiums, or timeshare resorts,
 123 whether or not these facilities have ~~there is in connection with~~
 124 ~~any of the same~~ any dining rooms, cafes, or other places where
 125 meals or lunches are sold or served to guests.

126 (b)1. Tax shall be due on the consideration paid for
 127 occupancy in the county pursuant to a regulated short-term
 128 product, as defined in s. 721.05, or occupancy in the county
 129 pursuant to a product that would be deemed a regulated short-
 130 term product if the agreement to purchase the short-term right
 131 were executed in this state. Such tax shall be collected on the
 132 last day of occupancy within the county unless such
 133 consideration is applied to the purchase of a timeshare estate.
 134 The occupancy of an accommodation of a timeshare resort pursuant
 135 to a timeshare plan, a multisite timeshare plan, or an exchange
 136 transaction in an exchange program, as defined in s. 721.05, by
 137 the owner of a timeshare interest or such owner's guest, which
 138 guest is not paying monetary consideration to the owner or to a

139 third party for the benefit of the owner, is not a privilege
 140 subject to taxation under this section. A membership or
 141 transaction fee paid by a timeshare owner that does not provide
 142 the timeshare owner with the right to occupy any specific
 143 timeshare unit but merely provides the timeshare owner with the
 144 opportunity to exchange a timeshare interest through an exchange
 145 program is a service charge and not subject to taxation under
 146 this section.

147 2. Consideration paid for the purchase of a timeshare
 148 license in a timeshare plan, as defined in s. 721.05, is rent
 149 subject to taxation under this section.

150 Section 4. Paragraph (a) of subsection (3) of section
 151 212.0305, Florida Statutes, is amended to read:

152 212.0305 Convention development taxes; intent;
 153 administration; authorization; use of proceeds.--

154 (3) APPLICATION; ADMINISTRATION; PENALTIES.--

155 (a)1. The convention development tax on transient rentals
 156 imposed by the governing body of any county authorized to so
 157 levy shall apply to the amount of any payment made by any person
 158 to rent, lease, or use for a period of 6 months or less any
 159 living quarters or accommodations in a hotel, apartment hotel,
 160 motel, resort motel, apartment, apartment motel, roominghouse,
 161 tourist or trailer camp, mobile home park, recreational vehicle
 162 park, ~~or~~ condominium, or timeshare resort. When receipt of
 163 consideration is by way of property other than money, the tax
 164 shall be levied and imposed on the fair market value of such
 165 nonmonetary consideration. Any payment made by a person to rent,
 166 lease, or use any living quarters or accommodations which are

167 exempt from the tax imposed under s. 212.03 shall likewise be
 168 exempt from any tax imposed under this section.

169 2.a. Tax shall be due on the consideration paid for
 170 occupancy in the county pursuant to a regulated short-term
 171 product, as defined in s. 721.05, or occupancy in the county
 172 pursuant to a product that would be deemed a regulated short-
 173 term product if the agreement to purchase the short-term right
 174 were executed in this state. Such tax shall be collected on the
 175 last day of occupancy within the county unless such
 176 consideration is applied to the purchase of a timeshare estate.
 177 The occupancy of an accommodation of a timeshare resort pursuant
 178 to a timeshare plan, a multisite timeshare plan, or an exchange
 179 transaction in an exchange program, as defined in s. 721.05, by
 180 the owner of a timeshare interest or such owner's guest, which
 181 guest is not paying monetary consideration to the owner or to a
 182 third party for the benefit of the owner, is not a privilege
 183 subject to taxation under this section. A membership or
 184 transaction fee paid by a timeshare owner that does not provide
 185 the timeshare owner with the right to occupy any specific
 186 timeshare unit but merely provides the timeshare owner with the
 187 opportunity to exchange a timeshare interest through an exchange
 188 program is a service charge and not subject to taxation under
 189 this section.

190 b. Consideration paid for the purchase of a timeshare
 191 license in a timeshare plan, as defined in s. 721.05, is rent
 192 subject to taxation under this section.

193 Section 5. The amendments to sections 125.0104, 125.0108,
 194 212.03, and 212.0305, Florida Statutes, made by this act are

195 intended to be clarifying and remedial in nature and do not
 196 provide a basis for assessments of tax, or refunds of tax, for
 197 periods prior to July 1, 2009.

198 Section 6. Paragraph (ii) is added to subsection (5) of
 199 section 721.07, Florida Statutes, to read:

200 721.07 Public offering statement.--Prior to offering any
 201 timeshare plan, the developer must submit a filed public
 202 offering statement to the division for approval as prescribed by
 203 s. 721.03, s. 721.55, or this section. Until the division
 204 approves such filing, any contract regarding the sale of that
 205 timeshare plan is subject to cancellation by the purchaser
 206 pursuant to s. 721.10.

207 (5) Every filed public offering statement for a timeshare
 208 plan which is not a multisite timeshare plan shall contain the
 209 information required by this subsection. The division is
 210 authorized to provide by rule the method by which a developer
 211 must provide such information to the division.

212 (ii) A statement that the owner's obligation to pay
 213 assessments continues for as long as he or she owns the
 214 timeshare interest and that when a person inherits a timeshare
 215 interest, that person is responsible for paying those
 216 assessments.

217 Section 7. Subsection (9) is added to section 721.20,
 218 Florida Statutes, to read:

219 721.20 Licensing requirements; suspension or revocation of
 220 license; exceptions to applicability; collection of advance fees
 221 for listings unlawful.--

222 (9) (a) Prior to listing or advertising a timeshare

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223 interest for resale, a resale service provider shall provide to
 224 the timeshare interest owner a description of any fees or costs
 225 relating to the advertising, listing, or sale of the timeshare
 226 interest that the timeshare interest owner, or any other person,
 227 must pay to the resale service provider or any third party, when
 228 such fees or costs are due, and the ratio or percentage of the
 229 number of listings of timeshare interests for sale versus the
 230 number of timeshare interests sold by the resale service
 231 provider for each of the previous 2 calendar years.

232 (b) Failure to disclose this information in writing
 233 constitutes an unfair and deceptive trade practice pursuant to
 234 chapter 501. Any contract entered into in violation of this
 235 subsection is void and the purchaser is entitled to a full
 236 refund of any moneys paid to the resale service provider.

237 Section 8. This act shall take effect July 1, 2009.

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Florida Prepaid Tuition Scholarship Program provides prepaid plan scholarships to economically disadvantaged youth who remain crime free and drug free. The Florida Prepaid Tuition Scholarship Program is operated by the Florida Prepaid College Foundation, Inc., (the "Foundation") a private sector, tax-exempt 501(c)(3) organization. The Foundation provides scholarships in conjunction with other private sector foundations and organizations through a matching program whereby the other private sector organizations provide 50 percent of the cost of scholarships for such students. The remaining 50 percent of the cost is provided by the Foundation, through an annual appropriation and the monies provided by escheated prepaid contracts. The Foundation buys prepaid contracts from the Florida Prepaid College Board in cooperation with other private sector organizations.

In addition to the Florida Prepaid Tuition Scholarship Program, other tax exempt organizations may purchase prepaid contracts from the Florida Prepaid College Board to provide scholarships through scholarship programs which have been approved by the Board.¹

If a scholarship recipient fails to use all of the credit hours available under a scholarship, the cooperating organizations have three options for dealing with the unused credit hours available under the prepaid contract:

1. The organization may allow the prepaid contract to expire, at which time the escheated funds are transferred to the Foundation to provide additional prepaid tuition scholarships.²
2. The organization may obtain a refund for the amount that was originally paid for the unused portion of the prepaid contract.³
3. The organization may name a substitute beneficiary for the prepaid contract. The process of changing the beneficiary on such contracts may involve changing the beneficiary on a series of prepaid contracts used for scholarships to a new scholarship recipient.

¹ Section 1009.98(9), F.S.

² Section 1009.98(4)(k), F.S.

³ Section 1009.98(5), F.S.

Students enrolled at a state university and who are beneficiaries of prepaid tuition contracts that were in effect prior to July 1, 2007, and which remain in effect, are exempt from payment of the tuition differential that is assessed by eligible state universities.⁴ Recipients of prepaid tuition scholarships who attend state universities and who are named as substitute beneficiaries, pursuant to option three described above, for existing prepaid contracts that were purchased prior to July 1, 2007, are not required to pay the tuition differential at state universities.⁵

Effect of Proposed Changes

CS/HB 281 authorizes purchasers of advance payment contracts for prepaid tuition scholarships to receive a refund equal to the redemption value of the unused portion of the advance payment contract, if the refund is used exclusively to fund the purchase of additional prepaid scholarships. The proposed change provides an additional option for the cooperating organizations, which may reduce the administrative difficulties and costs associated with the current process of naming a substitute beneficiary.

Recipients of prepaid tuition scholarships that are purchased after July 1, 2007, who attend state universities, are subject to payment of the tuition differential unless the state university waives the tuition differential for that student.⁶

B. SECTION DIRECTORY:

Section 1. Amends s. 1009.98, F.S., providing that a purchaser of an advance payment contract may receive a refund of the unused portion of the contract under certain circumstances.

Section 2. Provides an effective date of upon becoming law.

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:

⁴ Section 1009.24(16)(c), F.S.

⁵ Telephone conversation with Prepaid staff (March 13, 2009).

⁶ Section 1009.24(16)(e), F.S., authorizes a state university to waive the tuition differential for students who meet the eligibility requirements for the need-based Florida public student assistance grant program.

CS/HB 281 may reduce the administrative difficulties and costs of using the remaining, unused credit hours available on prepaid contracts that have been purchased as prepaid tuition scholarships to provide additional prepaid tuition scholarships. The refund for the unused portion of the contract would be used exclusively to fund additional scholarships under the Florida Prepaid Tuition Scholarship Program or other scholarship programs which have been approved by the Florida Prepaid College Board and operated by private sector, tax exempt organizations. Recipients of prepaid tuition scholarships that are purchased after July 1, 2007, who attend state universities, are subject to payment of the tuition differential unless the state university waives the tuition differential for that student.

D. FISCAL COMMENTS:

None

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:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 3, 2009, the State Universities & Private Colleges Policy Committee adopted a Proposed Committee Substitute to HB 281 and reported the bill favorably as a committee substitute. The differences between the CS and the bill are:

- CS/HB 281 authorizes purchasers of advance payment contracts for prepaid tuition scholarships to receive a refund equal to the redemption value of the unused portion of the advance payment contract, if the refund is used exclusively to fund the purchase of additional prepaid scholarship. HB 281 required the Foundation to aggregate the unused semester credit hours on prepaid tuition scholarship purchased in separate pools for each donor organization and permitted the Foundation to reissue the aggregated unused student credit hours as prepaid tuition scholarships.

1 A bill to be entitled
 2 An act relating to prepaid college programs; amending s.
 3 1009.98, F.S.; providing that a purchaser of an advance
 4 payment contract may receive a refund of the unused
 5 portion of the contract under certain circumstances;
 6 providing an effective date.

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

9
 10 Section 1. Subsection (5) of section 1009.98, Florida
 11 Statutes, is amended to read:

12 1009.98 Stanley G. Tate Florida Prepaid College Program.--

13 (5) REFUNDS.--

14 (a) A ~~No~~ refund may not ~~shall~~ exceed the amount paid into
 15 the fund by the purchaser except as provided in paragraphs (b),
 16 ~~and~~ (c), and (f).

17 (b) If the beneficiary is awarded a scholarship, the terms
 18 of which cover the benefits included in the advance payment
 19 contracts, moneys paid for the purchase of the advance payment
 20 contracts shall be refunded to the purchaser in semester
 21 installments coinciding with the tuition by the beneficiary in
 22 an amount which, in total, does not exceed the redemption value
 23 of the advance payment contract at a state postsecondary
 24 institution.

25 (c) In the event of the death or total disability of the
 26 beneficiary, moneys paid for the purchase of advance payment
 27 contracts shall be refunded to the purchaser in an amount not to
 28 exceed the redemption value of the advance payment contract at a

29 state postsecondary institution.

30 (d) If an advance payment contract is converted from one
 31 registration plan to a plan of lesser value, the amount refunded
 32 may ~~shall~~ not exceed the difference between the amount paid for
 33 the original contract and the amount that would have been paid
 34 for the contract to which the plan is converted had the
 35 converted plan been purchased under the same payment plan at the
 36 time the original advance payment contract was executed.

37 (e) A ~~No~~ refund may not ~~shall~~ be authorized through an
 38 advance payment contract for any school year partially attended
 39 but not completed. For purposes of this section, a school year
 40 partially attended but not completed shall mean any one semester
 41 whereby the student is still enrolled at the conclusion of the
 42 official drop-add period but withdraws before the end of such
 43 semester. If a beneficiary does not complete a community college
 44 plan or university plan for reasons other than specified in
 45 paragraph (c), the purchaser shall receive a refund of the
 46 amount paid into the fund for the remaining unattended years of
 47 the advance payment contract pursuant to rules promulgated by
 48 the board.

49 (f) A purchaser of an advance payment contract entered
 50 into pursuant to subsection (9) or s. 1009.983 may receive a
 51 refund equal to the redemption value of the unused portion of
 52 the advance payment contract at a state postsecondary
 53 institution if the refund is used exclusively to fund additional
 54 scholarships purchased pursuant to subsection (9) or s.
 55 1009.983.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 391 State Funding for Medical Student Education
SPONSOR(S): State Universities and Private Colleges Appropriations Committee; State Universities & Private Colleges Policy Committee; Proctor
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	State Universities & Private Colleges Policy Committee	11 Y, 0 N, As CS	Thomas	Tilton
1)	State Universities & Private Colleges Appropriations Committee	8 Y, 0 N, As CS	Smith	Trexler
2)	Full Appropriations Council on Education & Economic Development		Smith <i>CS</i>	Martin <i>SM</i>
3)				
4)				
5)				

SUMMARY ANALYSIS

CS/CS/HB 391 provides legislative intent to use a funding methodology for 4-year Doctor of Medicine degree programs at state universities that provides a consistent base level of state support on a per-student basis. The bill requires the Board of Governors (BOG) to develop a funding methodology in consultation with the Office of Program Policy Analysis and Government Accountability (OPPAGA) and representatives of each 4-year Doctor of Medicine degree program.

The bill requires the BOG to review prior year expenditures for each of the 4-year Doctor of Medicine degree programs and the national data associated with the costs of medical degree programs offered by public universities. Additionally, the bill requires the BOG to determine:

- a base-level cost per student that does not include startup or supplemental costs;
- the supplemental costs and startup costs associated with supporting the unique mission of a medical degree program at a state university or to support the implementation of new 4-year Doctor of Medicine degree programs; and
- a uniform procedure for annual expenditure and outcome reporting.

The bill requires the BOG to submit a report detailing the methodology to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than February 1, 2010. The BOG will also be required to use the funding methodology in the development of the Legislative Budget Requests for the 4-year Doctor of Medicine degree programs at state universities.

The bill does not require additional funding.

The effective date of this act is July 1, 2009.

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida is in the process of expanding public medical education programs. Six state universities offer medical education programs – five medical schools, three currently operating (at UF, USF, and FSU) and two planned (at UCF and FIU), and one public/private partnership (FAU/UM). Prior to 2000, only two state universities – UF and USF – operated colleges of medicine. Recent program expansion has led to concerns about funding parity among the colleges.¹

Florida's medical schools support varying types of instructional programs in addition to the M.D. program. Some of these programs cost more to provide than others. In addition, some medical schools have unique missions, and the variations in these missions may impact operating expenses.²

Funding for medical education is complex.³ Data compiled by the Liaison Committee on Medical Education identified the following revenue sources for public medical schools:

- Grants and contracts – 37%
- Practice plans and hospital services – 35%
- Tuition, fees, and state appropriations – 17%
- Miscellaneous – 7%
- Gifts and endowments – 4%
- Direct federal appropriations – <1%

Medical schools in Florida have varying sources and levels of local revenue available to support their programs.⁴ Tuition rates vary widely among the colleges of medicine (from \$18,028 at FSU to \$29,298 at FAU/UM). Colleges of medicine also vary significantly in their faculty practice plan revenues.

¹ Office of Program Policy Analysis & Government Accountability presentation before the State Universities & Private Colleges Appropriations Committee (February 11, 2009).

² *Id.*

³ See OPPAGA Report 08-36, *Medical Education Funding is Complex; Better Expenditure Data Is Needed*, 1-3.

⁴ Office of Program Policy Analysis & Government Accountability presentation before the State Universities & Private Colleges Appropriations Committee (February 11, 2009).

Patient care provided by medical schools, known as faculty practice plans, has historically provided funding to help support medical education programs. Two of Florida's currently operating public medical schools – UF and USF – rely on practice plan revenues to subsidize medical education programs. The two medical schools in the planning stage also intend to use faculty practice plans to subsidize their programs. Most practice plan revenues are used to support the cost of seeing patients. Changes in the healthcare industry may affect practice plan revenues in the future. University officials have voiced concerns about the long-term sustainability of faculty practice plan profits at the current levels.⁵

Statewide data for medical schools has some major limitations. It is not possible to identify state funding for M.D. programs for most of Florida's medical schools because four of six colleges receive a lump sum appropriation for all supported programs. In addition, official SUS cost data for medical schools is inconsistent and incomplete. The process for identifying costs during a student's last two years of medical school produces inconsistent results and faculty practice plan revenues are excluded.⁶

While the use of official SUS expenditure data should be a reasonable starting point for examining parity concerns, OPPAGA report No. 08-36 found the data reflect inconsistent reporting practices across universities and lack sufficient detail to determine the costs of the state's colleges of medicine. Insufficient information on current spending by the colleges of medicine and funding for the colleges of medicine, including information regarding all revenue sources, limits the state's ability to assess funding parity across institutions.⁷

Effect of Proposed Changes

CS/CS/HB 391 provides legislative intent to use a funding methodology for 4-year Doctor of Medicine degree programs at state universities that provides a consistent base level of state support on a per-student basis. The bill requires the Board of Governors (BOG) to develop a funding methodology in consultation with the Office of Program Policy Analysis and Government Accountability (OPPAGA) and representatives of each 4-year Doctor of Medicine degree program.

The bill requires the BOG to review prior year expenditures for each of the 4-year Doctor of Medicine degree programs and the national data associated with the costs of medical degree programs offered by public universities. Additionally, the bill requires the BOG to determine:

- a base-level cost per student that does not include startup or supplemental costs;
- the supplemental costs and startup costs associated with supporting the unique mission of a medical degree program at a state university or to support the implementation of new 4-year Doctor of Medicine degree programs; and
- a uniform procedure for annual expenditure and outcome reporting.

The bill requires the BOG to submit a report detailing the methodology to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than February 1, 2010. The BOG will also be required to use the funding methodology in the development of the Legislative Budget Requests for the 4-year Doctor of Medicine degree programs at state universities.

⁵ See OPPAGA Report 08-36, *Medical Education Funding is Complex; Better Expenditure Data Is Needed*, 1-3.

⁶ Office of Program Policy Analysis & Government Accountability presentation before the State Universities & Private Colleges Appropriations Committee (February 11, 2009).

⁷ See OPPAGA Report 08-36, *Medical Education Funding is Complex; Better Expenditure Data Is Needed*, 1-3.

B. SECTION DIRECTORY:

Section 1. Creates s.1011.905, F.S.; providing legislative intent; requiring the development of a funding methodology for medical student education at state universities that provides a base level of state support on a per-student basis; providing requirements for the funding methodology to be determined by the Board of Governors in consultation with the Office of Program Policy Analysis and Government Accountability and representatives of the 4-year Doctor of Medicine degree programs; providing for the determination of startup funding for new medical schools or supplemental funding for unique medical programs; requiring uniform reporting procedures; requiring a report; requiring the use of the funding methodology in the development of legislative budget requests.

Section 2. Provides an effective date of July 1, 2009.

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:

CS/CS/HB 391 requires the development of a funding methodology for the 4-year Doctor of Medicine degree program that provides a consistent base level of state support on a per-student basis for all such programs at state universities. The bill does not require additional funding.

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:

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 3, 2009, the State Universities & Private Colleges Policy Committee adopted a Proposed Committee Substitute for HB 391 and reported the bill favorably as a Committee Substitute (CS). The differences between the CS and the bill are:

- The CS requires the Board of Governors to use a funding methodology for medical student education that provides a consistent base level of state support on a per-student basis at all colleges of medicine at state universities regardless of which public institution the student attends.
- The CS removes the requirement that the annual update of the funding methodology be based on inflation and the cost of other policy adjustments.
- The CS removes the requirement that supplemental funding be provided on a per-student basis.
- The CS requires the Board of Governors in consultation with the Office of Program Policy Analysis and Government Accountability to develop uniform reporting procedures applicable to each state university that receives funding pursuant to the bill.
- The CS requires an annual report.

On March 19, 2009, the State Universities & Private Colleges Appropriations Committee adopted one amendment to CS/HB 391 and reported the bill favorably as a committee substitute. The strike-all amendment provides legislative intent to use a funding methodology for 4-year Doctor of Medicine degree programs; requires a review of state and national costs for doctor of medicine programs; removes the requirement that the methodology be updated annually; removes the maintenance of accreditation requirement; and adds the requirement that representatives of the 4-year Doctor of Medicine degree programs be included in the development of the per-student funding methodology.

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A bill to be entitled
 An act relating to state funding for medical student
 education; creating s. 1011.905, F.S.; providing
 legislative intent; requiring the Board of Governors of
 the State University System, in consultation with the
 Office of Program Policy Analysis and Government
 Accountability and representatives from Doctor of Medicine
 degree programs, to develop a funding methodology for
 Doctor of Medicine degree programs at state universities;
 requiring the funding methodology to provide a consistent
 base level of state support on a per-student basis;
 providing duties of the Board of Governors in developing
 the funding methodology; requiring a report; requiring use
 of the funding methodology in the development of
 legislative budget requests; providing an effective date.

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

Section 1. Section 1011.905, Florida Statutes, is created
 to read:

1011.905 State funding for Doctor of Medicine degree
 programs at state universities.--

(1) It is the intent of the Legislature to use a funding
 methodology for 4-year Doctor of Medicine degree programs that
 provides a consistent base level of state support on a per-
 student basis for each such program at state universities.

(2) The Board of Governors, in consultation with the
 Office of Program Policy Analysis and Government Accountability

29 and representatives from each of the 4-year Doctor of Medicine
 30 degree programs, shall develop a funding methodology for 4-year
 31 Doctor of Medicine degree programs offered by state
 32 universities. The funding methodology shall provide for a
 33 consistent base level of state support on a per-student basis
 34 for each such program. As part of the development of the funding
 35 methodology, the Board of Governors shall:

36 (a) Review prior year expenditures for each of the 4-year
 37 Doctor of Medicine degree programs, including expenditures from
 38 all funding sources.

39 (b) Review national data on the costs associated with 4-
 40 year Doctor of Medicine degree programs offered by public
 41 universities.

42 (c) Determine a base-level cost per student that excludes
 43 supplemental costs or startup costs.

44 (d) Determine supplemental costs and startup costs that
 45 are in addition to the base-level cost per student and that
 46 support the unique mission of a degree program or support the
 47 implementation of new 4-year Doctor of Medicine degree programs.

48 (e) Determine a uniform reporting procedure for the
 49 consistent annual reporting of expenditures for 4-year Doctor of
 50 Medicine degree programs.

51 (f) Determine a uniform reporting procedure for the
 52 consistent annual reporting of outcome data for 4-year Doctor of
 53 Medicine degree programs, including, but not limited to,
 54 enrollment statistics, graduation and retention rates, licensure
 55 passage rates, placement rates in residency positions in this

56 state, and placement rates in the physician workforce in this
 57 state.

58 (3) The Board of Governors shall submit a report detailing
 59 the funding methodology developed pursuant to subsection (2) to
 60 the Governor, the President of the Senate, and the Speaker of
 61 the House of Representatives no later than February 1, 2010.

62 (4) The Board of Governors shall use the funding
 63 methodology developed pursuant to subsection (2) to develop the
 64 legislative budget request for 4-year Doctor of Medicine degree
 65 programs at state universities.

66 Section 2. This act shall take effect July 1, 2009.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES



Amendment No. (01)

21 | the Board of Governors shall submit by March 1, 2010, an amended
22 | legislative budget request based on the funding methodology.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 543 High School Science Assessment
SPONSOR(S): PreK-12 Policy Committee; Mayfield
TIED BILLS: IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	PreK-12 Policy Committee	11 Y, 2 N, As CS	Brock	Ahearn
1)	PreK-12 Appropriations Committee	7 Y, 0 N	Clark	Heflin
2)	Full Appropriations Council on Education & Economic Development		Clark 	Martin 
3)				
4)				
5)				

SUMMARY ANALYSIS

The Committee Substitute (CS) for House Bill 543 provides that beginning in the 2010-2011 school year, students entering grade 9 are required to earn one credit in Biology I, or a series of equivalent courses that have been approved by the State Board of Education (SBE), in order to graduate from high school.

The CS replaces the existing Grade 11 Science FCAT with an end-of-course assessment in Biology I at the high school level. In order to give DOE time to produce a statewide, standardized end-of-course assessment in biology the CS includes a phased implementation schedule:

2010-2011 School Year:

- The Grade 11 Science FCAT will be administered for the last time.
- The biology end-of-course assessment will be administered as a field test.

2011-2012 School Year:

- The Grade 11 Science FCAT is discontinued.
- The end-of-course assessment in biology replaces the comprehensive assessment of science given at the high school level.
- Each student's performance on the end-of-course assessment constitutes 30 percent of the student's final course grade.

2012-2013 School Year and thereafter:

- The end-of-course assessment in biology is administered in high school.
- Students must earn a passing score on the end-of-course assessment in biology in order to pass the course and receive course credit.

The CS requires that high school grades include student performance on the biology end-of-course assessment, which replaces student performance on the Grade 11 Science FCAT, beginning in the 2011-2012 school year.

The CS does not appear to create a fiscal impact on school districts or local governments. The Department of Education estimates an offsetting neutral fiscal impact. (See FISCAL COMMENTS section of this analysis.)

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background:

No Child Left Behind Act of 2001

The federal No Child Left Behind (NCLB) Act of 2001 reauthorized and substantially revised the Elementary and Secondary Education Act of 1965 which provides federal funds to states and school districts for economically disadvantaged students.¹ The NCLB act requires each state to adopt challenging academic content and student achievement standards that apply to all public schools and students in the state.² The academic content standards are required to:

- Define coherent and rigorous academic content in mathematics, reading or language arts, and science;³
- Specify the knowledge and skills that all students are expected to know and be able to do; and
- Encourage the teaching of advanced skills.⁴

Florida's NCLB state accountability plan states that the *Sunshine State Standards* serve as the state's academic content standards.⁵ The NCLB act requires each state to implement high-quality annual student academic assessments in, at a minimum, mathematics, reading or language arts, and (beginning with the 2007-2008 school year) science.⁶ Florida's NCLB state plan uses the Florida Comprehensive Assessment Test (FCAT) as its academic assessment for purposes of the NCLB act.⁷

¹ *No Child Left Behind Act of 2001*, Pub. L. No. 107-110, 115 Stat. 1425 (Jan. 8, 2002), 20 U.S.C. § 6311, available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_public_laws&docid=f:publ110.107.pdf.

² 20 U.S.C. § 6311(b)(1)(A)&(B).

³ 20 U.S.C. § 6311(b)(1)(C).

⁴ 20 U.S.C. § 6311(b)(1)(D)(i).

⁵ Florida Department of Education, *Florida NCLB Consolidated State Application Accountability Workbook (State Accountability Plan)*, 57-58 (June 8, 2008), available at <http://www.ed.gov/admins/lead/account/stateplans03/flcsa.pdf>; see §§ 1000.21(7) & 1003.41, F.S.

⁶ 20 U.S.C. § 6311(b)(3)(A).

⁷ See *supra* note 5 and accompanying text.

Sunshine State Standards

The *Sunshine State Standards* establish core curricula and benchmarks for student achievement. The State Board of Education is reviewing the *Sunshine State Standards* and replacing them with *Next Generation Sunshine State Standards* to better align curriculum, assessments, graduation requirements, and postsecondary success.⁸

High School Graduation Requirements

Students must earn credits in required high school courses to graduate from high school. There are three options for high school graduation: a traditional 24-credit/4-year option, an accelerated 18-credit/3-year College Preparatory Program option, and an accelerated 18-credit/3-year Career Preparatory Program option.⁹ Each of the high school graduation options require 3 science credits to graduate, 2 of which must have a laboratory component.

Students must also pass the Grade 10 FCAT in reading and mathematics or attain concordant scores on either the SAT or the ACT tests. The Grade 11 FCAT Science assessment is not required to graduate.

Student Assessment

The Florida Comprehensive Assessment Test (FCAT) measures student achievement in grades 3 through 11 using benchmarks from the *Sunshine State Standards*.¹⁰ Testing and reporting schedules are required to be published two years in advance of testing. The FCAT consists of criterion-referenced tests in reading, writing, mathematics, and science.¹¹ Reading and mathematics are tested annually in grades 3 through 10. Writing and science are tested once at the elementary, middle, and high school levels.¹² Students take the FCAT Science test in grades 5, 8, and 11.¹³

Achievement scores on FCAT reading, mathematics, and science are reported using five achievement levels. One (1) is the lowest achievement level and 5 is the highest achievement level. The cut scores used on the Grade 11 FCAT Science to differentiate the 5 levels are as follows:¹⁴

Grade	Level 1	Level 2	Level 3	Level 4	Level 5
11	100--278	279--323	324--379	380--424	425--500

End-of-course assessments for subject areas may be administered in addition to the comprehensive assessments. An end-of-course assessment must be rigorous, statewide, standardized, and developed or approved by the Department of Education (DOE).¹⁵ The DOE indicates that it is in the final stages of adopting a new contract for the development and administration of the next generation of FCAT

⁸ Section 1003.41 (1), F.S.

⁹ Sections 1003.428, 1003.429, & 1003.43., F.S.

¹⁰ Section 1008.22(3), F.S.

¹¹ Section 1008.22(3)(c)2., F.S. A criterion-referenced test (CRT) is an assessment in which an individual's performance is compared to a specific learning objective or performance standard and not to the performance of other students. CRTs show how well students performed on specific goals or standards rather than just telling how their performance compares to a norm group of students nationally or locally. The FCAT is based on the *Sunshine State Standards* and measures student progress toward meeting these standards. Florida Department of Education, *FCAT Handbook: A Resource for Educators*, 5 (2005), available at <http://fcats.fldoe.org/handbk/complete.pdf>.

¹² Section 1008.22(3)(c), F.S.

¹³ Rule 6A-1.09422(3)(a), F.A.C.

¹⁴ Rule 6A-1.09422(5)(c), F.A.C.

¹⁵ Section 1008.22(3)(c), F.S.

assessments. The new contract includes new science assessments aligned to the *Next Generation Sunshine State Standards*, including both a comprehensive assessment of science and a science end-of-course exam. These new assessments are planned for implementation in the 2011-2012 school year.¹⁶

High School Grades

School grades were established by the A+ Plan in 1999 to assess school performance. Since then, high school performance grades have gradually changed. Prior to the 2009-2010 school year, a school's grade, including a high school's grade, was based on a combination of:

- Student achievement scores, including achievement scores for students seeking a special diploma;
- Student learning gains as measured by annual FCAT assessments in grades 3 through 10; and
- Improvement of the lowest 25th percentile of students in the school in reading, mathematics, or writing on the FCAT, unless these students are exhibiting satisfactory performance.¹⁷

By not later than the 2009-2010 school year, learning gains for students seeking a special diploma, as measured by an alternate assessment tool must be included in the learning gains component. Also, beginning in the 2009-2010 school year, 50 percent of a high school's grade will remain based upon the elements described above. The other 50 percent of a high school's grade will be based on additional valid data as follows:

- The high school graduation rate;
- As valid data becomes available, the performance and participation of the school's students in College Board Advanced Placement courses, International Baccalaureate courses, dual enrollment courses, and Advanced International Certificate of Education courses, and the students' achievement of industry certification, as determined by the Agency for Workforce Innovation in a career and professional academy;
- Postsecondary readiness of the school's students as measured by the SAT, ACT, or the common placement test;
- The high school graduation rate of at-risk students who scored at Level 2 or lower on the grade 8 FCAT Reading and Mathematics examinations;
- As valid data becomes available, the performance of the school's students on statewide standardized end-of-course assessments; and
- The growth or decline in the components listed above from year to year.¹⁸

Additionally, student assessment data used in determining school grades include the aggregate scores of all eligible students enrolled in the school who have been assessed on the FCAT.

The Science FCAT results were included in school grades beginning in 2007.¹⁹ By DOE rule, one point for each percent of students who score at achievement levels 3, 4, or 5 is awarded toward school grades for students who take the FCAT Science test in grade 11.²⁰

Currently there are not any statewide, standardized end-of-course examinations being administered.

¹⁶ Department of Education Bill Analysis on House Bill 543, February 9, 2009, page 1.

¹⁷ Section 1008.34(3)(b)1., F.S.

¹⁸ Section 1008.34(3)(b)2., F.S.

¹⁹ Section 1008.34(3)(b)1.a., F.S.; Rule 6A-1.09981(5)(a),(6) & (8), F.A.C.

²⁰ Rule 6A-1.09981(8), (a), F.A.C.

Effect of Proposed Changes:

High School Graduation Requirements

The committee substitute provides that beginning in the 2010-2011 school year, students entering grade 9 are required to earn one credit in Biology I, or a series of equivalent courses that have been approved by the State Board of Education (SBE), for general or accelerated graduation.

Student Assessment

The committee substitute replaces the existing Grade 11 Science FCAT with an end-of-course assessment in Biology I, or series of courses that have been approved by the SBE as equivalent to Biology I, at the high school level. In order to give DOE time to produce a statewide, standardized end-of-course assessment in biology aligned with *Next Generation Sunshine State Standards* and in compliance with the No Child Left Behind Act, the committee substitute includes a phased implementation schedule. The scheduled phase-in of the end-of-course assessment and phase-out of the Grade 11 Science FCAT is as follows:

2010-2011 School Year:

- The Grade 11 Science FCAT will be administered for the last time.
- The biology end-of-course assessment will be administered as a field test.

2011-2012 School Year:

- The Grade 11 Science FCAT is discontinued.
- The end-of-course assessment in biology replaces the comprehensive assessment of science given at the high school level.
- Each student's performance on the end-of-course assessment constitutes 30 percent of the student's final course grade.

2012-2013 School Year and thereafter:

- The end-of-course assessment in biology is administered in high school.
- Students must earn a passing score on the end-of-course assessment in biology in order to pass the course and receive course credit.

The Department of Education (DOE) explains the need for a phase-in schedule as follows:

The specified timeline allows the Department to recommend achievement levels and a passing score to the State Board of Education on the biology end-of-course assessment in a manner consistent with the professional Standards for Educational and Psychological Testing. In summary, the Standards call for two data collections that can only occur at the end of the course when the data being collected will be representative of the data that will follow in subsequent years. The first data collection is referred to as the field test (2010-2011 in this case), and it is for the purpose of "trying out" the test items. The second data collection is referred to as the baseline (which will occur in 2011-2012), and it is for the purpose of collecting baseline data for use in setting the achievement levels with the involvement of Florida educators and other stakeholders. By the 2012-2013

school year, achievement levels and a passing score will be approved for use with students participating in the biology end-of-course assessment.²¹

High School Grades

The committee substitute requires that high school grades include student performance on the biology end-of-course assessment, which replaces student performance on the Grade 11 Science FCAT, beginning in the 2011-2012 school year.

B. SECTION DIRECTORY:

Section 1. Amends s. 1003.428, F.S., listing the revised general requirements for high school graduation. Beginning in the 2010-2011 school year, students entering grade 9 are required to earn one credit in Biology I, or a series of equivalent courses, in order to graduate.

Section 2. Amends s. 1003.429, F.S., providing accelerated high school graduation options. Beginning in the 2010-2011 school year, students in the accelerated high school graduation program are required to earn one credit in Biology I, or a series of equivalent courses, in order to graduate.

Section 3. Amends s. 1008.22, F.S., providing for a student assessment program for public schools and removing the requirement for the administration of a comprehensive assessment of science at the high school level, beginning in the 2011-2012 school year. An end-of-course assessment in biology at the high school level is required beginning with the 2010-2011 school year.

Section 4. Amends s. 1008.34, F.S., requiring inclusion of the biology end-of-course assessment data in determination of school grades beginning in the 2011-2012 school year.

Section 5. Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The committee substitute does not appear to affect state government revenues.

2. Expenditures:

The committee substitute does not appear to affect state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The committee substitute does not appear to affect local government revenues.

2. Expenditures:

The committee substitute does not appear to affect local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

²¹ Department of Education Bill Analysis on Proposed Committee Substitute for House Bill 543, February 27, 2009, page 3.

D. FISCAL COMMENTS:

The DOE estimates the annual cost to administer an end-of-course examination developed by the department is approximately \$1.5 million, or about \$13.76 per student. This cost is based on the current contract provider cost quote and the 2008-2009 enrollment in Biology I (109,026 students).²² In 2010 there will be overlap while the biology end-of-course examination is field-tested in conjunction with the administration of the grade 11 Science FCAT. Discontinuing the Grade 11 Science FCAT in 2011 will offset the cost of implementing the Biology end-of-course examination from 2011 onward. Further, DOE indicates that since the department is in the final stages of signing a new FCAT development and administration contract that includes both the administration of FCAT Science and the field test of a biology end-of-course assessment in 2010-2011, there will be no additional costs to the department to implement the requirements of this proposed committee substitute over those included in the pending contract.²³

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The proposed committee substitute does not appear to require a city or county to expend funds or to take any action requiring expenditures; reduce the authority that municipalities or counties had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

There is no new rulemaking authority but the State Board of Education may adopt rules under the existing statute.²⁴

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

The differences between the Committee Substitute (CS) and House Bill 543 are as follows:

- House Bill 543 discontinues the Florida Comprehensive Assessment Test in science administered to students in grade 11 at the end of the 2008-2009 school year. The CS extends the discontinuation date for the Grade 11 Science FCAT to the 2011-2012 school year.
- House Bill 543 requires the science assessment administered at the high school level shall be one or more end-of-course assessments for use as end-of-course examinations beginning with the 2009-2010 school year. The CS provides for a high school biology end-of-course assessment to be field tested in 2010-2011 and implemented in 2011-2012. During the transition year 2011-2012, the biology end-of-course assessment is 30% of the student's course grade and required for

²² Department of Education Bill Analysis on House Bill 543, February 9, 2009, page 2.

²³ Department of Education Bill Analysis on Proposed Committee Substitute for House Bill 543, February 27, 2009, page 2.

²⁴ Section 1001.02(1), F.S.

graduation. Beginning in 2012-2013, the biology end-of-course assessment must be passed for course credit and graduation.

- House Bill 543 requires content knowledge and skills assessed by an end-of-course examination to be aligned to the core curricular content established in the *Sunshine State Standards*. The proposed CS provides that the biology end-of-course assessment is aligned to the *Next Generation Sunshine State Standards*.
- The CS requires the biology end-of-course assessment to be included in the calculation of school grades.

1 A bill to be entitled
 2 An act relating to high school science assessment;
 3 amending ss. 1003.428 and 1003.429, F.S.; requiring
 4 students entering grade 9 to earn one credit in Biology I
 5 or in a series of equivalent courses for high school
 6 graduation beginning with the 2010-2011 school year;
 7 amending s. 1008.22, F.S.; requiring the administration of
 8 an end-of-course assessment in biology as a field test
 9 during the 2010-2011 school year; requiring the end-of-
 10 course assessment in biology to replace the comprehensive
 11 assessment of science administered at the high school
 12 level beginning with the 2011-2012 school year; providing
 13 requirements for course grade and course credit; requiring
 14 the State Board of Education to designate a passing score
 15 for the end-of-course assessment in biology; amending s.
 16 1008.34, F.S.; requiring the inclusion of biology end-of-
 17 course assessment data in determining school grades
 18 beginning with the 2011-2012 school year; providing an
 19 effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Subsection (1) and paragraph (a) of subsection
 24 (2) of section 1003.428, Florida Statutes, are amended to read:
 25 1003.428 General requirements for high school graduation;
 26 revised.--

27 (1) Except as otherwise authorized pursuant to s.
 28 1003.429, beginning with students entering grade 9 ~~their first~~

29 | ~~year of high school~~ in the 2007-2008 school year, graduation
 30 | requires the successful completion of a minimum of 24 credits,
 31 | an International Baccalaureate curriculum, or an Advanced
 32 | International Certificate of Education curriculum. Students must
 33 | be advised of eligibility requirements for state scholarship
 34 | programs and postsecondary admissions.

35 | (2) The 24 credits may be earned through applied,
 36 | integrated, and combined courses approved by the Department of
 37 | Education and shall be distributed as follows:

38 | (a) Sixteen core curriculum credits:

39 | 1. Four credits in English, with major concentration in
 40 | composition, reading for information, and literature.

41 | 2. Four credits in mathematics, one of which must be
 42 | Algebra I, a series of courses equivalent to Algebra I, or a
 43 | higher-level mathematics course. School districts are encouraged
 44 | to set specific goals to increase enrollments in, and successful
 45 | completion of, geometry and Algebra II.

46 | 3. Three credits in science, two of which must have a
 47 | laboratory component. Beginning with students entering grade 9
 48 | in the 2010-2011 school year, one of the three credits in
 49 | science must be Biology I or a series of courses that have been
 50 | approved by the State Board of Education as equivalent to
 51 | Biology I.

52 | 4. Three credits in social studies as follows: one credit
 53 | in American history; one credit in world history; one-half
 54 | credit in economics; and one-half credit in American government.

55 | 5. One credit in fine or performing arts, speech and
 56 | debate, or a practical arts course that incorporates artistic

57 | content and techniques of creativity, interpretation, and
 58 | imagination. Eligible practical arts courses shall be identified
 59 | through the Course Code Directory.

60 | 6. One credit in physical education to include integration
 61 | of health. Participation in an interscholastic sport at the
 62 | junior varsity or varsity level for two full seasons shall
 63 | satisfy the one-credit requirement in physical education if the
 64 | student passes a competency test on personal fitness with a
 65 | score of "C" or better. The competency test on personal fitness
 66 | must be developed by the Department of Education. A district
 67 | school board may not require that the one credit in physical
 68 | education be taken during the 9th grade year. Completion of one
 69 | semester with a grade of "C" or better in a marching band class,
 70 | in a physical activity class that requires participation in
 71 | marching band activities as an extracurricular activity, or in a
 72 | dance class shall satisfy one-half credit in physical education
 73 | or one-half credit in performing arts. This credit may not be
 74 | used to satisfy the personal fitness requirement or the
 75 | requirement for adaptive physical education under an individual
 76 | education plan (IEP) or 504 plan. Completion of 2 years in a
 77 | Reserve Officer Training Corps (R.O.T.C.) class, a significant
 78 | component of which is drills, shall satisfy the one-credit
 79 | requirement in physical education and the one-credit requirement
 80 | in performing arts. This credit may not be used to satisfy the
 81 | personal fitness requirement or the requirement for adaptive
 82 | physical education under an individual education plan (IEP) or
 83 | 504 plan.

84 Section 2. Subsection (1) of section 1003.429, Florida
 85 Statutes, is amended to read:

86 1003.429 Accelerated high school graduation options.--

87 (1) Students who enter grade 9 in the 2006-2007 school
 88 year and thereafter may select, upon receipt of each consent
 89 required by this section, one of the following three high school
 90 graduation options:

91 (a) Completion of the general requirements for high school
 92 graduation pursuant to s. 1003.43;

93 (b) Completion of a 3-year standard college preparatory
 94 program requiring successful completion of a minimum of 18
 95 academic credits in grades 9 through 12. At least 6 of the 18
 96 credits required for completion of this program must be received
 97 in classes that are offered pursuant to the International
 98 Baccalaureate Program, the Advanced Placement Program, dual
 99 enrollment, Advanced International Certificate of Education, or
 100 specifically listed or identified by the Department of Education
 101 as rigorous pursuant to s. 1009.531(3). The 18 credits required
 102 for completion of this program shall be primary requirements and
 103 shall be distributed as follows:

104 1. Four credits in English, with major concentration in
 105 composition and literature;

106 2. Three credits in mathematics at the Algebra I level or
 107 higher from the list of courses that qualify for state
 108 university admission;

109 3. Three credits in natural science, two of which must
 110 have a laboratory component. Beginning with students entering
 111 grade 9 in the 2010-2011 school year, one of the three credits

112 in science must be Biology I or a series of courses that have
113 been approved by the State Board of Education as equivalent to
114 Biology I;

115 4. Three credits in social sciences, which must include
116 one credit in American history, one credit in world history,
117 one-half credit in American government, and one-half credit in
118 economics;

119 5. Two credits in the same second language unless the
120 student is a native speaker of or can otherwise demonstrate
121 competency in a language other than English. If the student
122 demonstrates competency in another language, the student may
123 replace the language requirement with two credits in other
124 academic courses; and

125 6. Three credits in electives; or

126 (c) Completion of a 3-year career preparatory program
127 requiring successful completion of a minimum of 18 academic
128 credits in grades 9 through 12. The 18 credits shall be primary
129 requirements and shall be distributed as follows:

130 1. Four credits in English, with major concentration in
131 composition and literature;

132 2. Three credits in mathematics, one of which must be
133 Algebra I;

134 3. Three credits in natural science, two of which must
135 have a laboratory component. Beginning with students entering
136 grade 9 in the 2010-2011 school year, one of the three credits
137 in science must be Biology I or a series of courses that have
138 been approved by the State Board of Education as equivalent to
139 Biology I;

140 4. Three credits in social sciences, which must include
 141 one credit in American history, one credit in world history,
 142 one-half credit in American government, and one-half credit in
 143 economics;

144 5. Three credits in a single vocational or career
 145 education program, three credits in career and technical
 146 certificate dual enrollment courses, or five credits in
 147 vocational or career education courses; and

148 6. Two credits in electives unless five credits are earned
 149 pursuant to subparagraph 5.

150

151 Any student who selected an accelerated graduation program
 152 before July 1, 2004, may continue that program, and all
 153 statutory program requirements that were applicable when the
 154 student made the program choice shall remain applicable to the
 155 student as long as the student continues that program.

156 Section 3. Paragraph (c) of subsection (3) of section
 157 1008.22, Florida Statutes, is amended to read:

158 1008.22 Student assessment program for public schools.--

159 (3) STATEWIDE ASSESSMENT PROGRAM.--The commissioner shall
 160 design and implement a statewide program of educational
 161 assessment that provides information for the improvement of the
 162 operation and management of the public schools, including
 163 schools operating for the purpose of providing educational
 164 services to youth in Department of Juvenile Justice programs.
 165 The commissioner may enter into contracts for the continued
 166 administration of the assessment, testing, and evaluation
 167 programs authorized and funded by the Legislature. Contracts may

168 | be initiated in 1 fiscal year and continue into the next and may
 169 | be paid from the appropriations of either or both fiscal years.
 170 | The commissioner is authorized to negotiate for the sale or
 171 | lease of tests, scoring protocols, test scoring services, and
 172 | related materials developed pursuant to law. Pursuant to the
 173 | statewide assessment program, the commissioner shall:

174 | (c) Develop and implement a student achievement testing
 175 | program known as the Florida Comprehensive Assessment Test
 176 | (FCAT) as part of the statewide assessment program to measure a
 177 | student's content knowledge and skills in reading, writing,
 178 | science, and mathematics. Other content areas may be included as
 179 | directed by the commissioner. Comprehensive assessments of
 180 | reading and mathematics shall be administered annually in grades
 181 | 3 through 10. Comprehensive assessments of writing and science
 182 | shall be administered at least once at the elementary, middle,
 183 | and high school levels. During the 2010-2011 school year, an
 184 | end-of-course assessment in biology shall be administered as a
 185 | field test at the high school level. Beginning with the 2011-
 186 | 2012 school year, the end-of-course assessment in biology shall
 187 | replace the comprehensive assessment of science administered at
 188 | the high school level. During the 2011-2012 school year, each
 189 | student's performance on the end-of-course assessment in biology
 190 | shall constitute 30 percent of the student's final course grade.
 191 | Beginning with the 2012-2013 school year, a student must earn a
 192 | passing score on the end-of-course assessment in biology in
 193 | order to pass the course and receive course credit. End-of-
 194 | course assessments for a subject may be administered in addition
 195 | to the comprehensive assessments required for that subject under

196 | this paragraph. An end-of-course assessment must be rigorous,
197 | statewide, standardized, and developed or approved by the
198 | department. The content knowledge and skills assessed by
199 | comprehensive and end-of-course assessments must be aligned to
200 | the core curricular content established in the Sunshine State
201 | Standards. The commissioner may select one or more nationally
202 | developed comprehensive examinations, which may include, but
203 | need not be limited to, examinations for a College Board
204 | Advanced Placement course, International Baccalaureate course,
205 | or Advanced International Certificate of Education course or
206 | industry-approved examinations to earn national industry
207 | certifications as defined in s. 1003.492, for use as end-of-
208 | course assessments under this paragraph, if the commissioner
209 | determines that the content knowledge and skills assessed by the
210 | examinations meet or exceed the grade level expectations for the
211 | core curricular content established for the course in the Next
212 | Generation Sunshine State Standards. The commissioner may
213 | collaborate with the American Diploma Project in the adoption or
214 | development of rigorous end-of-course assessments that are
215 | aligned to the Next Generation Sunshine State Standards. The
216 | testing program must be designed as follows:

217 | 1. The tests shall measure student skills and competencies
218 | adopted by the State Board of Education as specified in
219 | paragraph (a). The tests must measure and report student
220 | proficiency levels of all students assessed in reading, writing,
221 | mathematics, and science. The commissioner shall provide for the
222 | tests to be developed or obtained, as appropriate, through
223 | contracts and project agreements with private vendors, public

224 vendors, public agencies, postsecondary educational
225 institutions, or school districts. The commissioner shall obtain
226 input with respect to the design and implementation of the
227 testing program from state educators, assistive technology
228 experts, and the public.

229 2. The testing program shall be composed of criterion-
230 referenced tests that shall, to the extent determined by the
231 commissioner, include test items that require the student to
232 produce information or perform tasks in such a way that the core
233 content knowledge and skills he or she uses can be measured.

234 3. Beginning with the 2008-2009 school year, the
235 commissioner shall discontinue administration of the selected-
236 response test items on the comprehensive assessments of writing.
237 Beginning with the 2012-2013 school year, the comprehensive
238 assessments of writing shall be composed of a combination of
239 selected-response test items, short-response performance tasks,
240 and extended-response performance tasks, which shall measure a
241 student's content knowledge of writing, including, but not
242 limited to, paragraph and sentence structure, sentence
243 construction, grammar and usage, punctuation, capitalization,
244 spelling, parts of speech, verb tense, irregular verbs, subject-
245 verb agreement, and noun-pronoun agreement.

246 4. A score shall be designated for each subject area
247 tested, below which score a student's performance is deemed
248 inadequate. The school districts shall provide appropriate
249 remedial instruction to students who score below these levels.

250 5. Except as provided in s. 1003.428(8)(b) or s.
251 1003.43(11)(b), students must earn a passing score on the grade

252 | 10 assessment test described in this paragraph or attain
 253 | concordant scores as described in subsection (10) in reading,
 254 | writing, and mathematics to qualify for a standard high school
 255 | diploma. The State Board of Education shall designate a passing
 256 | score for each part of the grade 10 assessment test and the end-
 257 | of-course assessment in biology. In establishing passing scores,
 258 | the state board shall consider any possible negative impact of
 259 | the test on minority students. The State Board of Education
 260 | shall adopt rules which specify the passing scores for each part
 261 | of the grade 10 assessment test and the end-of-course assessment
 262 | in biology ~~FCAT~~. Any such rules, which have the effect of
 263 | raising the required passing scores, shall apply only to
 264 | students taking the assessment ~~grade 10 FCAT~~ for the first time
 265 | after such rules are adopted by the State Board of Education.

266 | 6. Participation in the testing program is mandatory for
 267 | all students attending public school, including students served
 268 | in Department of Juvenile Justice programs, except as otherwise
 269 | prescribed by the commissioner. If a student does not
 270 | participate in the statewide assessment, the district must
 271 | notify the student's parent and provide the parent with
 272 | information regarding the implications of such nonparticipation.
 273 | A parent must provide signed consent for a student to receive
 274 | classroom instructional accommodations that would not be
 275 | available or permitted on the statewide assessments and must
 276 | acknowledge in writing that he or she understands the
 277 | implications of such instructional accommodations. The State
 278 | Board of Education shall adopt rules, based upon recommendations
 279 | of the commissioner, for the provision of test accommodations

280 for students in exceptional education programs and for students
281 who have limited English proficiency. Accommodations that negate
282 the validity of a statewide assessment are not allowable in the
283 administration of the FCAT. However, instructional
284 accommodations are allowable in the classroom if included in a
285 student's individual education plan. Students using
286 instructional accommodations in the classroom that are not
287 allowable as accommodations on the FCAT may have the FCAT
288 requirement waived pursuant to the requirements of s.
289 1003.428(8)(b) or s. 1003.43(11)(b).

290 7. A student seeking an adult high school diploma must
291 meet the same testing requirements that a regular high school
292 student must meet.

293 8. District school boards must provide instruction to
294 prepare students to demonstrate proficiency in the core
295 curricular content established in the Next Generation Sunshine
296 State Standards adopted under s. 1003.41, including the core
297 content knowledge and skills necessary for successful grade-to-
298 grade progression and high school graduation. If a student is
299 provided with instructional accommodations in the classroom that
300 are not allowable as accommodations in the statewide assessment
301 program, as described in the test manuals, the district must
302 inform the parent in writing and must provide the parent with
303 information regarding the impact on the student's ability to
304 meet expected proficiency levels in reading, writing, and
305 mathematics. The commissioner shall conduct studies as necessary
306 to verify that the required core curricular content is part of
307 the district instructional programs.

308 9. District school boards must provide opportunities for
 309 students to demonstrate an acceptable level of performance on an
 310 alternative standardized assessment approved by the State Board
 311 of Education following enrollment in summer academies.

312 10. The Department of Education must develop, or select,
 313 and implement a common battery of assessment tools that will be
 314 used in all juvenile justice programs in the state. These tools
 315 must accurately measure the core curricular content established
 316 in the Sunshine State Standards.

317 11. For students seeking a special diploma pursuant to s.
 318 1003.438, the Department of Education must develop or select and
 319 implement an alternate assessment tool that accurately measures
 320 the core curricular content established in the Sunshine State
 321 Standards for students with disabilities under s. 1003.438.

322 12. The Commissioner of Education shall establish
 323 schedules for the administration of statewide assessments and
 324 the reporting of student test results. The commissioner shall,
 325 by August 1 of each year, notify each school district in writing
 326 and publish on the department's Internet website the testing and
 327 reporting schedules for, at a minimum, the school year following
 328 the upcoming school year. The testing and reporting schedules
 329 shall require that:

330 a. There is the latest possible administration of
 331 statewide assessments and the earliest possible reporting to the
 332 school districts of student test results which is feasible
 333 within available technology and specific appropriations;
 334 however, test results must be made available no later than the
 335 final day of the regular school year for students.

336 b. Beginning with the 2010-2011 school year, a
337 comprehensive statewide assessment of writing is not
338 administered earlier than the week of March 1 and a
339 comprehensive statewide assessment of any other subject is not
340 administered earlier than the week of April 15.

341 c. A statewide standardized end-of-course assessment is
342 administered within the last 2 weeks of the course.

343

344 The commissioner may, based on collaboration and input from
345 school districts, design and implement student testing programs,
346 for any grade level and subject area, necessary to effectively
347 monitor educational achievement in the state, including the
348 measurement of educational achievement of the Sunshine State
349 Standards for students with disabilities. Development and
350 refinement of assessments shall include universal design
351 principles and accessibility standards that will prevent any
352 unintended obstacles for students with disabilities while
353 ensuring the validity and reliability of the test. These
354 principles should be applicable to all technology platforms and
355 assistive devices available for the assessments. The field
356 testing process and psychometric analyses for the statewide
357 assessment program must include an appropriate percentage of
358 students with disabilities and an evaluation or determination of
359 the effect of test items on such students.

360 Section 4. Paragraphs (b) and (c) of subsection (3) of
361 section 1008.34, Florida Statutes, are amended to read:

362 1008.34 School grading system; school report cards;
363 district grade.--

364 (3) DESIGNATION OF SCHOOL GRADES.--
 365 (b)1. A school's grade shall be based on a combination of:
 366 a. Student achievement scores, including achievement
 367 scores for students seeking a special diploma.
 368 b. Student learning gains as measured by annual FCAT
 369 assessments in grades 3 through 10; learning gains for students
 370 seeking a special diploma, as measured by an alternate
 371 assessment tool, shall be included not later than the 2009-2010
 372 school year.
 373 c. Improvement of the lowest 25th percentile of students
 374 in the school in reading, mathematics, or writing on the FCAT,
 375 unless these students are exhibiting satisfactory performance.
 376 2. Beginning with the 2009-2010 school year for schools
 377 comprised of high school grades 9, 10, 11, and 12, or grades 10,
 378 11, and 12, 50 percent of the school grade shall be based on a
 379 combination of the factors listed in sub-subparagraphs 1.a.-c.
 380 and the remaining 50 percent on the following factors:
 381 a. The high school graduation rate of the school;
 382 b. As valid data becomes available, the performance and
 383 participation of the school's students in College Board Advanced
 384 Placement courses, International Baccalaureate courses, dual
 385 enrollment courses, and Advanced International Certificate of
 386 Education courses; and the students' achievement of industry
 387 certification, as determined by the Agency for Workforce
 388 Innovation under s. 1003.492(2) in a career and professional
 389 academy, as described in s. 1003.493;
 390 c. Postsecondary readiness of the school's students as
 391 measured by the SAT, ACT, or the common placement test;

392 d. The high school graduation rate of at-risk students who
 393 scored at Level 2 or lower on the grade 8 FCAT Reading and
 394 Mathematics examinations;

395 e. As valid data becomes available, the performance of the
 396 school's students on statewide standardized end-of-course
 397 assessments not required for high school graduation, which are
 398 administered under s. 1008.22; and

399 f. The growth or decline in the components listed in sub-
 400 subparagraphs a.-e. from year to year.

401 (c) Student assessment data used in determining school
 402 grades shall include:

403 1. The aggregate scores of all eligible students enrolled
 404 in the school who have been assessed on the FCAT and
 405 standardized end-of-course assessments required for high school
 406 graduation, including, beginning with the 2011-2012 school year,
 407 the end-of-course assessment in biology.

408 2. The aggregate scores of all eligible students enrolled
 409 in the school who have been assessed on the FCAT and who have
 410 scored at or in the lowest 25th percentile of students in the
 411 school in reading, mathematics, or writing, unless these
 412 students are exhibiting satisfactory performance.

413 3. Effective with the 2005-2006 school year, the
 414 achievement scores and learning gains of eligible students
 415 attending alternative schools that provide dropout prevention
 416 and academic intervention services pursuant to s. 1003.53. The
 417 term "eligible students" in this subparagraph does not include
 418 students attending an alternative school who are subject to
 419 district school board policies for expulsion for repeated or

420 serious offenses, who are in dropout retrieval programs serving
421 students who have officially been designated as dropouts, or who
422 are in programs operated or contracted by the Department of
423 Juvenile Justice. The student performance data for eligible
424 students identified in this subparagraph shall be included in
425 the calculation of the home school's grade. As used in this
426 section and s. 1008.341, the term "home school" means the school
427 to which the student would be assigned if the student were not
428 assigned to an alternative school. If an alternative school
429 chooses to be graded under this section, student performance
430 data for eligible students identified in this subparagraph shall
431 not be included in the home school's grade but shall be included
432 only in the calculation of the alternative school's grade. A
433 school district that fails to assign the FCAT scores of each of
434 its students to his or her home school or to the alternative
435 school that receives a grade shall forfeit Florida School
436 Recognition Program funds for 1 fiscal year. School districts
437 must require collaboration between the home school and the
438 alternative school in order to promote student success. This
439 collaboration must include an annual discussion between the
440 principal of the alternative school and the principal of each
441 student's home school concerning the most appropriate school
442 assignment of the student.

443 4. Beginning with the 2009-2010 school year for schools
444 comprised of high school grades 9, 10, 11, and 12, or grades 10,
445 11, and 12, the data listed in subparagraphs 1.-3. and the
446 following data as the Department of Education determines such
447 data are valid and available:

- 448 a. The high school graduation rate of the school as
449 calculated by the Department of Education;
- 450 b. The participation rate of all eligible students
451 enrolled in the school and enrolled in College Board Advanced
452 Placement courses; International Baccalaureate courses; dual
453 enrollment courses; Advanced International Certificate of
454 Education courses; and courses or sequence of courses leading to
455 industry certification, as determined by the Agency for
456 Workforce Innovation under s. 1003.492(2) in a career and
457 professional academy, as described in s. 1003.493;
- 458 c. The aggregate scores of all eligible students enrolled
459 in the school in College Board Advanced Placement courses,
460 International Baccalaureate courses, and Advanced International
461 Certificate of Education courses;
- 462 d. Earning of college credit by all eligible students
463 enrolled in the school in dual enrollment programs under s.
464 1007.271;
- 465 e. Earning of an industry certification, as determined by
466 the Agency for Workforce Innovation under s. 1003.492(2) in a
467 career and professional academy, as described in s. 1003.493;
- 468 f. The aggregate scores of all eligible students enrolled
469 in the school in reading, mathematics, and other subjects as
470 measured by the SAT, the ACT, and the common placement test for
471 postsecondary readiness;
- 472 g. The high school graduation rate of all eligible at-risk
473 students enrolled in the school who scored at Level 2 or lower
474 on the grade 8 FCAT Reading and Mathematics examinations;

475 | h. The performance of the school's students on statewide
 476 | standardized end-of-course assessments not required for high
 477 | school graduation, which are administered under s. 1008.22; and

478 | i. The growth or decline in the data components listed in
 479 | sub-subparagraphs a.-h. from year to year.

480 |

481 | The State Board of Education shall adopt appropriate criteria
 482 | for each school grade. The criteria must also give added weight
 483 | to student achievement in reading. Schools designated with a
 484 | grade of "C," making satisfactory progress, shall be required to
 485 | demonstrate that adequate progress has been made by students in
 486 | the school who are in the lowest 25th percentile in reading,
 487 | mathematics, or writing on the FCAT, unless these students are
 488 | exhibiting satisfactory performance. Beginning with the 2009-
 489 | 2010 school year for schools comprised of high school grades 9,
 490 | 10, 11, and 12, or grades 10, 11, and 12, the criteria for
 491 | school grades must also give added weight to the graduation rate
 492 | of all eligible at-risk students, as defined in this paragraph.
 493 | Beginning in the 2009-2010 school year, in order for a high
 494 | school to be designated as having a grade of "A," making
 495 | excellent progress, the school must demonstrate that at-risk
 496 | students, as defined in this paragraph, in the school are making
 497 | adequate progress.

498 | Section 5. This act shall take effect July 1, 2009.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 641 Unemployment Compensation
SPONSOR(S): Economic Development Policy Committee and Crisafulli
TIED BILLS: IDEN./SIM. BILLS: CS/SB 1062

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Economic Development Policy Committee	21 Y, 0 N, As CS	West	Kruse
2)	Insurance, Business & Financial Affairs Policy Committee	20 Y, 0 N	Livingston	Cooper
3)	Economic Development & Community Affairs Policy Council	14 Y, 0 N	West	Tinker
4)	Full Appropriations Council on Education & Economic Development		Perez <i>MP</i>	Martin <i>[Signature]</i>
5)				

SUMMARY ANALYSIS

CS/HB 641 creates the "Accurate Employment Statistics Enhancement Act" to provide the Federal Government, the State of Florida, state agencies, businesses, research entities, and other entities more accurate unemployment compensation statistics. Employee leasing companies, also known as Professional Employer Organizations, current reporting practices cause unemployment compensation statistical data to be distorted by industry type and geographic location. This bill requires employee leasing companies to submit quarterly reports to the Labor Market Statistics Center within the Agency for Workforce Innovation that contain detailed information so the Agency can collect and disseminate more accurate unemployment compensation data.

This bill provides a specific format and timeline for submitting the reports to the Labor Markets Statistics Center and grants the Agency for Workforce Innovation rulemaking authority to carry out the provisions of the bill.

This bill is not anticipated to have a fiscal impact on state or local governments.

This bill provides an effective date of October 1, 2009.

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Professional Employer Organizations (PEOs)

Employee Leasing Companies, also known as Professional Employer Organizations (PEOs), work with their clients to manage human resources, employee benefits, payroll and workers' compensation. This allows PEO clients to focus on their business rather than human resource issues. PEOs also help manage complex employee related matters such as health benefits, payroll tax compliance, and unemployment insurance claims.

A PEO delivers these services by establishing and maintaining an employer relationship with the employees at the client's worksite and by contractually assuming certain employer rights, responsibilities, and risk.¹

Reporting Requirements

Employee Leasing Companies must submit work records pursuant to s. 433.171(5), F.S., that contain information required by the Agency for Workforce Innovation (AWI) or a tax collection service provider. These records must be open to inspection and are subject to being copied by AWI or its tax collection service provider at any reasonable time and as often as necessary. AWI or its tax collection service provider may require from any employing unit any sworn or unsworn reports, for persons employed by the employing unit, necessary for the effective administration of chapter 443, F.S.²

Section 443.036(18), F.S., defines "employee leasing company" as an employing unit that has a valid and active license under chapter 468, F.S., and that maintains the records required by s. 443.171(5), F.S. This section also requires employee leasing companies to maintain a list of its clients and employees, including their social security numbers, who have been assigned to work at each client company job site. Further, each client company job site must be identified by industry, products or services, and address. The client list must be provided to the tax collection service provider by June 30 and by December 31 of each year.

¹ Information contained in this section may be found at the National Association of Professional Employer Organization website: www.napeo.org/peoindustry/definition.cfm. (visited 3/3/09)

² s. 433.171(5), F.S.

The term "client" is defined as a party who has contracted with an employee leasing company to provide a worker, or workers, to perform services for the client. Leased employees include employees subsequently placed on the payroll of the employee leasing company on behalf of the client. An employee leasing company must notify the tax collection service provider within 30 days after the initiation or termination of the company's relationship with any client company under chapter 468, F.S.³

Labor Market Statistics

Labor Market Statistics is a division of the AWI that produces, analyzes, and delivers labor statistics. This information assists a variety of entities in both the public and private sector in making economic and legislative decisions.

Labor Market Statistics include a variety of labor market, economic, and demographic data such as:

- Employment and Wages - current employment, projections, and wages by industry and occupation, occupational profiles, and career information;
- Labor Force - labor force, employment, unemployment, and unemployment rates;
- Economic Indicators - Florida Price Level Index, Consumer Price Index, income, and unemployment claims data; and
- Population - age, race, gender, income, veteran's status, and education information.⁴

Labor Market Statistics collects data under several federal/state cooperative statistical programs:

- Quarterly Census of Employment Wages - summarizes industry employment and wage data for all employers covered by state Unemployment Insurance (UI) laws and federal workers covered by the Unemployment Compensation for Federal Employees (UCFE) program;
- Current Employment Statistics - produces estimates of nonagricultural employment by industry;
- Local Area Unemployment Statistics - produces estimates of civilian labor force, total employment, unemployment, and unemployment rates;
- Mass Layoff Statistics - collects reports on mass layoffs that result in workers being separated from their jobs;
- Occupational Employment Statistics and Wages - produces employment and wage estimates by occupation; and
- Employment Projections - forecasts future employment levels by industry and occupation.⁵

Data from Labor Market Statistics are provided via reports, publications, CDs, brochures, posters, and the Internet.⁶

Reporting Requirement Issues

Each Florida company has its own tax identification number. When a PEO handles the human resource duties of a company which includes reporting employment and wage data, the information is submitted using the PEO's identification number and not the number of the company contracted with the PEO. This distorts employment statistics related to industry type and geography because a single PEO may have thousands of clients in all parts of the state and across all industries. As a result, some areas of the state and some industry types are either underrepresented or overrepresented. PEO employment is more prevalent in Florida than any other state co-employing hundreds of thousands of Florida residents. Inaccuracies on such a large scale cause significant distortion of data. The State of Florida, the Federal Government, economic developers, job seekers, employers, and many other entities rely on these statistics when making policy and other economic decisions.⁷

³ s. 443.036(18), F.S.

⁴ Labor Market Statistics website: <http://www.labormarketinfo.com/> (visited 3/4/09)

⁵ Labor Market Statistics website: <http://www.labormarketinfo.com/Stats.htm> (visited 3/4/09)

⁶ Labor Market Statistics website: <http://www.labormarketinfo.com/> (visited 3/4/09)

⁷ Information contained in this section came from discussions with the Deputy Director of Legislative Affairs for the Agency for Workforce Innovation. (3/3/09-3/5/09)

Effects of Proposed Changes

The bill amends the definition of "employee leasing company" in s. 443.036(18), F.S., to include a statement that requires employee leasing companies to produce quarterly reports concerning their clients and internal staff. The new definition will require employee leasing companies to "produce quarterly reports concerning the clients of the employee leasing company and the internal staff of the employee leasing company." Quarterly reports will provide AWI with more timely and accurate labor market statistics.

The bill adds specific reporting requirements to s. 443.1216, F.S. The new requirements include submitting a quarterly report to the Labor Market Statistics Center within AWI that includes each client establishment and each establishment of the employee leasing company and any other information requested by AWI. The report must include the following:

- Establishment name;
- Former unemployment compensation account number, if available;
- Former federal employer's identification number, if available;
- Industry code recognized and published by the U.S. Office of Management and Budget, if available;
- Description of client's primary business activity;
- Address of physical location;
- Number of full-time and part-time employees that received pay subject to unemployment compensation taxes;
- Total wages subject to unemployment compensation taxes paid during calendar year;
- Internal identification code to uniquely identify each establishment of each client;
- Month and year that client entered into the contract for services; and
- Month and year that client terminated contract for services.

The bill grants the Agency for Workforce Innovation rulemaking authority to carry out the provisions of the bill.

B. SECTION DIRECTORY:

Section 1. Provides a title for the legislation: "Accurate Employment Statistics Enhancement Act."

Section 2. Amends subsection (18) of s. 443.036, F.S., to provide that employee leasing companies are responsible for producing quarterly reports concerning their clients and staff.

Section 3. Amends paragraph (a) of subsection (1) of s. 443.1216, F.S., to require employee leasing companies to submit quarterly reports to the Labor Market Statistics Center within the Agency for Workforce Innovation and to grant rulemaking authority to the Agency for Workforce Innovation.

Section 4. Provides an effective date of October 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill requires employee leasing companies to produce quarterly reports that meet the requirements specified in this bill. The economic impact is indeterminate.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Agency for Workforce Innovation is granted rulemaking authority to carry out the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 11, 2009, the Economic Development Policy Committee reported the bill favorably with a strike-all amendment. The amendment:

- Clarified the timing for the first new required report;
- Provided technical change in the bill title;
- Removed a reference to a public records exemption due to duplication; and
- Provided a responsibility for employee leasing companies to produce quarterly reports.

1 A bill to be entitled
 2 An act relating to unemployment compensation; providing a
 3 short title; amending s. 443.036, F.S.; redefining the
 4 term "employee leasing company" to reflect reporting
 5 requirements imposed by the act; amending s. 443.1216,
 6 F.S.; requiring an employee leasing company to submit a
 7 report regarding its establishments to the Labor Market
 8 Statistics Center within the Agency for Workforce
 9 Innovation; providing reporting requirements; requiring
 10 the agency to adopt rules; providing a definition;
 11 providing an effective date.

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

14
 15 Section 1. This act may be cited as the "Accurate
 16 Employment Statistics Enhancement Act."

17 Section 2. Subsection (18) of section 443.036, Florida
 18 Statutes, is amended to read:

19 443.036 Definitions.--As used in this chapter, the term:

20 (18) "Employee leasing company" means an employing unit
 21 that has a valid and active license under chapter 468 and that
 22 maintains the records required by s. 443.171(5) and, in
 23 addition, is responsible for producing quarterly reports
 24 concerning the clients of the employee leasing company and the
 25 internal staff of the employee leasing company ~~maintains a~~
 26 ~~listing of the clients of the employee leasing company and of~~
 27 ~~the employees, including their social security numbers, who have~~
 28 ~~been assigned to work at each client company job site. Further,~~

29 ~~each client company job site must be identified by industry,~~
 30 ~~products or services, and address. The client list must be~~
 31 ~~provided to the tax collection service provider by June 30 and~~
 32 ~~by December 31 of each year.~~ As used in this subsection, the
 33 term "client" means a party who has contracted with an employee
 34 leasing company to provide a worker, or workers, to perform
 35 services for the client. Leased employees include employees
 36 subsequently placed on the payroll of the employee leasing
 37 company on behalf of the client. An employee leasing company
 38 must notify the tax collection service provider within 30 days
 39 after the initiation or termination of the company's
 40 relationship with any client company under chapter 468.

41 Section 3. Paragraph (a) of subsection (1) of section
 42 443.1216, Florida Statutes, is amended to read:

43 443.1216 Employment.--Employment, as defined in s.
 44 443.036, is subject to this chapter under the following
 45 conditions:

46 (1)(a) The employment subject to this chapter includes a
 47 service performed, including a service performed in interstate
 48 commerce, by:

- 49 1. An officer of a corporation.
- 50 2. An individual who, under the usual common-law rules
 51 applicable in determining the employer-employee relationship, is
 52 an employee. However, whenever a client, as defined in s.
 53 443.036(18), which would otherwise be designated as an employing
 54 unit has contracted with an employee leasing company to supply
 55 it with workers, those workers are considered employees of the
 56 employee leasing company. An employee leasing company may lease

57 corporate officers of the client to the client and other workers
 58 to the client, except as prohibited by regulations of the
 59 Internal Revenue Service. Employees of an employee leasing
 60 company must be reported under the employee leasing company's
 61 tax identification number and contribution rate for work
 62 performed for the employee leasing company.

63 a. In addition to any other report required to be filed by
 64 law, an employee leasing company shall submit a report to the
 65 Labor Market Statistics Center within the Agency for Workforce
 66 Innovation which includes each client establishment and each
 67 establishment of the employee leasing company, or as otherwise
 68 directed by the agency. The report must include the following
 69 information for each establishment:

70 (I) The trade or establishment name.

71 (II) The former unemployment compensation account number,
 72 if available.

73 (III) The former federal employer's identification number
 74 (FEIN), if available.

75 (IV) The industry code recognized and published by the
 76 United States Office of Management and Budget, if available.

77 (V) A description of the client's primary business
 78 activity in order to verify or assign an industry code.

79 (VI) The address of the physical location.

80 (VII) The number of full-time and part-time employees who
 81 worked during, or received pay that was subject to unemployment
 82 compensation taxes for, the pay period including the 12th of the
 83 month for each month of the quarter.

84 (VIII) The total wages subject to unemployment

85 compensation taxes paid during the calendar quarter.

86 (IX) An internal identification code to uniquely identify
 87 each establishment of each client.

88 (X) The month and year that the client entered into the
 89 contract for services.

90 (XI) The month and year that the client terminated the
 91 contract for services.

92 b. The report shall be submitted electronically or in a
 93 manner otherwise prescribed by the Agency for Workforce
 94 Innovation in the format specified by the Bureau of Labor
 95 Statistics of the United States Department of Labor for its
 96 Multiple Worksite Report for Professional Employer
 97 Organizations. The report must be provided quarterly to the
 98 Labor Market Statistics Center within the Agency for Workforce
 99 Innovation, or as otherwise directed by the agency, and must be
 100 filed by the last day of the month immediately following the end
 101 of the calendar quarter. The information required in sub-sub-
 102 subparagraphs a.(X) and (XI) need be provided only in the
 103 quarter in which the contract to which it relates was entered
 104 into or terminated. The sum of the employment data and the sum
 105 of the wage data in this report must match the employment and
 106 wages reported in the unemployment compensation quarterly tax
 107 and wage report. No report shall be required for any calendar
 108 quarter preceding the third calendar quarter of 2010.

109 c. The Agency for Workforce Innovation shall adopt rules
 110 as necessary to administer this subparagraph and may administer,
 111 collect, enforce, and waive the penalty imposed by s.
 112 443.141(1)(b) for the report required by this subparagraph.

113 d. For the purposes of this subparagraph, the term
 114 "establishment" means any location where business is conducted
 115 or where services or industrial operations are performed.

116 3. An individual other than an individual who is an
 117 employee under subparagraph 1. or subparagraph 2., who performs
 118 services for remuneration for any person:

119 a. As an agent-driver or commission-driver engaged in
 120 distributing meat products, vegetable products, fruit products,
 121 bakery products, beverages other than milk, or laundry or
 122 drycleaning services for his or her principal.

123 b. As a traveling or city salesperson engaged on a full-
 124 time basis in the solicitation on behalf of, and the
 125 transmission to, his or her principal of orders from
 126 wholesalers, retailers, contractors, or operators of hotels,
 127 restaurants, or other similar establishments for merchandise for
 128 resale or supplies for use in their business operations. This
 129 sub-subparagraph does not apply to an agent-driver or a
 130 commission-driver and does not apply to sideline sales
 131 activities performed on behalf of a person other than the
 132 salesperson's principal.

133 4. The services described in subparagraph 3. are
 134 employment subject to this chapter only if:

135 a. The contract of service contemplates that substantially
 136 all of the services are to be performed personally by the
 137 individual;

138 b. The individual does not have a substantial investment
 139 in facilities used in connection with the services, other than
 140 facilities used for transportation; and

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141 c. The services are not in the nature of a single
142 transaction that is not part of a continuing relationship with
143 the person for whom the services are performed.

144 Section 4. This act shall take effect October 1, 2009.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 739 Community College Student Fees
SPONSOR(S): State & Community Colleges & Workforce Policy Committee, Chestnut, and others
TIED BILLS: IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Orig. Comm.: State & Community Colleges & Workforce Policy Committee, 11 Y, 0 N, As CS, White, White. Row 2: 1) Full Appropriations Council on Education & Economic Development, Eggers (with initials ME), Martin (with signature).

SUMMARY ANALYSIS

The Committee Substitute (CS) for HB 739 authorizes each community college board of trustees to establish a transportation access fee. The purpose of the transportation access fee is to provide or improve access to transportation services for students enrolled in the community college. The fee may not exceed \$6 per credit hour. Increases to the fee are limited to once each fiscal year and must be implemented beginning with the fall term.

The bill also prohibits the fee from being included in the amount calculated for scholarships under the Bright Futures Scholarship Program.

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

The bill takes effect on July 1, 2009.

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Community College Fee Authority

Current law prohibits a community college from charging any fee except as authorized by law or rule of the State Board of Education.¹ Each community college board of trustees has specific statutory authority to establish tuition and out-of-state fees within certain parameters; an activity and service fee; a financial aid fee; a technology fee; and a separate fee for capital improvement, technology enhancements and equipping student buildings. In addition, each community college board of trustees has specific statutory authority to establish fee schedules for the following user fees and fines:

- Laboratory fees;
- Parking fees and fines;
- Library fees and fines;
- Fees and fines relating to facilities and equipment use or damage;
- Access or identification card fees;
- Duplicating, photocopying, binding or microfilming fees;
- Standardized testing fees;
- Diploma replacement fees;
- Transcript fees;
- Application fees;
- Graduation fees;
- Late fees related to registration and payment; and
- Distance learning course user fee.²

Transportation Access Fee Authority

Community colleges do not have statutory authority to charge transportation access fees; however, state universities are granted this authority under s. 1009.24(13)(p), F.S. By way of example, the University of Florida (UF) charges a transportation access fee of \$6.11 per credit hour. These funds are used to provide UF students with unlimited access to the city bus system. It is estimated that 36,500 students use the bus system daily when school is in session. Routes are designed per student requests to visit specific apartment and condominium complexes, businesses, and university sites. In addition, there is an intercampus route allowing students to travel from one part of campus to another.³

¹ Section 1009.23, F.S.

² Section 1009.23(12) and (16), F.S.

³ E-mail correspondence between Senate staff and UF staff dated March 3, 2009.

On February 16, 2009, the Santa Fe College Student Government adopted a resolution petitioning the Florida Legislature for a statutory amendment to permit the Santa Fe College Board of Trustees to implement a transportation fee. The resolution proposed that the transportation fee could increase the frequency and length of service of two existing bus routes, add a new route, and provide free ridership on all regular Gainesville Regional Transportation System (RTS) routes for anyone with a valid Santa Fe College ID card.⁴ The RTS estimated that these proposed enhancements would cost \$5.54 per credit hour.⁵

Effect of Bill

The bill authorizes each community college board of trustees to establish a transportation access fee. The purpose of the fee is to provide or improve access to transportation services for students enrolled in the community college. The fee may not exceed \$6 per credit hour. Increases to the fee are limited to once each fiscal year and must be implemented beginning with the fall term.

The bill also prohibits the fee from being included in the amount calculated for scholarships under the Bright Futures Scholarship Program.

B. SECTION DIRECTORY:

Section 1.: Amends s. 1009.23, F.S., authorizes community college boards of trustees to establish a transportation access fee; limits the amount of the fee; provides a timeframe for a fee increase and implementation of an increase; specifies that the fee may not be included in amount calculated for a Bright Futures Scholarship.

Section 2.: Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

As the bill prohibits the transportation access fee from being included in the amount calculated for Bright Futures Scholarships, there is no fiscal impact on the state funding for those scholarships.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill prohibits the transportation access fee from being included in the amount calculated for Bright Futures Scholarships. Further, the Florida Prepaid College Program does not currently cover this fee.⁶

⁴ Santa Fe Student Government Resolution dated February 16, 2009.

⁵ Gainesville RTS Service Adjustment Estimates for Spring 2009.

⁶ Currently, the Florida Prepaid Program covers community college activity and service fees, technology fees, and registration fees. The Program is authorized to approve contracts for additional community college fees authorized by s. 1009.23, F.S., and thus, may offer a plan to cover the transportation access fee in the future. Section 1009.98(2)(a), F.S.

As a result, students will be required to pay the fee at a community college where the board of trustees decides in its discretion to implement the fee. The precise fiscal impact to students attending such colleges is indeterminate because the fee may be any amount per credit hour up to \$6.

D. FISCAL COMMENTS:

Estimated 2008-09 tuition and fee revenue for Santa Fe College is \$23,003,708. Had the \$5.54 per credit hour transportation fee been authorized in 2008-09 as recommended by the Santa Fe College Student Government, Santa Fe College would have generated an additional amount of \$1,973,426 (356,214 credit hours x \$5.54) for a total of \$24,977,134 in tuition and fee revenue. The statewide total estimated 2008-09 tuition and fee revenue for the institutions in the Florida college system is \$619,642,314. Had the maximum transportation fee of \$6 per credit hour been authorized in 2008-09, the maximum amount of \$59,547,420 could have been generated by the transportation fee for a total of \$679,189,734 in tuition and fee revenue.⁷

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 18, 2009, the State and Community Colleges and Workforce Policy Committee adopted a Proposed Committee Substitute for HB 739 and reported the bill favorably as a Committee Substitute (CS). The differences between the CS and the bill are:

- The CS authorizes each of the 28 community college boards of trustees to adopt a "transportation access fee," while the bill only authorized the Santa Fe Community College Board of Trustees to adopt a "transportation fee."
- The CS adds that the fee may be used to provide or improve transportation services, may not exceed \$6 per credit hour, and may only be increased one-time annually.
- The CS adds that the fee may not be included in the amount calculated for Bright Futures Scholarships.

⁷ E-mail correspondence between House staff and Division of Community Colleges staff dated March 11, 2009, and The Office of Economic and Demographic Research, Conferences, Community College Enrollment, Conference Handouts, http://edr.state.fl.us/conferences/communitycolleges/03-02-09_Conference%20Handouts.pdf (last visited March 22, 2009).

1 A bill to be entitled
 2 An act relating to community college student fees;
 3 amending s. 1009.23, F.S.; authorizing community college
 4 boards of trustees to establish a transportation access
 5 fee; limiting the amount of the fee; providing a timeframe
 6 for a fee increase and implementation of an increase;
 7 prohibiting the inclusion of the fee in calculating the
 8 amount a student receives under Florida Bright Futures
 9 Scholarship Program awards; providing an effective date.

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

12
 13 Section 1. Subsection (17) of section 1009.23, Florida
 14 Statutes, is renumbered as subsection (18), and a new subsection
 15 (17) is added to that section to read:

16 1009.23 Community college student fees.--

17 (17)(a) Each community college board of trustees may
 18 establish a transportation access fee to provide or improve
 19 access to transportation services for students enrolled in the
 20 community college. The fee may not exceed \$6 per credit hour. An
 21 increase in the transportation access fee may only occur once
 22 each fiscal year and must be implemented beginning with the fall
 23 term.

24 (b) Notwithstanding ss. 1009.534, 1009.535, and 1009.536,
 25 the transportation access fee authorized under paragraph (a)
 26 shall not be included in calculating the amount a student
 27 receives for a Florida Academic Scholars award, a Florida

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28 | Medallion Scholars award, or a Florida Gold Seal Vocational
29 | Scholars award.

30 | Section 2. This act shall take effect July 1, 2009.

HOUSE PRINCIPLES

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

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

FULL ANALYSIS I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The Statewide Articulation Agreement

Florida law requires the State Board of Education (SBE) and the Board of Governors (BOG) of the State University System to enter into a statewide articulation agreement. The agreement is adopted in SBE rule. Each school district and public postsecondary institution is bound by its terms. It addresses articulation of credit for:

- Secondary to postsecondary education;
- Associate in arts, associate in science, and associate in applied science degree programs to baccalaureate degree programs;
- Applied technology diploma programs to associate in science or associate in applied science degree programs;
- Programs in nursing; and
- Early childhood education and child development credentialing programs.

The agreement requires public educational institutions to establish procedures for awarding credit earned via acceleration mechanisms. It also provides for the establishment of a common course numbering system, common transcripts, and uniform general education requirements.¹

The articulation agreement must specifically provide that graduates of community college associate in arts degree programs meet the general education requirements for, and qualify for admission to, the upper division of a state university. Such students must receive priority for admission over out-of-state students.²

Likewise, the agreement must guarantee articulation between appropriate school district and community college workforce development programs. Specifically, it must guarantee that applied technology diploma graduates receive a standard award of credit towards an associate in science or associate in applied science degree and establishes an enrollment preference for Florida residents.³

Rule establishes an Articulation Coordinating Committee to monitor implementation of the statewide articulation agreement. The committee is comprised of members representing public school districts, career education, community colleges, state universities, nonpublic secondary education, nonpublic postsecondary education, and students. Among other things, the committee must: (1) develop

¹ Section 1007.23(1), F.S.; See Rule 6A-10.024, F.A.C., which serves as the statewide articulation agreement.

² Section 1007.23(2), F.S.

³ Section 1007.23(3), F.S.

guidelines for interinstitutional agreements, (2) examine statewide articulation data; (3) cooperate with the DOE to prioritize research regarding admissions, grading practices, curriculum design, and follow-up of transfer students; (4) establish groups to review articulation in specific subject areas; (5) develop a common academic transcript; and (6) review instances of student transfer and admissions difficulties.⁴

Public educational institutions are not currently required to enter into articulation agreements with nonpublic postsecondary institutions. Such agreements are voluntary. The DOE's Division of Community Colleges currently has articulation agreements with the University of Phoenix, Keiser University, Strayer University, the Independent Colleges and Universities of Florida (ICUF), and the Association of Jesuit Colleges and Universities (AJCU). These agreements generally provide for the articulation of community college associate degree graduates into the upper-division of the nonpublic institution.⁵

District Interinstitutional Articulation Agreements

Florida law defines dual enrollment as the enrollment of an eligible secondary or home education student in a postsecondary course creditable towards a high school diploma and a career certificate, associate degree, or baccalaureate degree. Each school district and the community college in its service area must enter agreements for the articulation of dual enrollment credit.⁶

Statute authorizes district school boards and community colleges to enter into additional agreements with state universities and select nonpublic postsecondary institutions, i.e., those that are eligible for dual enrollment funding via the Florida Education Finance Program (FEFP). Such institutions include nonpublic, nonprofit, degree-granting postsecondary institutions that are accredited by the Commission on Colleges of the Southern Association of Colleges and Schools (SACS) or the Accrediting Council for Independent Colleges and Schools (ACICS).⁷ Community colleges and state universities may also enter into such agreements with nonpublic secondary schools.⁸

Interinstitutional articulation agreements regulate subjects in addition to dual enrollment articulation. Such agreements must also establish policies for reducing the incidence of postsecondary remediation, promoting "tech prep" programs, and improving teacher preparation.⁹ Statute encourages districts and community colleges to incorporate private sector partners and innovative strategies into remediation reduction policies.¹⁰ Tech prep promotion programs must include policies for articulation of secondary credit into a postsecondary career degree or diploma program.¹¹

The Statewide Course Numbering System

The Statewide Course Numbering System (SCNS) is an inventory of postsecondary courses offered by public and participating nonpublic postsecondary institutions.¹² It is designed to facilitate the transfer of credit among Florida's postsecondary institutions. All public postsecondary courses are included in the SCNS. Nonpublic postsecondary institutions may also submit courses for inclusion.¹³

Nonpublic postsecondary institutions are authorized, but not required, to participate in the SCNS. In order to participate, such institutions must be fully accredited by a regional or national accrediting agency that is recognized by the U.S. Department of Education. In addition, the institution must either:

⁴ Rule 6A-10.024(2), F.A.C.

⁵ Florida Department of Education, Office of Articulation, Articulation Agreements, Private Colleges and Universities, <http://www.fldoe.org/articulation/articulation-agreement.asp> (last visited Mar. 3, 2009). The articulation agreement with the Association of Jesuit Colleges and Universities pertains only to graduates of specified community college nursing programs.

⁶ Section 1007.235(1), F.S.

⁷ Section 1007.235(6), F.S.; *See also* § 1011.62(1)(i), F.S.

⁸ Section 1007.235(7), F.S.

⁹ Section 1007.235(2)(c)-(d) & (3), F.S.

¹⁰ Section 1007.235(2)(c), F.S.

¹¹ Section 1007.235(2)(d), F.S.

¹² Section 1007.24, F.S.

¹³ Florida Department of Education, Office of Articulation, *Florida Statewide Course Numbering Handbook* (2006) available at http://scns.fldoe.org/scns/admin_uploads/SCNS_Handbook_2006.pdf.

(1) be eligible to participate in the William L. Boyd IV, Florida Resident Access Grant; or (2) be issued an annual license by the Commission for Independent Education (CIE).¹⁴

All 28 community colleges, ten of 11 state universities, 40 career technical centers, and 24 eligible nonpublic postsecondary institutions participate in the SCNS.¹⁵ There are currently 95,550 active courses on the SCNS, of which 4,676 are from regionally and nationally accredited nonpublic institutions.¹⁶ Only four of the 24 participating nonpublic postsecondary institutions are regionally accredited. The rest are nationally accredited.¹⁷

Faculty Committees: The Commissioner of Education and Chancellor of the State University System must establish faculty committees to review courses in each subject area for inclusion in the SCNS. Faculty committees are comprised of faculty representatives from participating public and nonpublic institutions.¹⁸ A faculty coordinator oversees each committee. Review committees utilize course taxonomies to analyze course descriptions, determine course equivalencies, review faculty credentials, and assign numbers to courses.¹⁹ Currently, 554 faculty representatives serve on committees in 172 disciplines.²⁰ There is no specific requirement that school districts and public and nonpublic postsecondary institutions be represented on the committee for each curricular discipline in which it offers courses.

Composition of Faculty Review Committees²¹

Institution Type	Faculty Coordinator	Committee Members
Community College	39	192
State University	114	165
Career Technical Center	4	31
Nonpublic Postsecondary	2	7

Transfer of Credit: Not all courses on the SCNS are guaranteed to transfer into another postsecondary institution. A receiving institution must only accept credit for a course if a faculty review committee determines that it is: (1) academically equivalent to another course it offers; and (2) taught by faculty meeting SACS faculty qualifications standards. Courses are identified by number. Each course number consists of: (1) a three-letter prefix denoting its subject area; and (2) a four-digit number denoting its level and content.²²

Courses are judged based on content and the qualifications of the faculty teaching the course. Courses with similar academic content, which are taught by faculty with comparable credentials and, which equate to courses offered by another SCNS institution are given a common course number. Such courses are designated as equivalent courses. Equivalent courses are guaranteed to transfer to any participating public or nonpublic institution that offers the course.²³ Courses with dissimilar content or faculty qualifications are given a unique course number and transfer of credit is not guaranteed. Participating institutions may accept such credits, but such acceptance is optional.²⁴

Review of faculty qualifications is treated differently depending on whether an institution is regionally or nationally accredited. Faculty credentials are reviewed using SACS faculty standards. As a result, the

¹⁴ Section 1007.24(6), F.S.

¹⁵ See Florida Department of Education *supra* note 13.

¹⁶ Florida Department of Education, *Legislative Bill Analysis for HB 751* (2009).

¹⁷ See Florida Department of Education *supra* note 13.

¹⁸ Section 1007.24(2), F.S.

¹⁹ See Florida Department of Education, *supra* note 13.

²⁰ See *supra* note 16.

²¹ *Id.*

²² Section 1007.24(7), F.S.; See Florida Department of Education *supra* note 13.

²³ *Id.*

²⁴ See Florida Department of Education *supra* note 13.

faculty of the public and the four regionally accredited nonpublic postsecondary institutions do not have to be reviewed because they have already met these standards in gaining SACS accreditation.²⁵

Courses submitted by nationally accredited institutions must be reviewed. If the faculty member teaching the course meets SACS standards, the course is classified as equivalent and the credit is guaranteed transfer. If the faculty member does not meet SACS standards, equivalent transfer of credit is not guaranteed.²⁶

Once faculty is reviewed, the course is given a transfer level. The transfer level indicates the level of postsecondary education that the course may transfer into, if at all. This enables receiving institutions to quickly determine that the faculty credentials for the course have been properly reviewed according to SACS accreditation standards.²⁷

Compliance: Statute prohibits a participating nonpublic postsecondary institution from representing that courses it offers are included in the SCNS unless it is actually participating in the system. Institutions that violate such provisions are subject to discipline by the CIE.²⁸ Among other things, statute authorizes the CIE to deny or revoke an institution's license. It may also place licensed institutions on probation and impose fines on such institutions.²⁹

There is no formal process for reviewing student complaints concerning improper transfer credit denials. According to the DOE's Office of Articulation, it investigates and attempts to resolve such disputes on a case by case basis.³⁰ Repetitive or egregious abuse may also be addressed by the Articulation Coordinating Committee; however, opinions issued by the Committee are only advisory in nature.³¹

In the past, the DOE has issued memoranda to participating institutions in an effort to resolve transfer of credit difficulties. One such memorandum addresses improper denials by public postsecondary institutions of transfer credit from nationally accredited nonpublic institutions.³²

Articulation Accountability

Florida law requires the SBE, in conjunction with the BOG, to develop an accountability process for the articulation of credit governed by the statewide articulation agreement. The process must address:

- The impact of articulation processes on the transition of students between the public secondary and postsecondary education systems and the public and private sectors.
- Whether public secondary students are prepared to enter a public postsecondary institution.
- The effectiveness of articulated acceleration mechanisms.
- Transfer of community college associate in arts degree graduates to a state university.
- Degree requirements that exceed 60 credit hours for associate degrees and 120 hours for a baccalaureate degree in public postsecondary programs.
- The relationship between the College Level Academic Skills Test (CLAST) and articulation to the upper division of a public postsecondary institution.³³

²⁵ *Id.*

²⁶ Florida Department of Education, Office of Articulation, *Statewide Postsecondary Articulation Manual (2007)* available at <http://www.fldoe.org/articulation/pdf/statewide-postsecondary-articulation-manual.pdf>.

²⁷ See Florida Department of Education *supra* note 13.

²⁸ Section 1007.24(6), F.S.

²⁹ Section 1005.38, F.S.

³⁰ Telephone interview with Department of Education, Office of Articulation staff (March 2, 2009).

³¹ Rule 6A-10.024(2)(e), F.A.C.

³² Florida Department of Education, Office of the Commissioner, *Nonpublic Institution Participation in the Statewide Course Numbering System (July 15, 2005)* available at http://www.fldoe.org/articulation/pdf/Memo_NonpublicInstitutionParticipation_SCNS.pdf; See also Office of Program Policy Analysis and Government Accountability, *Students Encounter Barriers When Transferring Credit from Non-Public Institutions to Community Colleges, Report No. 07-49 (December 2007)* available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0749rpt.pdf>.

According to the DOE, many of these data elements are outdated. In addition, while this data is being collected, there is no specific requirement that DOE report it. Thus, data collected has not been utilized to its fullest extent.³⁴

Effect of Proposed Changes

The Statewide Articulation Agreement: The bill amends s. 1007.23(1), F.S., to require that the statewide articulation agreement govern the establishment of guidelines for the inclusion of CIE-licensed institutions in statewide articulation agreements. Currently, CIE-licensed institutions are not included in the statewide articulation agreement.

The inclusion of CIE-licensed institutions into the statewide articulation agreement will enable students at these institutions to better identify which programs include courses that are accepted for credit at other postsecondary institutions. Such agreements also enable participating institutions to coordinate their curricula to facilitate transfer.³⁵

This change also enables participating postsecondary institutions to safeguard their accreditation status. Institutions that do not share a common accreditation can review specific courses and exclude from the agreement courses that do not comport with accrediting agency content and faculty standards.³⁶

District Articulation Agreements: The bill amends s. 1007.235, F.S., to authorize school districts to enter into articulation agreements with CIE-licensed nonpublic postsecondary institutions. CIE-licensed institutions would not receive FEFP funding pursuant to such an agreement.

The Statewide Course Numbering System: The bill revises statutory provisions governing the SCNS. It amends s. 1007.24(2), F.S., to require that at least one representative from school districts, public postsecondary institutions, and participating nonpublic postsecondary institutions be appointed to serve on the faculty committee that reviews courses for each discipline if the district or institution offers courses in the discipline. This change increases the representation of nonpublic postsecondary institutions on the faculty committees that review courses for inclusion in the SCNS. Currently, nine out of 554 committee members are from the 24 nonpublic institutions participating in the SCNS. (*Please see Fiscal Analysis & Economic Impact Statement*).

The bill amends s. 1007.24(7), F.S., to clarify that course credit that is judged to meet established standards for academic equivalency must be guaranteed transfer regardless of whether the student's original institution is regionally or nationally accredited.

Finally, the bill creates s. 1007.24(9), F.S., to require the SBE and BOG to enforce compliance with SCNS policies. The SBE, in consultation with the BOG, must adopt rules establishing a process for reporting and monitoring noncompliance by participating institutions with SCNS credit transfer policies and procedures.

Articulation Accountability: The bill amends s. 1008.38, F.S., to require the SBE and BOG to establish a process for reporting data on the progression of students from secondary education into both public and nonpublic postsecondary education and the workforce. It revises several of the data elements that the articulation accountability process currently addresses. Under the bill, the process must address:

³³ Section 1008.38, F.S.

³⁴ Florida Department of Education, *Legislative Bill Analysis for SB 1020* (2009).

³⁵ See generally *supra* note 5.

³⁶ See Community college transfer articulation agreements with AJCU linked at *supra* note 5. This agreement addresses articulation of community college associate degree in nursing credits to AJCU institutions. These institutions do not share a common accreditation. The institutions delineate the specific courses and programs that will articulate.

- Both the use and effectiveness of articulated acceleration methods by secondary students. Current law only tracks the effectiveness of such methods.
- The transition of associate degree graduates into baccalaureate degree programs, not just the transition of associate in arts degree graduates to a state university. Thus, the system must address associate in science and associate in applied science graduates in addition to associate in arts degree graduates and must also address baccalaureate programs offered at a public or private postsecondary school.
- The adequacy of preparation of lower-division public postsecondary students for entry into upper-division programs. This is a new element added by the bill.
- The transition of career/technical students into programs with established articulation agreements as a new data element. This is a new element added by the bill.

B. SECTION DIRECTORY:

Section 1.: Amending s. 1007.23, F.S.; requiring that the statewide articulation agreement address transfer of credit from certain nonpublic postsecondary institutions.

Section 2.: Amending s. 1007.235, F.S.; authorizing school districts to enter into articulation agreements with certain nonpublic postsecondary institutions.

Section 3.: Amending s. 1007.24, F.S.; specifying the composition of SCNS faculty committees; clarifying that equivalent credit must be guaranteed transfer regardless of regional or national accreditation of the original institution; requires rulemaking to establish enforcement procedures.

Section 4.: Amending s. 1008.38, F.S.; establishing articulation accountability reporting requirements.

Section 5.: Providing an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

The bill may have an indeterminate fiscal impact on state expenditures. (*Please see Fiscal Comments*).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Students transferring from nonpublic postsecondary institutions may experience a reduction in their educational costs if more of their credits transfer to public institutions.

D. FISCAL COMMENTS:

State Tuition Subsidy: The state may realize cost savings if more credit from nonpublic postsecondary institutions is accepted by public postsecondary institutions. Such students would not have to take as many courses over, thereby reducing the number of state subsidized courses they need to take to complete their education.

Faculty Review Committees: The bill requires at least one representative from school districts, public postsecondary institutions, and participating nonpublic postsecondary institutions to be appointed to the SCNS faculty committee for each curricular discipline for which the entity offers courses. Currently, 554 committee members serve on 172 committees. Committee membership must be realigned to include representatives from each type of entity. The DOE uses funds from its SCNS budget to reimburse committee members for per diem and travel costs.

The majority of SCNS courses are offered by public institutions. To achieve representation that reflects this, the DOE anticipates that it will add the required representatives from nonpublic institutions rather than remove public representatives from existing committees. It will not have to add members to committees that already have a nonpublic faculty member or to committees reviewing course disciplines not offered at nonpublic institutions. Depending on the number of committee members added, costs associated with reimbursement of travel and per diem may increase. Because this number is not known, the bill's fiscal impact is indeterminate.³⁷

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

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

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

3. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the SBE to adopt rules establishing SCNS enforcement procedures.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 18, 2009, the State & Community Colleges & Workforce Policy Committee adopted a proposed committee substitute (PCS) with one amendment and reported the bill favorably as a committee substitute (CS). The CS differs from the original bill as follows:

³⁷ See Florida Department of Education *supra* note 16.

- The CS provides that the statewide articulation agreement must facilitate articulation among “public and nonpublic” educational entities. The bill provided that it must facilitate articulation among “public and independent” educational entities.
- The CS requires the statewide articulation agreement to govern the establishment of guidelines for the inclusion of any CIE-licensed institution in statewide articulation agreements. The bill required it to govern the transfer of credit between public institutions and nonpublic institutions that are issued an annual license by the CIE.
- The CS authorizes school districts to enter into articulation agreements with CIE-licensed institutions. The bill authorized such entities to enter into interinstitutional articulation agreements. This change is made to provide a more general grant of authority to enter into articulation agreements. It also avoids confusion with interinstitutional agreements, for which statute sets forth specific subjects, prescriptive requirements, and an exclusive funding scheme.
- The CS provides that equivalent credit must be guaranteed transfer regardless of whether the student’s original institution is “regionally or nationally accredited.” The bill provided that such credit be guaranteed transfer regardless of the institution’s “accrediting body.”
- The CS removes bill provisions requiring each faculty committee to identify 25 courses for which transfer of credit is most commonly requested; develop frameworks and establish outcomes for each course; and guarantee transfer of courses that meet these frameworks and outcomes.
- The CS requires the SBE and BOG to enforce compliance with SCNS policies. The SBE, in consultation with the BOG, must adopt rules for reporting and monitoring institutional violations of SCNS credit transfer policies. The bill required the SBE to adopt rules establishing penalties and fines for punishing such violations. Fines were to be equally divided between the affected student’s financial aid account and to the DOE for use in implementing the SCNS.
- The CS adds provisions revising the articulation accountability process that were not in the original bill.

1 A bill to be entitled
2 An act relating to articulation; amending s. 1007.23,
3 F.S.; requiring the statewide articulation agreement to
4 govern the establishment of guidelines for the inclusion
5 of institutions licensed by the Commission for Independent
6 Education in statewide articulation agreements; amending
7 s. 1007.235, F.S.; authorizing school districts to enter
8 into articulation agreements with such independent
9 postsecondary educational institutions; amending s.
10 1007.24, F.S.; requiring representatives from school
11 districts, public postsecondary educational institutions,
12 and participating nonpublic postsecondary educational
13 institutions to participate on faculty committees
14 established to review courses under specified
15 circumstances; expanding eligibility to participate in the
16 statewide course numbering system to all licensees of the
17 Commission for Independent Education; guaranteeing the
18 award of course credit by participating institutions
19 notwithstanding the institution's accrediting agency;
20 requiring the State Board of Education and Board of
21 Governors to enforce compliance with the award of certain
22 credits; requiring adoption of a rule establishing a
23 process for reporting and monitoring noncompliance with
24 the award of certain credits; amending s. 1008.38, F.S.;
25 requiring establishment of a process for the reporting of
26 trend data by the Department of Education on the
27 progression of students into and through postsecondary
28 education and the workforce; revising factors that must be

29 | addressed by the articulation accountability measures;
 30 | providing an effective date.

31 |

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

33 |

34 | Section 1. Subsection (1) of section 1007.23, Florida
 35 | Statutes, is amended to read:

36 | 1007.23 Statewide articulation agreement.--

37 | (1) The State Board of Education and the Board of
 38 | Governors shall enter into a statewide articulation agreement,
 39 | which the State Board of Education shall adopt by rule. The
 40 | agreement must preserve Florida's "2+2" system of articulation,
 41 | facilitate the seamless articulation of student credit across
 42 | and among Florida's public and nonpublic educational entities,
 43 | and reinforce the provisions of this chapter by governing:

44 | (a) Articulation between secondary and postsecondary
 45 | education;

46 | (b) Admission of associate in arts degree graduates from
 47 | community colleges and state universities;

48 | (c) Admission of applied technology diploma program
 49 | graduates from community colleges or career centers;

50 | (d) Admission of associate in science degree and associate
 51 | in applied science degree graduates from community colleges;

52 | (e) The establishment of guidelines for the inclusion of
 53 | institutions licensed by the Commission for Independent
 54 | Education in statewide articulation agreements;

55 | (f)~~(e)~~ The use of acceleration mechanisms, including
 56 | nationally standardized examinations through which students may

57 | earn credit;

58 | ~~(g)(f)~~ General education requirements and statewide course
59 | numbers as provided for in ss. 1007.24 and 1007.25; and

60 | (h)(g) Articulation among programs in nursing.

61 | Section 2. Subsection (8) is added to section 1007.235,
62 | Florida Statutes, to read:

63 | 1007.235 District interinstitutional articulation
64 | agreements.--

65 | (8) School districts may enter into articulation
66 | agreements with independent postsecondary educational
67 | institutions that are licensed by the Commission for Independent
68 | Education.

69 | Section 3. Subsections (2), (6), and (7) of section
70 | 1007.24, Florida Statutes, are amended, and subsection (9) is
71 | added to that section, to read:

72 | 1007.24 Statewide course numbering system.--

73 | (2) The Commissioner of Education, in conjunction with the
74 | Chancellor of the State University System, shall appoint faculty
75 | committees representing faculties of participating institutions
76 | to recommend a single level for each course, including
77 | postsecondary career education courses, included in the
78 | statewide course numbering system. At least one representative
79 | from school districts, public postsecondary educational
80 | institutions, and participating nonpublic postsecondary
81 | educational institutions shall be appointed to each faculty
82 | committee established to review courses if the district or
83 | institution offers courses in the discipline.

84 | (a) Any course designated as an upper-division-level

85 course must be characterized by a need for advanced academic
 86 preparation and skills that a student would be unlikely to
 87 achieve without significant prior coursework.

88 (b) A course that is offered as part of an associate in
 89 science degree program and as an upper-division course for a
 90 baccalaureate degree shall be designated for both the lower and
 91 upper division.

92 (c) A course designated as lower-division may be offered
 93 by any community college.

94 (6) Nonpublic colleges and schools that are fully
 95 accredited by a regional or national accrediting agency
 96 recognized by the United States Department of Education and are
 97 either eligible to participate in the William L. Boyd, IV,
 98 Florida Resident Access Grant or have been licensed by the
 99 Commission for Independent Education ~~issued a regular license~~
 100 ~~pursuant to s. 1005.31,~~ may participate in the statewide course
 101 numbering system ~~pursuant to this section.~~ Participating
 102 colleges and schools shall bear the costs associated with
 103 inclusion in the system and shall meet the terms and conditions
 104 for institutional participation in the system. The department
 105 shall adopt a fee schedule that includes the expenses incurred
 106 through data processing, faculty task force travel and per diem,
 107 and staff and clerical support time. The ~~Such~~ fee schedule may
 108 differentiate between the costs associated with initial course
 109 inclusion in the system and costs associated with subsequent
 110 course maintenance in the system. Decisions regarding initial
 111 course inclusion and subsequent course maintenance must be made
 112 within 360 days after the submission of the required materials

113 and fees by the institution. The Department of Education may
 114 select a date by which colleges must submit requests for new
 115 courses to be included, and may delay review of courses
 116 submitted after that date until the next year's cycle. Any
 117 college that currently participates in the system, and that
 118 participated in the system before ~~prior to~~ July 1, 1986, is
 119 ~~shall not be~~ required to pay the costs associated with initial
 120 course inclusion in the system. Fees collected for participation
 121 in the statewide course numbering system pursuant to ~~the~~
 122 ~~provisions of~~ this section shall be deposited in the
 123 Institutional Assessment Trust Fund. Any nonpublic, nonprofit
 124 college or university that is eligible to participate in the
 125 statewide course numbering system is ~~shall not be~~ required to
 126 pay the costs associated with participation in the system. A ~~No~~
 127 college or school may not ~~shall~~ record student transcripts or
 128 document courses offered by the college or school in accordance
 129 with this subsection unless the college or school is actually
 130 participating in the system pursuant to the rules of the State
 131 Board of Education. Any college or school that violates ~~deemed~~
 132 ~~to be in violation of~~ this section is ~~shall be~~ subject to the
 133 provisions in ~~of~~ s. 1005.38.

134 (7) Any student who transfers among postsecondary
 135 institutions that are fully accredited by a regional or national
 136 accrediting agency recognized by the United States Department of
 137 Education and that participate in the statewide course numbering
 138 system shall be awarded credit by the receiving institution for
 139 courses satisfactorily completed by the student at the previous
 140 institutions. Credit shall be awarded if the courses are judged

141 | by the appropriate statewide course numbering system faculty
 142 | committees representing school districts, public postsecondary
 143 | educational institutions, and participating nonpublic
 144 | postsecondary educational institutions to be academically
 145 | equivalent to courses offered at the receiving institution,
 146 | including equivalency of faculty credentials, regardless of the
 147 | regional or national accrediting agency and public or nonpublic
 148 | control of the previous institution. The Department of Education
 149 | shall ensure that credits to be accepted by a receiving
 150 | institution are generated in courses for which the faculty
 151 | possess credentials that are comparable to those required by the
 152 | accrediting association of the receiving institution. The award
 153 | of credit may be limited to courses that are entered in the
 154 | statewide course numbering system. Credits awarded under
 155 | ~~pursuant to~~ this subsection shall satisfy institutional
 156 | requirements on the same basis as credits awarded to native
 157 | students.

158 | (9) The State Board of Education and the Board of
 159 | Governors, as appropriate, shall enforce compliance by
 160 | participating institutions in the award of credits under
 161 | subsection (7). Such enforcement shall include adoption of a
 162 | rule by the State Board of Education, in consultation with the
 163 | Board of Governors, that establishes a process for reporting and
 164 | monitoring noncompliance by participating institutions.

165 | Section 4. Section 1008.38, Florida Statutes, is amended
 166 | to read:

167 | 1008.38 Articulation accountability process.--The State
 168 | Board of Education, in conjunction with the Board of Governors,

169 shall develop articulation accountability measures that ~~which~~
 170 assess the status of systemwide articulation processes
 171 authorized under s. 1007.23 and shall establish a ~~an~~
 172 ~~articulation accountability~~ process for the reporting of trend
 173 data by the Department of Education on the progression of
 174 students from secondary education into and through public and
 175 nonpublic postsecondary education and the workforce. At a
 176 minimum, the articulation accountability measures ~~which at a~~
 177 ~~minimum~~ shall address:

178 ~~(1) The impact of articulation processes on ensuring~~
 179 ~~educational continuity and the orderly and unobstructed~~
 180 ~~transition of students between public secondary and~~
 181 ~~postsecondary education systems and facilitating the transition~~
 182 ~~of students between the public and private sectors.~~

183 ~~(1)(2)~~ (1) The adequacy of preparation of public secondary
 184 students who matriculate ~~to smoothly articulate~~ to a public
 185 postsecondary institution.

186 ~~(2)(3)~~ (2) The use and effectiveness of articulated
 187 acceleration mechanisms available to secondary students.

188 ~~(3)(4)~~ (3) The transition ~~smooth transfer~~ of ~~community college~~
 189 ~~associate in arts~~ degree graduates to 4-year baccalaureate
 190 degree programs ~~a state university~~.

191 ~~(4)(5)~~ (4) An examination of degree requirements that exceed
 192 the parameters of 60 credit hours for an associate degree and
 193 120 hours for a baccalaureate degree in public postsecondary
 194 programs.

195 ~~(5)(6)~~ (5) The relationship between the College Level Academic
 196 Skills Test Program and articulation to the upper division in

CS/HB 751

2009

197 public postsecondary institutions and the adequacy of
198 preparation of lower-division undergraduate students for success
199 in upper-division programs.

200 (6) The transition of career and technical education
201 students into and through programs of study that have
202 established articulation agreements.

203 Section 5. This act shall take effect July 1, 2009.

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Gifted Screening and Evaluation

A "gifted" student is defined as "one who has superior intellectual development and is capable of high performance."¹ Gifted students are classified as exceptional students² because they need special services in order to make appropriate educational progress.

In general, school districts follow a four-step process to determine gifted students:

1. Identify students to be screened for eligibility;
2. Screen identified students and recommend those who meet criteria for further assessment;
3. Evaluate recommended students by a school or outside psychologist; and
4. Review psychologists' evaluations and related materials to make final determinations of student eligibility to receive gifted services.³

The methods school districts use to select students who will be evaluated for gifted eligibility varies. Most school districts consider a student's academic performance and assessment results, teacher referrals, and student records. Forty-four school districts also consider parent recommendations. Thirteen school districts screen all students in a particular grade.⁴ Checklists of gifted student characteristics are also frequently used and many school districts also use formal or informal observation. Twelve school districts report using a test of intellectual ability when screening students to determine whether they will receive an individual evaluation.⁵

¹ Rule 6A-6.03019, F.A.C.

² s. 1003.01(3), F.S.

³ <http://www.oppage.state.fl.us/reports/educ/r08-01s.html>, Office of Program Policy Analysis and Government Accountability, Florida Gifted Grew Faster Than the Overall School Enrollment, Report No. 08-01, January 2008.

⁴ *Id.*

⁵ *Id.*

Two methods are used for determining gifted eligibility status. A student must either:

- Demonstrate a need for a special program, superior intellectual development as measured by an intelligence quotient (IQ) of at least two standard deviations above the mean,⁶ and possess gifted characteristics according to a standard scale or checklist; or
- Be a member of an underrepresented group, i.e., limited English proficient (LEP) or of low socioeconomic status and meet district-determined criteria set forth in an approved school district plan for increasing participation in gifted education by underrepresented groups.⁷

The alternative method for determining gifted status, known as Plan B, need not meet the IQ requirement to obtain gifted status if they otherwise meet the criteria set forth in the school district's plan.⁸ As of January 2008, 53 of 67 Florida school districts have an approved alternative identification plan for determining gifted eligibility.⁹ Beginning with the 2008-2009 school year, school districts will submit their current Plan B with their revised Policies and Procedures for the Provision of Specially Designed Instruction and Related Services to Exceptional Students document for approval. This will ensure that DOE's records are current and reflect accurately those districts that are currently implementing Plan B.¹⁰

Gifted Educational Plan and Services

Educational plans (EPs) are developed for students identified solely as gifted. The procedures for the development of the EPs are included in each school district's Policies and Procedures for the Provision of Specially Designed Instruction and Related Services to Exceptional Students.¹¹ Each district school board is statutorily required to submit its proposed procedures for providing special instruction and services to the Department of Education (DOE) every three years.¹²

Within 30 days of determining that a student is gifted, an evaluation and written services plan must be developed. The educational plan (EP) must include the student's performance level and goals and a description of the student's educational needs and the services that will be provided to meet those needs. The EP is developed by a multidisciplinary team that includes school and district staff and other experts, if necessary. Parents must participate in the development of the plan providing critical information regarding the strengths of the child and discussing the child's specific needs. A gifted student must have an EP at the beginning of each school year and it must be reviewed at least every three years for primary and middle school students and every four years for high school students. A parent or the school may request a review of the EP at any time.¹³

District school boards are statutorily required to provide exceptional students in grades K-12 with appropriate diagnosis, evaluation, special instruction, facilities, and services. Instruction, facilities, and services may be provided within a district school system, in cooperation with other district school systems, or through contractual arrangements with approved private schools or community facilities that meet certain standards. While current law requires districts to provide special instruction and services to gifted students, it does not specify type of courses and services required.¹⁴

⁶ Two standard deviations above the mean or higher generally equates to a determination that the student has an IQ of 130 or higher. See <http://www.oppaga.state.fl.us/reports/educ/r08-01s.html>, Office of Program Policy Analysis and Government Accountability, *Florida Gifted Grew Faster Than the Overall School Enrollment*, Report No. 08-01, January 2008.

⁷ Rule 6A-6.03019, F.A.C.

⁸ *Id.*

⁹ <http://www.oppaga.state.fl.us/reports/educ/r08-01s.html>, Office of Program Policy Analysis and Government Accountability, *Florida Gifted Grew Faster Than the Overall School Enrollment*, Report No. 08-01, January 2008.

¹⁰ Six-Month Follow-up – OPPAGA Report of January 2008, Florida Department of Education, July 15, 2008.

¹¹ Rule 6A-6.030191, F.A.C.

¹² s. 1003.57(1)(d), F.S.

¹³ Rule 6A-6.030191(6)(c), F.A.C. See also Florida Department of Education, Bureau of Exceptional Education and Student Services, *Technical Assistance Paper: Development of Educational Plans for Students Who Are Gifted*, No. 2006-3 (November 2005) available at <http://www.fldoe.org/ESE/pdf/y2006-3.pdf>.

¹⁴ s. 1003.57(1), F.S.

School district gifted education services generally fall into one of two categories: enrichment or acceleration. Enrichment activities provide students with more complex and in-depth study of subjects than is available through the regular education curriculum. Acceleration allows a student to work at a faster pace or engage in higher level work and may include grade skipping or subject matter acceleration, as well as Advanced Placement programs, college courses offered in high school and early graduation for high school students.¹⁵ Currently, there are no statewide DOE-developed whole-grade and subject matter acceleration policies. Development and implementation of such policies is left to the discretion of the school districts.¹⁶

Statutorily there are a variety of acceleration mechanisms available for high school students attending public schools. These mechanisms include: dual enrollment, early admission to a postsecondary institution, advanced placement, credit by examination, the International Baccalaureate Program, and the Advanced International Certificate of Education Program.¹⁷ These programs are often utilized to serve both gifted and academically talented high school students.

Teacher Preparation and Gifted Students

Current law requires the State Board of Education (SBE) to adopt rules establishing a uniform core curriculum for state-approved teacher preparation programs. Among other things, such teacher preparation programs must include instruction in teaching limited English proficient (LEP) students and teaching reading literacy and computational skills at all grade levels.¹⁸ Currently, state-approved teacher preparation programs do not require instruction related to gifted identification and programming.¹⁹

Only practicing teachers who seek a gifted education endorsement are required to receive instruction pertaining to gifted students. Persons seeking the gifted endorsement must possess a baccalaureate or higher degree with certification and complete fifteen semester hours in gifted education coursework. Gifted education coursework must address gifted characteristics and strategies for providing instruction, creative learning opportunities, guidance, and counseling to gifted students. Such coursework must also address strategies for teaching gifted students with diverse backgrounds and learning styles.²⁰

Gifted Funding

Funding for exceptional students is calculated using a system of weighted cost factors. Cost factors are determined by using a matrix of services (MOS) that the exceptional student will receive. For exceptional students who do not receive MOS funding and gifted students in grades K-8 the funding of their education is provided through the Exceptional Student Education (ESE) Guaranteed Allocation. The ESE Guaranteed Allocation is a lump sum allocation that districts receive in addition to base student funding through the Florida Education Finance Program (FEFP).²¹

The Legislature increased gifted student funding by 26% from 2005-2006 to 2007-2008. This increase is attributed to a 6.7% rise in the statewide number of gifted students which caused the amount of ESE Guaranteed Allocation funding for gifted students to increase from \$243 million in 2005-2006 to \$276 million in 2006-2007.²² In response to these increases, the 2007 Legislature amended the FEFP statute to provide that a school district's expenditure of ESE Guaranteed Allocation funds for gifted students in grades nine through 12 could not exceed the amount it expended in 2006-2007.²³

¹⁵ http://www.fldoe.org/ESE/pdf/gift_accel.pdf, Florida Department of Education, Bureau of Exceptional Education and Student Services, *Information Brief: Acceleration of Gifted Students* (2003).

¹⁶ <http://www.oppaga.state.fl.us/reports/educ/r08-01s.html>, Office of Program Policy Analysis and Government Accountability, *Florida Gifted Grew Faster Than the Overall School Enrollment*, Report No. 08-01, January 2008.

¹⁷ s. 1007.27, F.S., s. 1007.271, F.S., and s. 1007.272, F.S.

¹⁸ s. 1004.04(2), F.S.

¹⁹ Rule 6A-5.066, F.A.C.

²⁰ Rule 6A-4.01791, F.A.C.

²¹ s. 1011.62((1)(e)), F.S.

²² <http://www.oppaga.state.fl.us/reports/educ/r08-01s.html>, Office of Program Policy Analysis and Government Accountability, *Florida Gifted Grew Faster Than the Overall School Enrollment*, Report No. 08-01, January 2008.

²³ s. 1011.62(1)(e), F.S.

In 2008, the Legislature appropriated \$1,056,618,468 for the ESE Guaranteed Allocation for the 2008-2009 school year.²⁴ Approximately \$124,431,745 of the ESE Guaranteed Allocation is for gifted students. The total FEFP funds for gifted students, including the ESE Guaranteed Allocation, are approximately \$894,765,816.²⁵

In order to participate in the FEFP, school districts are required to maintain accurate financial records.²⁶

Each school district must annually report its expenditures of all state, local, and federal funds. However, school districts are not currently required to separately identify the amounts of ESE Guaranteed Allocation funding expended to provide education services to disabled students and gifted students.²⁷

Effect of Proposed Changes

Parental Notice and District Reporting

CS/CS/HB 835 requires district school boards to annually provide written notice to parents of students in grades K-12 of the eligibility criteria for gifted student classification and the procedures for requesting an evaluation of their children. District school boards can meet this requirement by, for example, including such notice in an annual communication to parents such as the Student Code of Conduct or through an e-mail communication.

CS/CS/HB 835 also requires district school boards to annually report to the Department of Education (DOE) by school and grade level:

- The number of students classified as gifted under the generally applicable criteria set forth in SBE rule and the number classified under a DOE-approved school district plan for increasing the participation of underrepresented groups.
- The types of gifted student education services that it provides and the number of students receiving each service. Additionally, districts are directed to specify: the number of hours per week each service is provided to each student; whether the service consists of direct instruction in a gifted-only class, differentiated instruction in a class with both gifted and non-gifted students, or noninstructional consultation services; and whether the service is provided by a SBE gifted endorsed teacher.
- Performance data for students receiving gifted education services.

Student data must be disaggregated by race, ethnicity, limited English proficient (LEP) status, and free or reduced-price lunch eligibility status. The DOE is required to develop data elements to facilitate district reporting and the State Board of Education (SBE) must adopt rules to implement these reporting requirements.

Acceleration

CS/CS/HB 835 requires the DOE to develop, and district school boards to implement, statewide policies that set forth procedures and eligibility criteria for whole-grade and subject matter acceleration for students in grades K-12.

CS/CS/HB 835 also requires district school boards to annually report to the DOE by school and grade:

- The number of, and performance data for, students who were accelerated one or more whole grades.

²⁴ Specific Appropriation 81, Chapter 2008-152, L.O.F. as adjusted by Specific Appropriation 42, Chapter 2009-1, L.O.F.

²⁵ Florida Department of Education. Revenue Estimate Worksheet for Gifted Based on the Revised Third Calculation of the FEFP 2008-2009, March 5, 2009.

²⁶ s. 1011.60(1), F.S.

²⁷ s. 1010.20, F.S.

- The types of subject matter acceleration programs offered.
- The number of, and performance data for, students who participated in subject matter acceleration programs.

Student data must be disaggregated by race, ethnicity, LEP status, and free or reduced price lunch eligibility status. The DOE is required to develop data elements to facilitate district reporting and the SBE must adopt rules to implement the section.

Teacher Preparation and Gifted Students

CS/CS/HB 835 requires each state approved teacher preparation program to incorporate gifted student instruction so that program graduates: will be able to recognize the characteristics of gifted students; have knowledge of gifted eligibility criteria and the procedures for referring a student for gifted evaluation; and have knowledge of how to differentiate the general education curriculum for gifted students.

Gifted Education Funding

CS/CS/HB 835 requires each school district in its annual financial report to the DOE to separately identify the following amounts that it expends from the Exceptional Student Education Guaranteed Allocation: (a) the amount expended for students identified as exceptional who do not have a matrix of services; and (b) the amount expended for gifted students in grades K-12 according to grade level.

Gifted and Academically Talented Task Force

CS/CS/HB 835 establishes the Gifted and Academically Talented Task Force (task force). The task force is to be composed of the following seven members:

- The chair of the SBE or his or her designee, who shall serve as chair.
- The Commissioner of Education or his or her designee, who shall serve as vice-chair.
- Four members who collectively have experience in gifted and academically talented student screening, identification, and education, one of whom shall be appointed by the Governor, one of whom shall be appointed by the President of the Senate, one of whom shall be appointed by the Speaker of the House of Representatives, and one of whom shall be appointed by the chair of the SBE.
- One member who represents an advocacy group for parents of gifted children who shall be appointed by the Governor.

The members must be appointed by October 1, 2009, and the task force must have its first meeting by November 1, 2009. The meetings of the task force may be held via teleconference or through other electronic means. The task force is assigned to the DOE for administrative purposes. Members of the task force are not entitled to compensation or reimbursement for per diem and travel and are subject to the Code of Ethics for Public Officers and Employees under part III of chapter 112, F.S. The task force is required to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2010,²⁸ that provides recommendations, based upon peer-reviewed research and the members' collective expertise, with regard to:

- Revising the statute and rule governing eligibility criteria for gifted student classification generally and in underrepresented groups.
- Developing eligibility criteria for academically talented student classification that identifies students who are not classified as gifted, but who possess high achievement capability in one or more academic subject areas.

²⁸ The report is due five months from when the appointments to the task force should be made and four months from the task force's first meeting.

- Developing annual screening procedures for the determination of students who should be further evaluated for identification as gifted or academically talented students. At a minimum, the procedures must identify:
 - The most appropriate grade or grades within each of the elementary, middle, or high school levels to administer such screenings for all students.
 - One or more recommended screening instruments.
- Identifying model gifted and academically talented student education programs. Such programs must include:
 - Classroom-based, school-based, and district-based implementation options.
 - Subject matter acceleration opportunities, differentiated curricula that address the exceptional learning needs of gifted and academically talented students, and enrichment activities that extend learning opportunities available in the classroom.
- Identifying procedures for annually evaluating the effectiveness of model gifted and academically talented student education programs.
- Identifying procedures for evaluating students participating in gifted or academically talented student education programs to determine student performance and whether the students are benefiting from, and continue to be eligible to participate in, the programs.

CS/CS/HB 835 specifies that the task force is abolished upon delivery of its final report and recommendations.

B. SECTION DIRECTORY:

Section 1: Creates s. 1003.572, F.S.; requiring district school boards to provide parental notice of gifted eligibility requirements and procedures for requesting evaluations for gifted classification; requiring district school board reporting of gifted classification, services, and performance data; requiring the DOE to develop data elements for district reporting; and requiring rulemaking.

Section 2: Creates s. 1003.573, F.S.; requiring the DOE to develop procedures and eligibility criteria for whole-grade and subject matter acceleration; requiring district school boards to implement procedures and eligibility criteria; requiring district school board reporting of student acceleration data; requiring the DOE to develop data elements for district reporting; and requiring rulemaking.

Section 3: Amends s. 1004.04, F.S.; requiring state-approved teacher preparation programs to incorporate specified gifted student instruction.

Section 4: Amends s. 1011.62, F.S.; requiring certain school district Exceptional Student Education Guarantee allocation expenditures to be reported separately.

Section 5: Creates the Gifted and Academically Talented Task Force within the DOE; designating members; allowing all task force meetings to be conducted by teleconference or other electronic means; requiring the task force to submit a report to the Governor and Legislature; providing reporting requirements; and providing for the future abolishment of the task force.

Section 6: Provides an effective date of upon becoming law for the provisions related to the establishment and operations of the Gifted and Academically Talented Task Force while all other provisions become effective July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

See FISCAL COMMENTS section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

The cost to school districts to add three new data elements to capture data regarding direct instruction to gifted student classes only, differentiated instruction to gifted students in classes with non-gifted students and non-instructional services, and the number of hours per week for each service per student served and to determine whether the service was provided by a teacher with gifted endorsement will range from \$1,080,000 - \$1,512,000. The table below illustrates how the costs were derived.²⁹

Number of School Districts: (67 school districts, 5 developmental research schools, and Florida Virtual School)	72
Number of Data Elements Needed	3
Cost per School District: (based on the size of the district)	\$5,000 - \$7,000
TOTAL	\$1,080,000 - \$1,512,000

CS/CS/HB 835 requires district school boards to annually provide written notice to parents of students in grades K-12 of the eligibility criteria for gifted student classification. District school boards can meet this requirement by, for example, including such notice in an annual communication to parents such as the Student Code of Conduct or through an e-mail communication.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

²⁹ Florida Department of Education. Analysis of HB 835, March 5, 2009.

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:

CS/CS/HB 835 requires the SBE to adopt rules to implement the provisions of: (a) s. 1003.572, F.S., which requires annual parental notice of gifted eligibility procedures and specified gifted data reporting by districts; and (b) s. 1003.573, F.S., which requires the DOE to develop statewide whole-grade and subject matter acceleration policies and requires district reporting regarding the implementation of those policies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 10, 2009, the PreK-12 Policy Committee met and adopted 1 amendment to HB 845 and passed the bill as a Committee Substitute (CS). The differences between the CS and the House Bill are as follows:

- The CS requires all task force meetings to be conducted by teleconference.
- The CS removes the task force members' entitlement to receive per diem and travel expenses.

CS/HB 835 was considered by the PreK-12 Appropriations committee on March 19, 2009. One amendment was adopted and the bill was reported favorably with a committee substitute. The amendment made the following clarifications to the Gifted and Academically Talented Student Task Force:

- Allows all meetings of the task force to be conducted via teleconference or through other electronic means.
- Specifies that members of the task force are not entitled to receive reimbursement for per diem or travel.

1 A bill to be entitled
2 An act relating to gifted and academically talented
3 student education; creating s. 1003.572, F.S.; requiring
4 district school boards to provide parental notice of
5 requirements and procedures for requesting evaluations for
6 gifted student classification; requiring district school
7 board reporting of gifted student classification,
8 services, and performance data; requiring the Department
9 of Education to develop data elements for district
10 reporting; requiring rulemaking; creating s. 1003.573,
11 F.S.; requiring the department to develop procedures and
12 eligibility criteria for whole-grade and subject matter
13 acceleration; requiring district school boards to
14 implement procedures and eligibility criteria; requiring
15 district school board reporting of student acceleration
16 data; requiring the department to develop data elements
17 for district reporting; requiring rulemaking; amending s.
18 1004.04, F.S.; requiring state-approved teacher
19 preparation programs to incorporate specified gifted
20 student instruction; amending s. 1011.62, F.S.; requiring
21 certain school district guaranteed allocation expenditures
22 to be reported separately; creating the Gifted and
23 Academically Talented Student Task Force within the
24 department; designating members; requiring members to
25 serve without compensation or reimbursement for per diem
26 and travel expenses; requiring the task force to submit a
27 report to the Governor and Legislature; providing report

28 requirements; providing for the future abolishment of the
 29 task force; providing effective dates.

30

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

32

33 Section 1. Section 1003.572, Florida Statutes, is created
 34 to read:

35 1003.572 Gifted student education.--

36 (1) For students in grades K through 12, each district
 37 school board shall annually:

38 (a) Provide written notice to each student's parent of the
 39 eligibility criteria for gifted student classification and the
 40 procedures for requesting an evaluation of a student to
 41 determine his or her eligibility for such classification.

42 (b) Report to the department by school and grade level:

43 1. The number of students classified as gifted. Such
 44 reporting shall separately identify the number of students
 45 classified as gifted under generally applicable criteria set
 46 forth in State Board of Education rule and under a department-
 47 approved school district plan for increasing the participation
 48 of underrepresented groups.

49 2. The types of gifted student education services that it
 50 provides and the number of students receiving each service. Such
 51 reporting shall:

52 a. Separately identify gifted student education services
 53 that provide: direct instruction to a class consisting only of
 54 gifted students; differentiated instruction for gifted students

55 within a class that also includes students who are not gifted;
 56 and noninstructional consultation services.

57 b. Indicate the number of hours per week that each service
 58 identified under sub-subparagraph a. is provided to each gifted
 59 student and whether the service is provided by a teacher who has
 60 received the gifted endorsement under State Board of Education
 61 rule.

62 3. Performance data for students receiving gifted student
 63 education services.

64
 65 When reporting the number of students under this paragraph,
 66 district school boards shall classify students according to
 67 race, ethnicity, limited English proficient status, and free or
 68 reduced-price lunch eligibility status under the National School
 69 Lunch Act.

70 (2) The department shall develop data elements to
 71 facilitate district school board reporting under paragraph
 72 (1)(b).

73 (3) The State Board of Education shall adopt rules
 74 pursuant to ss. 120.536(1) and 120.54 to implement this section.

75 Section 2. Section 1003.573, Florida Statutes, is created
 76 to read:

77 1003.573 Whole-grade and subject matter acceleration.--

78 (1) For students in grades K through 12, the department
 79 shall develop, and district school boards shall implement,
 80 statewide policies that set forth procedures and eligibility
 81 criteria for whole-grade and subject matter acceleration.

82 (2) Each district school board shall report annually to

83 | the department by school and grade level: the number of, and
 84 | performance data for, students who were accelerated one or more
 85 | whole grades; the types of subject matter acceleration programs
 86 | offered; and the number of, and performance data for, students
 87 | who participated in subject matter acceleration programs. When
 88 | reporting the number of students, district school boards shall
 89 | classify students according to race, ethnicity, limited English
 90 | proficient status, and free or reduced-price lunch eligibility
 91 | status under the National School Lunch Act.

92 | (3) The department shall develop data elements to
 93 | facilitate district school board reporting under subsection (2).

94 | (4) The State Board of Education shall adopt rules
 95 | pursuant to ss. 120.536(1) and 120.54 to implement this section.

96 | Section 3. Paragraph (c) of subsection (3) of section
 97 | 1004.04, Florida Statutes, is amended to read:

98 | 1004.04 Public accountability and state approval for
 99 | teacher preparation programs.--

100 | (3) DEVELOPMENT OF TEACHER PREPARATION PROGRAMS.--A system
 101 | developed by the Department of Education in collaboration with
 102 | postsecondary educational institutions shall assist departments
 103 | and colleges of education in the restructuring of their programs
 104 | in accordance with this section to meet the need for producing
 105 | quality teachers now and in the future.

106 | (c) State-approved teacher preparation programs must
 107 | incorporate:

108 | 1. Appropriate English for Speakers of Other Languages
 109 | instruction so that program graduates will have completed the
 110 | requirements for teaching limited English proficient students in

111 Florida public schools.

112 2. Scientifically researched, knowledge-based reading
113 literacy and computational skills instruction so that program
114 graduates will be able to provide the necessary academic
115 foundations for their students at whatever grade levels they
116 choose to teach.

117 3. Gifted student instruction so that program graduates
118 will:

119 a. Be able to recognize the characteristics of gifted
120 students.

121 b. Have knowledge of the eligibility criteria for gifted
122 student classification and the procedures for referring a
123 student for an evaluation to determine his or her eligibility
124 for such classification.

125 c. Have knowledge of how to differentiate the general
126 education curriculum for gifted students.

127 Section 4. Paragraph (e) of subsection (1) of section
128 1011.62, Florida Statutes, is amended to read:

129 1011.62 Funds for operation of schools.--If the annual
130 allocation from the Florida Education Finance Program to each
131 district for operation of schools is not determined in the
132 annual appropriations act or the substantive bill implementing
133 the annual appropriations act, it shall be determined as
134 follows:

135 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
136 OPERATION.--The following procedure shall be followed in
137 determining the annual allocation to each district for
138 operation:

139 (e) Funding model for exceptional student education
 140 programs.--

141 1.a. The funding model uses basic, at-risk, support levels
 142 IV and V for exceptional students and career Florida Education
 143 Finance Program cost factors, and a guaranteed allocation for
 144 exceptional student education programs. Exceptional education
 145 cost factors are determined by using a matrix of services to
 146 document the services that each exceptional student will
 147 receive. The nature and intensity of the services indicated on
 148 the matrix shall be consistent with the services described in
 149 each exceptional student's individual educational plan.

150 b. In order to generate funds using one of the two
 151 weighted cost factors, a matrix of services must be completed at
 152 the time of the student's initial placement into an exceptional
 153 student education program and at least once every 3 years by
 154 personnel who have received approved training. Nothing listed in
 155 the matrix shall be construed as limiting the services a school
 156 district must provide in order to ensure that exceptional
 157 students are provided a free, appropriate public education.

158 c. Students identified as exceptional, in accordance with
 159 chapter 6A-6, Florida Administrative Code, who do not have a
 160 matrix of services as specified in sub-subparagraph b. shall
 161 generate funds on the basis of full-time-equivalent student
 162 membership in the Florida Education Finance Program at the same
 163 funding level per student as provided for basic students.
 164 Additional funds for these exceptional students will be provided
 165 through the guaranteed allocation designated in subparagraph 2.

166 2. For students identified as exceptional who do not have

167 a matrix of services and students who are gifted in grades K
 168 through 8, there is created a guaranteed allocation to provide
 169 these students with a free appropriate public education, in
 170 accordance with s. 1001.42(4) (1)~~(m)~~ and rules of the State Board
 171 of Education, which shall be allocated annually to each school
 172 district in the amount provided in the General Appropriations
 173 Act. These funds shall be in addition to the funds appropriated
 174 on the basis of FTE student membership in the Florida Education
 175 Finance Program, and the amount allocated for each school
 176 district shall not be recalculated during the year. These funds
 177 shall be used to provide special education and related services
 178 for exceptional students and students who are gifted in grades K
 179 through 8. Beginning with the 2007-2008 fiscal year, a
 180 district's expenditure of funds from the guaranteed allocation
 181 for students in grades 9 through 12 who are gifted may not be
 182 greater than the amount expended during the 2006-2007 fiscal
 183 year for gifted students in grades 9 through 12. Each district
 184 school board in its annual financial report to the department
 185 shall separately identify the following amounts expended from
 186 the guaranteed allocation:

- 187 a. The amount expended for students identified as
- 188 exceptional who do not have a matrix of services.
- 189 b. The amount expended for gifted students in grades K
- 190 through 12 according to grade level.

191 Section 5. Gifted and Academically Talented Student Task
 192 Force.--

193 (1) There is created the Gifted and Academically Talented
 194 Student Task Force. The task force is composed of the following

195 seven members:

196 (a) The chair of the State Board of Education or his or
 197 her designee, who shall serve as chair.

198 (b) The Commissioner of Education or his or her designee,
 199 who shall serve as vice chair.

200 (c) Four members who collectively have experience in
 201 gifted and academically talented student screening,
 202 identification, and education, one of whom shall be appointed by
 203 the Governor, one of whom shall be appointed by the President of
 204 the Senate, one of whom shall be appointed by the Speaker of the
 205 House of Representatives, and one of whom shall be appointed by
 206 the chair of the State Board of Education.

207 (d) One member who represents an advocacy group for
 208 parents of gifted children who shall be appointed by the
 209 Governor.

210 (2) The members of the task force shall be appointed by
 211 October 1, 2009, and shall convene the initial meeting of the
 212 task force by November 1, 2009.

213 (3) The task force is assigned to the Department of
 214 Education for administrative purposes. Members of the task force
 215 shall serve without compensation and are not entitled to receive
 216 reimbursement for per diem and travel expenses under s. 112.061.
 217 Meetings may be held via teleconference or other electronic
 218 means. Members of the task force are subject to the Code of
 219 Ethics for Public Officers and Employees under part III of
 220 chapter 112, Florida Statutes.

221 (4) By February 1, 2010, the task force shall submit a
 222 report to the Governor, the President of the Senate, and the

223 Speaker of the House of Representatives that includes, but is
 224 not limited to, recommendations, based upon peer-reviewed
 225 research and the members' collective expertise, for the
 226 following:

227 (a) Revisions to statute and rule governing eligibility
 228 criteria for gifted student classification generally and in
 229 underrepresented groups.

230 (b) Eligibility criteria for academically talented student
 231 classification. Such criteria shall identify students who are
 232 not classified as gifted but who possess high achievement
 233 capability in one or more academic subject areas and who would
 234 benefit from participation in accelerated or differentiated
 235 curricula learning opportunities.

236 (c) Annual screening procedures for the determination of
 237 students who should be further evaluated for identification as
 238 gifted or academically talented students. These procedures, at a
 239 minimum, shall identify:

240 1. The most appropriate grade or grades within each of the
 241 elementary, middle, and high school levels to administer such
 242 screenings for all students.

243 2. One or more recommended screening instruments.

244 (d) Model gifted and academically talented student
 245 education programs. The programs must include, but are not
 246 limited to:

247 1. Classroom-based, school-based, and district-based
 248 implementation options.

249 2. Subject matter acceleration opportunities,
 250 differentiated curricula that address the exceptional learning

251 needs of gifted and academically talented students, and
 252 enrichment activities that extend learning opportunities
 253 available in the classroom.

254 (e) Procedures for annually evaluating the effectiveness
 255 of model gifted and academically talented student education
 256 programs.

257 (f) Procedures for evaluating students participating in
 258 gifted or academically talented student education programs to
 259 determine student performance and whether the students are
 260 benefiting from, and continue to be eligible to participate in,
 261 the programs.



262 (5) Upon delivery of its final report and recommendations,
 263 the task force is abolished.

264 (6) This section shall take effect upon this act becoming
 265 a law.

266 Section 6. Except as otherwise expressly provided in this
 267 act, this act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1293 High School Graduation
SPONSOR(S): PreK-12 Policy Committee; Fresen
TIED BILLS: IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	PreK-12 Policy Committee	7 Y, 4 N, As CS	Duncan	Ahearn
1)	PreK-12 Appropriations Committee	5 Y, 3 N	Clark	Heflin
2)	Full Appropriations Council on Education & Economic Development		Clark 	Martin 
3)				
4)				
5)				

SUMMARY ANALYSIS

Students must earn 24 credits in required courses and pass the Grade 10 Florida Comprehensive Assessment Test (FCAT) to graduate from high school and receive a standard diploma. Four of the required credits students must earn are in mathematics: one credit in Algebra I, the equivalent, or a higher level mathematics course. In science, students are required to earn three credits, two of which must have a laboratory component.

This Committee Substitute (CS) for HB 1293 modifies the high school graduation requirements for receipt of a standard diploma by specifying the required mathematics and science courses that must be taken, as follows:

Beginning with students entering the 9th grade in the 2010-2011 School Year

- In mathematics one of the four credits must be Algebra I or a series of courses equivalent to Algebra I that have been approved by the State Board of Education (SBE); and one credit must be geometry or a series of courses equivalent to geometry as approved by the SBE.
- In science one of the three credits must be Biology I or a series of courses equivalent to Biology I as approved by the SBE; one credit must be in a physical science or a series of courses equivalent to a physical science as approved by the SBE; and one must be a higher-level science. At least two of the science courses must have a laboratory component.

Beginning with students entering the 9th grade in the 2012-2013 School Year

- In mathematics one of the four credits must be Algebra I or a series of courses equivalent to Algebra I that have been approved by the SBE; one credit must be geometry or a series of courses equivalent to geometry as approved by the SBE; and one credit must be Algebra II or a series of courses equivalent to Algebra II as approved by the SBE.
- In science one of the three credits must be Biology I or a series of courses equivalent to Biology I as approved by the SBE; one credit must be chemistry, or a series of courses equivalent to chemistry as approved by the SBE; and one credit must be in a higher-level science course. At least two of the science courses must have a laboratory component.

Students choosing the 24-credit or the accelerated 18-credit college or career preparatory graduation options must be advised of the Advanced Placement, International Baccalaureate, Advanced International Certificate of Education, and dual enrollment courses available as well as the availability of course offerings through the Florida Virtual School.

The CS raises the FCAT score required for a student to pass the Grade 10 FCAT by providing that passing scores on the Grade 10 FCAT must, at a minimum, meet grade-level proficiency.

The CS also creates the Graduation Exit Option Program which authorizes the award of an alternative diploma to students who are at least 16 years old, enrolled in high school courses that meet high school graduation requirements, and at risk of failing to graduate and meet criteria developed by the Department of Education (DOE). The DOE is granted rulemaking authority to implement the program.

See the FISCAL COMMENTS section of this analysis.

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

STORAGE NAME: h1293d.CEED.doc
 DATE: 3/25/2009

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

High School Graduation Requirements

According to information received from the American Diploma Project (ADP), 55% of all students entering Florida's public postsecondary institutions require remediation in math, reading, and/or writing. In 2005-2006 the total cost of postsecondary remediation was \$129.8 million – and the state paid more than half of these costs (\$70 million). Also employers estimate that 45% of recent high school graduates lack skills to advance.¹

To cover the content necessary to be college and work ready, students need to complete a rigorous sequence of courses, which, according to ADP, includes 4 courses in mathematics covering Algebra I and II, geometry, and a fourth course such as statistics or precalculus. Florida does not currently meet these graduation requirements.

In addition, studies show that low-achieving students fail less often in rigorous courses;² that if high schools had demanded more, graduates would have worked harder,³ and that a majority of graduates would have taken harder courses.⁴ Finally, research indicates that taking Algebra II is critical for both college and work.⁵

Current Law

Students must earn 24 credits in required courses and pass the Grade 10 Florida Comprehensive Assessment Test (FCAT)⁶ to graduate from high school and receive a standard diploma. Of the 24 credits, four of the credits are in mathematics, one of which must be Algebra I, a series of courses equivalent to Algebra I, or a higher-level mathematics course. School districts are encouraged to set specific goals to increase enrollments in, and successful completion of, geometry and Algebra II. Three

¹ Michael Cohen, Achieve, Inc., American Diploma Project Network, *Creating a High School Diploma That Counts: Lessons from the American Diploma Project*, March 3, 2009.

² Cooney, Sondra and Gene Bottoms, Southern Regional Education Board, *Middle Grades to High School: Mending a Weak Link*, 2002, at 9.

³ Peter D. Hart Research Associates/Public Opinion Strategies, *Rising to the Challenge: Are High School Graduates Prepared for College and Work?* Prepared for Achieve, Inc., 2005.

⁴ *Id.*

⁵ *Id.*; see also, *Achieve Report: Out of Many, One: Toward Rigorous Common Core Standards from the Ground Up*, July 2008, at 4.

⁶ s. 1003.428(4)(b), F.S., and s. 1008.22(3)(c), F.S.

credits must be in science, two of which must have a laboratory component. However, no specific science courses are identified.⁷

Mathematics Courses

There are several options available for students to meet the mathematics credit requirements. Courses equivalent to Algebra I include Algebra Ia and Ib and pre-Advanced International Certificate of Education (AICE) Math I. In addition, there are a series of integrated mathematics courses (Integrated Math I, II, and III) that incorporate Algebra I and II and geometry into a 3-year sequence of courses. Algebra I, geometry, and Algebra II all have equivalent honors level courses.⁸

Science Courses

There are also several options available for students to meet the science credit requirements. Physical sciences include any chemistry, physics, or physical science course and the equivalent honors level, AICE, or International Baccalaureate (IB) courses. In addition, there is a series of integrated science courses (Science I, II, and III) that incorporate biology, chemistry, and earth science into a 3-year sequence of courses. Higher level science courses include any Advanced Placement (AP), IB, or AICE level courses in science or the second year of chemistry, physics, or biology.⁹

Effect of Proposed Changes

The Committee Substitute (CS) modifies the high school graduation requirements for receipt of a standard high school diploma by specifying the mathematics and science courses required. The number of credits required in both mathematics and science remain the same -- four credits and three credits, respectively. The CS provides the following schedule and specific courses:

Beginning with students entering the 9th grade in the 2010-2011 School Year

- In mathematics, one of the four credits must be Algebra I or a series of courses equivalent to Algebra I that have been approved by the SBE; and one credit must be geometry or a series of courses equivalent to geometry as approved by the SBE.
- In science one of the three credits must be Biology I or a series of courses equivalent to Biology I as approved by the SBE; one credit must be in a physical science or a series of courses equivalent to a physical science as approved by the SBE; and one must be a higher-level science. At least two of the science courses must have a laboratory component which is a current requirement.

Beginning with students entering the 9th grade in the 2012-2013 School Year

- In mathematics one of the four credits must be Algebra I or a series of courses equivalent to Algebra I as approved by the SBE; one credit must be geometry or a series of courses equivalent to geometry as approved by the SBE; and one credit must be Algebra II or a series of courses equivalent to Algebra II as approved by the SBE.
- In science, one of the three credits must be Biology I or a series of courses equivalent to Biology I as approved by the SBE; one credit must be chemistry, or a series of courses equivalent to chemistry as approved by the SBE; and one credit must be in a higher-level science course. At least two of the science courses must have a laboratory component which is a current requirement.

⁷ s. 1003.428(2)(a), F.S.

⁸ Information provided by staff at the Department of Education, Bureau of Curriculum and Instruction, March 9, 2009. See <https://www.osfaffelp.org/bfiehs/fnbpas04.aspx?curyr4=2009>, Florida Bright Futures Scholarship Program, Florida Department of Education, Office of Student Financial Assistance, Special Course Equivalencies.

⁹ *Id.*

Students choosing the 24-credit or the accelerated 18-credit college or career preparatory graduation options¹⁰ must be advised of the Advanced Placement, International Baccalaureate, Advanced International Certificate of Education, and dual enrollment courses available as well as the availability of course offerings through the Florida Virtual School.¹¹

Grade 10 Florida Comprehensive Assessment Test (FCAT)

Current Law

In addition to earning credits in the required high school courses, students must also pass the reading and mathematics portions of the Grade 10 FCAT or attain concordant scores on either the SAT or American College Test (ACT) tests.¹² A student must take each subject area of the Grade 10 FCAT a total of three times without earning a passing score in order to use concordant scores from the SAT or ACT. A new student entering the Florida public school system in the 12th grade may use a concordant score without taking the FCAT.¹³

FCAT Achievement Levels are based on both scale scores and developmental scale scores¹⁴ and range from Level 1 (lowest) to Level 5 (highest).¹⁵ The passing scores for the Grade 10 FCAT reading and mathematics and retake tests are determined by the State Board of Education (SBE). For FCAT reading, the passing score is a Developmental Scale Score (DSS) of 1926 (scale score of 300) or above and is within the Level 2 FCAT Achievement Level. For FCAT mathematics, the passing score is a Developmental Scale Score of 1889 (scale score of 300) or above, which is also within the Level 2 FCAT Achievement Level.¹⁶

Effect of Proposed Changes

The CS provides that passing scores on the Grade 10 FCAT must, at a minimum, meet grade-level proficiency. This requirement in effect raises the required passing score from a DSS within the Level 2 FCAT Achievement Level to a DSS within the Level 3 FCAT Achievement Level. Initially, there may be an increase in the number of students that would not pass the Grade 10 FCAT causing an increase in the demand for remedial classes and an increase in the number of students required to retake the FCAT in order to meet high school graduation requirements.

Alternative Diplomas

Current Law

High School Equivalency Diploma

The SBE is required to adopt rules that prescribe performance standards and provide comprehensive examinations to be administered to candidates for high school equivalency diplomas.¹⁷ Each district school board must offer and administer the high school equivalency diploma examinations to all candidates. The DOE is authorized to award high school equivalency diplomas to candidates who:

¹⁰ s. 1003.429(1)(b) and (c), F.S.

¹¹ The Florida Virtual School offers over 85 middle and high school courses, from general to honors courses, and 11 Advanced Placement classes. In addition, courses in foreign language, physical education, health, business, computer science, and FCAT and SAT prep are also offered by the virtual school. See http://www.floridaschoolchoice.org/Information/virtual_schools/faqs.asp

¹² <http://www.fcata.fldoe.org/pdf/fcatpass.pdf> Florida Department of Education, FCAT Graduation Requirements, January 2009.

¹³ s. 1008.22(10), F.S.

¹⁴ Scale scores are reported for all FCAT Sunshine State Standards (SSS) subjects, except FCAT Writing, and range from 100 (lowest) to 500 (highest). Developmental Scale Scores (DSS) are only reported for FCAT SSS Reading and Mathematics and range from 0 to 3000 across grades 3 through 10. DSS link two years of student FCAT data that track student progress over time. Students should receive higher scores as they move from grade to grade according to their increased achievement. See

<http://www.fcata.fldoe.org/pdf/fcAchievementLevels.pdf>, Florida Department of Education. FCAT Achievement Levels, July 2008.

¹⁵ <http://www.fcata.fldoe.org/pdf/fcAchievementLevels.pdf>, Florida Department of Education. FCAT Achievement Levels, July 2008.

¹⁶ *Id.*

¹⁷ s. 1003.435, F.S.

have attained on each of the 5 General Education Development (GED) Tests¹⁸ a minimum score of 410 or above on a scale of 0 to 800, with an average score of 450; and meet the standards specified by the SBE.¹⁹

Effect of Proposed Changes

Graduation Exit Option Program

The CS creates the Graduation Exit Option Program which authorizes the award of an alternative diploma to students who are at least 16 years old, are enrolled in high school courses that meet high school graduation requirements, are at risk of failing to graduate, and meet criteria developed by the DOE. The criteria developed by the DOE must ensure that the program is not used as a means for early graduation for students who have the ability to pass the Grade 10 FCAT. Additional student eligibility requirements are that: the student must meet minimum reading levels and minimum scores on GED practice tests; earn passing scores on the reading and math portions of the FCAT, or scores on a standardized test that are concordant with passing scores on the FCAT; and pass each of the five sections of the GED Test.

Students receiving an alternative diploma cannot be counted when calculating graduation rates. The DOE is required to design the alternative diploma to distinguish it from the standard diploma. The DOE is also granted rulemaking authority to implement the program.

The CS moves existing sections of law relating to the accommodations required for students with disabilities and the award of diplomas for certain veterans to separate sections for organizational purposes.

B. SECTION DIRECTORY:

Section 1: Amends s. 1003.428, F.S., relating to the revised general requirements for high school graduation; providing additional requirements in mathematics and science for students entering 9th grade in the 2010-2011 and 2012-2013 school years; requiring that students be advised of the availability of Advanced Placement, International Baccalaureate, Advanced International Certificate of Education, dual enrollment, and virtual courses; and moving provisions relating to testing accommodations for students with disabilities and awarding standard high school diplomas to certain honorably discharged veterans to a newly created section of law for organizational purposes.

Section 2: Creates s. 1003.4282, F.S., relating to accommodations for students with disabilities; graduation requirements; locating existing law relating to testing accommodations for students with disabilities into one section of law for organizational purposes.

Section 3: Creates s. 1003.4286, F.S., creating the Graduation Exit Option Program; authorizing the award of an alternative diploma for eligible high school students; establishing the requirements for eligibility; and granting rulemaking authority to the State Board of Education.

Section 4: Creates s. 1003.4287, F.S., relating to recognition of veterans; high school diploma; locating existing provisions awarding standard high school diplomas to certain honorably discharged veterans under the revised standard diploma and the general requirements for graduation into one section of law for organizational purposes.

Section 5: Amends s. 1003.429, F.S., relating to accelerated high school graduation requirements; requiring that students be advised of the availability of Advanced Placement, International Baccalaureate, Advanced International Certificate of Education, dual enrollment, and virtual courses.

Section 6: Amends s. 1003.43, F.S., relating to general requirements for high school graduation; moving existing provisions relating to testing accommodations for students with disabilities and

¹⁸ The 5 GED Tests are in Social Studies, Science, Reading, Mathematics, and Writing Skills. See Rule 6A-6.021(3), F.A.C.

¹⁹ Rule 6A-6.021, F.A.C.

awarding standard high school diplomas to certain honorably discharged veterans to newly created sections of law for organizational purposes.

Section 7: Amends s. 1007.263, F.S., relating to community colleges; admissions of students; correcting a cross-reference.

Section 8: Amends s. 1008.22, F.S., relating to student assessment program for public schools; providing that, at a minimum, passing scores for the grade 10 FCAT must meet grade-level proficiency.

Section 9: Amends s. 1009.531, F.S., relating to Florida Bright Futures Scholarship program; clarifying that in order to be eligible for the Florida Bright Futures Scholarship Program a student must earn a standard diploma under the revised general requirements for high school graduation.

Section 10: Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

In 2008, of the 63,790 grade 10 students failing to pass the Grade 10 FCAT on the first attempt, 37,156 did not pass FCAT Reading, 2,590 did not pass FCAT Mathematics, and 24,044 did not pass both. If the passing score were to be raised to proficiency (Level 3), 111,868 would have failed to pass on the first attempt; 57,294 would have failed FCAT Reading, 3,790 would have failed FCAT Mathematics, and 50,784 would have failed both. The cost for the summer retake was \$1,089,935. This was based on processing 110,940 test books (reading and mathematics combined), which costs approximately \$10 per book. Raising the passing score to proficiency, could require approximately 75,000 "books" in the fall of 2011 and approximately 37,000 "books" in the spring of 2012, at \$10 per book.²⁰

More rigorous high school course requirements for graduation would likely ultimately result in fewer Grade 10 FCAT failures in Mathematics, but this potential result would take time based on the schedule set in the CS for implementing the more rigorous course requirements.

²⁰ E-mail from Department of Education, Retakes for On-Grade Level Passing, March 19, 2009.

For the 2007-2008 school year, the College Preparatory Cost per FTE was \$4,967. Of the students that graduated from high school in 2007, over 36% needed remediation in at least one subject. Students that do not need remedial courses are more likely to access more college courses and move through the postsecondary education pipeline.²¹ For the 2005-2006 school year, the total cost of postsecondary remediation was \$129.8 million, of which the state paid \$70 million.²² More rigorous course and testing requirements should have a positive but indeterminate fiscal impact on remediation costs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Education is granted rulemaking authority to implement the Graduation Exit Option Program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 18, 2009, the PreK-12 Policy Committee reported the Proposed Committee Substitute favorably. The differences between the CS and the House Bill are as follows:

- HB 1293 created core diploma graduation requirements beginning with students entering their first year of high school in the 2010-2011 school year. The CS does not establish core diploma graduation requirements.
- HB 1293 created college preparatory and career preparatory diploma graduation requirements beginning with students entering their first year of high school in the 2010-2011 school year. The CS does not establish college preparatory and career preparatory diploma graduation requirements.
- The CS modifies the high school graduation requirements for receipt of a standard diploma by specifying the required mathematics and science courses required. The number of credits required in both mathematics and science remain the same -- four credits and three credits, respectively. The requirements are applicable beginning with students entering the 9th grade in the 2010-2011 school year and students entering the 9th grade in the 2012-2013 school year.
- HB 1293 required, by the 2010-2011 school year, each public high school in the state to offer 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. The CS provides that student choosing the 24-credit or the accelerated 18-credit

²¹ E-mail from Department of Education, 2007-2008 College Preparatory Cost Fee, March 19, 2009.

²² Michael Cohen, Achieve, Inc., American Diploma Project Network, *Creating a High School Diploma That Counts: Lessons from the American Diploma Project*, March 3, 2009.

college or career preparatory graduation options must be advised of Advanced Placement, International Baccalaureate, Advanced International Certificate of Education, and dual enrollment courses available, as well as the availability of courses through the Florida Virtual School.

- HB 1293 relocated the provisions in current law relating to high school graduation requirements and minors, majors, performing arts, and physical education. The CS does not relocate these provisions.
- HB 1293 relocated the provisions in current law relating to policies designed to assist students in meeting the high school graduation requirements, including but not limited to, grade forgiveness policies and summer school. The CS does not relocate these provisions.
- HB 1293 established additional academic requirements under the Florida Academic Scholars, Florida Medallion, and the Florida Gold Seal Vocational Awards of the Florida Bright Futures Scholarship Program. The CS does not establish these requirements.

1 A bill to be entitled
2 An act relating to high school graduation; amending s.
3 1003.428, F.S.; requiring that students be advised of the
4 availability of certain courses for purposes of high
5 school graduation; providing credit requirements for high
6 school graduation with a standard diploma beginning with
7 students entering grade 9 in the 2010-2011 school year and
8 students entering grade 9 in the 2012-2013 school year;
9 deleting provisions relating to general requirements for
10 high school graduation to conform to changes made by the
11 act; creating s. 1003.4282, F.S.; providing for
12 accommodations for students with disabilities for purposes
13 of high school graduation; creating s. 1003.4286, F.S.;
14 creating the Graduation Exit Option Program under which a
15 high school student shall be awarded an alternative
16 diploma; providing requirements for participation in the
17 program and receipt of a diploma; providing Department of
18 Education duties and requiring State Board of Education
19 rules; creating s. 1003.4287, F.S.; authorizing the award
20 of a standard high school diploma to certain honorably
21 discharged veterans; amending s. 1003.429, F.S.; requiring
22 that students be advised of the availability of certain
23 courses for purposes of an accelerated high school
24 graduation option; amending s. 1003.43, F.S.; deleting
25 provisions relating to general requirements for high
26 school graduation to conform to changes made by the act;
27 amending s. 1007.263, F.S.; conforming a cross-reference;
28 amending s. 1008.22, F.S.; requiring passing scores on the

29 grade 10 FCAT to meet grade-level proficiency; conforming
 30 cross-references; amending s. 1009.531, F.S.; conforming
 31 provisions; providing an effective date.

32

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

34

35 Section 1. Subsection (1), paragraph (a) of subsection
 36 (2), and subsections (5) through (11) of section 1003.428,
 37 Florida Statutes, are amended to read:

38 1003.428 General requirements for high school graduation;
 39 revised.--

40 (1) Except as otherwise authorized pursuant to s.
 41 1003.429, beginning with students entering their first year of
 42 high school in the 2007-2008 school year, graduation requires
 43 the successful completion of a minimum of 24 credits, an
 44 International Baccalaureate curriculum, or an Advanced
 45 International Certificate of Education curriculum. Students must
 46 be advised of the Advanced Placement, International
 47 Baccalaureate, Advanced International Certificate of Education,
 48 and dual enrollment courses available, as well as the
 49 availability of course offerings through the Florida Virtual
 50 School. Students must also be advised of eligibility
 51 requirements for state scholarship programs and postsecondary
 52 admissions.

53 (2) The 24 credits may be earned through applied,
 54 integrated, and combined courses approved by the Department of
 55 Education and shall be distributed as follows:

56 (a) Sixteen core curriculum credits:

57 1. Four credits in English, with major concentration in
58 composition, reading for information, and literature.

59 2. Four credits in mathematics, one of which must be
60 Algebra I, a series of courses equivalent to Algebra I, or a
61 higher-level mathematics course. Beginning with students
62 entering grade 9 in the 2010-2011 school year, one of the four
63 credits must be Algebra I or a series of courses equivalent to
64 Algebra I as approved by the State Board of Education, and one
65 credit must be geometry or a series of courses equivalent to
66 geometry as approved by the State Board of Education. Beginning
67 with students entering grade 9 in the 2012-2013 school year, one
68 of the four credits must be Algebra I or a series of courses
69 equivalent to Algebra I as approved by the State Board of
70 Education, one credit must be geometry or a series of courses
71 equivalent to geometry as approved by the State Board of
72 Education, and one credit must be Algebra II or a series of
73 courses equivalent to Algebra II as approved by the State Board
74 of Education. ~~School districts are encouraged to set specific~~
75 ~~goals to increase enrollments in, and successful completion of,~~
76 ~~geometry and Algebra II.~~

77 3. Three credits in science, two of which must have a
78 laboratory component. Beginning with students entering grade 9
79 in the 2010-2011 school year, one of the three credits must be
80 Biology I or a series of courses equivalent to Biology I as
81 approved by the State Board of Education, one credit must be a
82 physical science or a series of courses equivalent to a physical
83 science as approved by the State Board of Education, and one
84 credit must be a higher-level science course. At least two of

85 the science courses must have a laboratory component. Beginning
 86 with students entering grade 9 in the 2012-2013 school year, one
 87 of the three credits must be Biology I or a series of courses
 88 equivalent to Biology I as approved by the State Board of
 89 Education, one credit must be chemistry or a series of courses
 90 equivalent to chemistry as approved by the State Board of
 91 Education, and one credit must be a higher-level science course.
 92 At least two of the science courses must have a laboratory
 93 component.

94 4. Three credits in social studies as follows: one credit
 95 in American history; one credit in world history; one-half
 96 credit in economics; and one-half credit in American government.

97 5. One credit in fine or performing arts, speech and
 98 debate, or a practical arts course that incorporates artistic
 99 content and techniques of creativity, interpretation, and
 100 imagination. Eligible practical arts courses shall be identified
 101 through the Course Code Directory.

102 6. One credit in physical education to include integration
 103 of health. Participation in an interscholastic sport at the
 104 junior varsity or varsity level for two full seasons shall
 105 satisfy the one-credit requirement in physical education if the
 106 student passes a competency test on personal fitness with a
 107 score of "C" or better. The competency test on personal fitness
 108 must be developed by the Department of Education. A district
 109 school board may not require that the one credit in physical
 110 education be taken during the 9th grade year. Completion of one
 111 semester with a grade of "C" or better in a marching band class,
 112 in a physical activity class that requires participation in

113 marching band activities as an extracurricular activity, or in a
 114 dance class shall satisfy one-half credit in physical education
 115 or one-half credit in performing arts. This credit may not be
 116 used to satisfy the personal fitness requirement or the
 117 requirement for adaptive physical education under an individual
 118 education plan (IEP) or 504 plan. Completion of 2 years in a
 119 Reserve Officer Training Corps (R.O.T.C.) class, a significant
 120 component of which is drills, shall satisfy the one-credit
 121 requirement in physical education and the one-credit requirement
 122 in performing arts. This credit may not be used to satisfy the
 123 personal fitness requirement or the requirement for adaptive
 124 physical education under an individual education plan (IEP) or
 125 504 plan.

126 ~~(5) The State Board of Education, after a public hearing~~
 127 ~~and consideration, shall adopt rules based upon the~~
 128 ~~recommendations of the commissioner for the provision of test~~
 129 ~~accommodations and modifications of procedures as necessary for~~
 130 ~~students with disabilities which will demonstrate the student's~~
 131 ~~abilities rather than reflect the student's impaired sensory,~~
 132 ~~manual, speaking, or psychological process skills.~~

133 ~~(6) The public hearing and consideration required in~~
 134 ~~subsection (5) shall not be construed to amend or nullify the~~
 135 ~~requirements of security relating to the contents of~~
 136 ~~examinations or assessment instruments and related materials or~~
 137 ~~data as prescribed in s. 1008.23.~~

138 (5)~~(7)~~(a) A student who meets all requirements prescribed
 139 in subsections (1), (2), (3), and (4) shall be awarded a

140 standard diploma in a form prescribed by the State Board of
 141 Education.

142 (b) A student who completes the minimum number of credits
 143 and other requirements prescribed by subsections (1), (2), and
 144 (3), but who is unable to meet the standards of paragraph
 145 (4)(b), paragraph (4)(c), or paragraph (4)(d), shall be awarded
 146 a certificate of completion in a form prescribed by the State
 147 Board of Education. However, any student who is otherwise
 148 entitled to a certificate of completion may elect to remain in
 149 the secondary school either as a full-time student or a part-
 150 time student for up to 1 additional year and receive special
 151 instruction designed to remedy his or her identified
 152 deficiencies.

153 ~~(8)(a) Each district school board must provide instruction~~
 154 ~~to prepare students with disabilities to demonstrate proficiency~~
 155 ~~in the core content knowledge and skills necessary for~~
 156 ~~successful grade-to-grade progression and high school~~
 157 ~~graduation.~~

158 ~~(b) A student with a disability, as defined in s.~~
 159 ~~1007.02(2), for whom the individual education plan (IEP)~~
 160 ~~committee determines that the FCAT cannot accurately measure the~~
 161 ~~student's abilities taking into consideration all allowable~~
 162 ~~accommodations, shall have the FCAT requirement of paragraph~~
 163 ~~(4)(b) waived for the purpose of receiving a standard high~~
 164 ~~school diploma, if the student:~~

165 ~~1. Completes the minimum number of credits and other~~
 166 ~~requirements prescribed by subsections (1), (2), and (3).~~

167 ~~2. Does not meet the requirements of paragraph (4)(b)~~
 168 ~~after one opportunity in 10th grade and one opportunity in 11th~~
 169 ~~grade.~~

170 ~~(9) The Commissioner of Education may award a standard~~
 171 ~~high school diploma to honorably discharged veterans who started~~
 172 ~~high school between 1937 and 1946 and were scheduled to graduate~~
 173 ~~between 1941 and 1950 but were inducted into the United States~~
 174 ~~Armed Forces between September 16, 1940, and December 31, 1946,~~
 175 ~~prior to completing the necessary high school graduation~~
 176 ~~requirements. Upon the recommendation of the commissioner, the~~
 177 ~~State Board of Education may develop criteria and guidelines for~~
 178 ~~awarding such diplomas.~~

179 ~~(10) The Commissioner of Education may award a standard~~
 180 ~~high school diploma to honorably discharged veterans who started~~
 181 ~~high school between 1946 and 1950 and were scheduled to graduate~~
 182 ~~between 1950 and 1954, but were inducted into the United States~~
 183 ~~Armed Forces between June 27, 1950, and January 31, 1955, and~~
 184 ~~served during the Korean Conflict prior to completing the~~
 185 ~~necessary high school graduation requirements. Upon the~~
 186 ~~recommendation of the commissioner, the State Board of Education~~
 187 ~~may develop criteria and guidelines for awarding such diplomas.~~

188 (6)~~(11)~~ The State Board of Education may adopt rules
 189 pursuant to ss. 120.536(1) and 120.54 to implement the
 190 provisions of this section and may enforce the provisions of
 191 this section pursuant to s. 1008.32.

192 Section 2. Section 1003.4282, Florida Statutes, is created
 193 to read:

194 1003.4282 Accommodations for students with disabilities;
 195 graduation requirements.--For purposes of high school
 196 graduation:

197 (1) The State Board of Education, after a public hearing
 198 and consideration, shall adopt rules based upon the
 199 recommendations of the Commissioner of Education for the
 200 provision of test accommodations as necessary for students with
 201 disabilities which will demonstrate the student's abilities
 202 rather than reflect the student's impaired sensory, manual,
 203 speaking, or psychological process skills.

204 (2) The public hearing and consideration required in
 205 subsection (1) shall not be construed to amend or nullify the
 206 requirements of security relating to the contents of
 207 examinations or assessment instruments and related materials or
 208 data as prescribed in s. 1008.23.

209 (3)(a) Each district school board must provide instruction
 210 to prepare students with disabilities to demonstrate proficiency
 211 in the core content knowledge and skills necessary for
 212 successful grade-to-grade progression and high school
 213 graduation.

214 (b) A student with a disability, as defined in s.
 215 1007.02(2), for whom the individual education plan committee
 216 determines that the FCAT cannot accurately measure the student's
 217 abilities taking into consideration all allowable
 218 accommodations, shall have the FCAT requirement of s.
 219 1003.428(4)(b) or s. 1003.43(5)(a) waived for the purpose of
 220 receiving a high school diploma, if the student:

221 1. Completes the minimum number of credits and other
 222 requirements prescribed in s. 1003.428(1)-(3) or s. 1003.43(1)
 223 and (4).

224 2. Does not meet the FCAT requirements of s.
 225 1003.428(4)(b) or s. 1003.43(5)(a) after one opportunity in
 226 grade 10 and one opportunity in grade 11.

227 Section 3. Section 1003.4286, Florida Statutes, is created
 228 to read:

229 1003.4286 Graduation Exit Option Program; alternative
 230 diploma.--

231 (1) There is created the Graduation Exit Option Program
 232 under which a high school student shall be awarded an
 233 alternative diploma. To be eligible to participate in the
 234 program, a high school student must:

235 (a) Be at least 16 years old.

236 (b) Be enrolled in high school courses that meet high
 237 school graduation requirements.

238 (c) Be at risk of failing to graduate.

239 (d) Meet criteria developed by the Department of Education
 240 to ensure that the program is not used as a means for early
 241 graduation and to target students who have the ability to pass
 242 the grade 10 FCAT and the general educational development (GED)
 243 test.

244 (2) To receive an alternative diploma under the Graduation
 245 Exit Option Program, a high school student must:

246 (a) Meet minimum reading levels and earn minimum scores on
 247 GED practice tests, as established by the department.

248 (b) Earn passing scores on the reading and mathematics
 249 portions of the FCAT, as defined in s. 1008.22(3), or scores on
 250 a standardized test that are concordant with passing scores on
 251 the FCAT, as defined in s. 1008.22(10).

252 (c) Pass each of the five sections of the GED test.

253 (d) Earn at least 14 credits toward high school
 254 graduation, at least 8 of which are earned in English, reading,
 255 mathematics, science, or social studies.

256 (3) An alternative diploma awarded under this section may
 257 not be used for calculating graduation rates for any purpose.

258 (4) The department shall design the alternative diploma to
 259 distinguish the diploma from a standard diploma.

260 (5) The State Board of Education shall adopt rules
 261 pursuant to ss. 120.536(1) and 120.54 to implement this section.

262 Section 4. Section 1003.4287, Florida Statutes, is created
 263 to read:

264 1003.4287 Recognition of veterans; high school diploma.--

265 (1) The Commissioner of Education may award a standard
 266 high school diploma to honorably discharged veterans who started
 267 high school between 1937 and 1946 and were scheduled to graduate
 268 between 1941 and 1950 but were inducted into the United States
 269 Armed Forces between September 16, 1940, and December 31, 1946,
 270 prior to completing the necessary high school graduation
 271 requirements. Upon the recommendation of the commissioner, the
 272 State Board of Education may develop criteria and guidelines for
 273 awarding such diplomas.

274 (2) The Commissioner of Education may award a standard
 275 high school diploma to honorably discharged veterans who started

276 high school between 1946 and 1950 and were scheduled to graduate
 277 between 1949 and 1955 but were inducted into the United States
 278 Armed Forces between June 1949 and January 1955 and served
 279 during the Korean War prior to completing the necessary high
 280 school graduation requirements. Upon the recommendation of the
 281 commissioner, the State Board of Education may develop criteria
 282 and guidelines for awarding such diplomas.

283 Section 5. Paragraph (b) of subsection (1) of section
 284 1003.429, Florida Statutes, is amended to read:

285 1003.429 Accelerated high school graduation options.--

286 (1) Students who enter grade 9 in the 2006-2007 school
 287 year and thereafter may select, upon receipt of each consent
 288 required by this section, one of the following three high school
 289 graduation options:

290 (b) Completion of a 3-year standard college preparatory
 291 program requiring successful completion of a minimum of 18
 292 academic credits in grades 9 through 12. At least 6 of the 18
 293 credits required for completion of this program must be received
 294 in classes that are offered pursuant to the International
 295 Baccalaureate Program, the Advanced Placement Program, dual
 296 enrollment, or the Advanced International Certificate of
 297 Education ~~Program~~, or specifically listed or identified by the
 298 Department of Education as rigorous pursuant to s. 1009.531(3).
 299 Students must be advised of the Advanced Placement,
 300 International Baccalaureate, Advanced International Certificate
 301 of Education, and dual enrollment courses available, as well as
 302 the availability of course offerings through the Florida Virtual
 303 School. The 18 credits required for completion of this program

304 shall be primary requirements and shall be distributed as
 305 follows:

306 1. Four credits in English, with major concentration in
 307 composition and literature;

308 2. Three credits in mathematics at the Algebra I level or
 309 higher from the list of courses that qualify for state
 310 university admission;

311 3. Three credits in natural science, two of which must
 312 have a laboratory component;

313 4. Three credits in social sciences, which must include
 314 one credit in American history, one credit in world history,
 315 one-half credit in American government, and one-half credit in
 316 economics;

317 5. Two credits in the same second language unless the
 318 student is a native speaker of or can otherwise demonstrate
 319 competency in a language other than English. If the student
 320 demonstrates competency in another language, the student may
 321 replace the language requirement with two credits in other
 322 academic courses; and

323 6. Three credits in electives; or

324

325 Any student who selected an accelerated graduation program
 326 before July 1, 2004, may continue that program, and all
 327 statutory program requirements that were applicable when the
 328 student made the program choice shall remain applicable to the
 329 student as long as the student continues that program.

330 Section 6. Subsections (8) through (13) of section
 331 1003.43, Florida Statutes, are amended to read:

332 1003.43 General requirements for high school graduation.--
 333 ~~(8) The State Board of Education, after a public hearing~~
 334 ~~and consideration, shall adopt rules based upon the~~
 335 ~~recommendations of the commissioner for the provision of test~~
 336 ~~accommodations and modifications of procedures as necessary for~~
 337 ~~students with disabilities which will demonstrate the student's~~
 338 ~~abilities rather than reflect the student's impaired sensory,~~
 339 ~~manual, speaking, or psychological process skills.~~

340 ~~(9) The public hearing and consideration required in~~
 341 ~~subsection (8) shall not be construed to amend or nullify the~~
 342 ~~requirements of security relating to the contents of~~
 343 ~~examinations or assessment instruments and related materials or~~
 344 ~~data as prescribed in s. 1008.23.~~

345 (8)~~(10)~~(a) A student who meets all requirements prescribed
 346 in subsections (1), (4), and (5) shall be awarded a standard
 347 diploma in a form prescribed by the State Board of Education. A
 348 district school board may attach the Florida gold seal career
 349 endorsement to a standard diploma or, instead of the standard
 350 diploma, award differentiated diplomas to those exceeding the
 351 prescribed minimums.

352 (b) A student who completes the minimum number of credits
 353 and other requirements prescribed by subsections (1) and (4),
 354 but who is unable to meet the standards of paragraph (5)(a),
 355 paragraph (5)(b), or paragraph (5)(c), shall be awarded a
 356 certificate of completion in a form prescribed by the State
 357 Board of Education. However, any student who is otherwise
 358 entitled to a certificate of completion may elect to remain in
 359 the secondary school either as a full-time student or a part-

360 time student for up to 1 additional year and receive special
 361 instruction designed to remedy his or her identified
 362 deficiencies.

363 ~~(11)(a) Each district school board must provide~~
 364 ~~instruction to prepare students with disabilities to demonstrate~~
 365 ~~proficiency in the core content knowledge and skills necessary~~
 366 ~~for successful grade-to-grade progression and high school~~
 367 ~~graduation.~~

368 ~~(b) A student with a disability, as defined in s.~~
 369 ~~1007.02(2), for whom the individual educational plan (IEP)~~
 370 ~~committee determines that the FCAT cannot accurately measure the~~
 371 ~~student's abilities taking into consideration all allowable~~
 372 ~~accommodations, shall have the FCAT requirement of paragraph~~
 373 ~~(5)(a) waived for the purpose of receiving a standard high~~
 374 ~~school diploma, if the student:~~

375 ~~1. Completes the minimum number of credits and other~~
 376 ~~requirements prescribed by subsections (1) and (4).~~

377 ~~2. Does not meet the requirements of paragraph (5)(a)~~
 378 ~~after one opportunity in 10th grade and one opportunity in 11th~~
 379 ~~grade.~~

380 ~~(12) The Commissioner of Education may award a standard~~
 381 ~~high school diploma to honorably discharged veterans who started~~
 382 ~~high school between 1937 and 1946 and were scheduled to graduate~~
 383 ~~between 1941 and 1950 but were inducted into the United States~~
 384 ~~Armed Forces between September 16, 1940, and December 31, 1946,~~
 385 ~~prior to completing the necessary high school graduation~~
 386 ~~requirements. Upon the recommendation of the commissioner, the~~

387 ~~State Board of Education may develop criteria and guidelines for~~
 388 ~~awarding such diplomas.~~

389 ~~(13) The Commissioner of Education may award a standard~~
 390 ~~high school diploma to honorably discharged veterans who started~~
 391 ~~high school between 1946 and 1950 and were scheduled to graduate~~
 392 ~~between 1949 and 1955, but were inducted into the United States~~
 393 ~~Armed Forces between June 1949 and January 1955, and served~~
 394 ~~during the Korean War prior to completing the necessary high~~
 395 ~~school graduation requirements. Upon the recommendation of the~~
 396 ~~commissioner, the State Board of Education may develop criteria~~
 397 ~~and guidelines for awarding such diplomas.~~

398 Section 7. Subsection (4) of section 1007.263, Florida
 399 Statutes, is amended to read:

400 1007.263 Community colleges; admissions of students.--Each
 401 community college board of trustees is authorized to adopt rules
 402 governing admissions of students subject to this section and
 403 rules of the State Board of Education. These rules shall include
 404 the following:

405 (4) A student who has been awarded a special diploma as
 406 defined in s. 1003.438 or a certificate of completion as defined
 407 in s. 1003.43(8)~~(10)~~ is eligible to enroll in certificate career
 408 education programs.

409
 410 Each board of trustees shall establish policies that notify
 411 students about, and place students into, adult basic education,
 412 adult secondary education, or other instructional programs that
 413 provide students with alternatives to traditional college-
 414 preparatory instruction, including private provider instruction.

415 A student is prohibited from enrolling in additional college-
 416 level courses until the student scores above the cut-score on
 417 all sections of the common placement test.

418 Section 8. Paragraph (c) of subsection (3) of section
 419 1008.22, Florida Statutes, is amended to read:

420 1008.22 Student assessment program for public schools.--

421 (3) STATEWIDE ASSESSMENT PROGRAM.--The commissioner shall
 422 design and implement a statewide program of educational
 423 assessment that provides information for the improvement of the
 424 operation and management of the public schools, including
 425 schools operating for the purpose of providing educational
 426 services to youth in Department of Juvenile Justice programs.
 427 The commissioner may enter into contracts for the continued
 428 administration of the assessment, testing, and evaluation
 429 programs authorized and funded by the Legislature. Contracts may
 430 be initiated in 1 fiscal year and continue into the next and may
 431 be paid from the appropriations of either or both fiscal years.
 432 The commissioner is authorized to negotiate for the sale or
 433 lease of tests, scoring protocols, test scoring services, and
 434 related materials developed pursuant to law. Pursuant to the
 435 statewide assessment program, the commissioner shall:

436 (c) Develop and implement a student achievement testing
 437 program known as the Florida Comprehensive Assessment Test
 438 (FCAT) as part of the statewide assessment program to measure a
 439 student's content knowledge and skills in reading, writing,
 440 science, and mathematics. Other content areas may be included as
 441 directed by the commissioner. Comprehensive assessments of
 442 reading and mathematics shall be administered annually in grades

443 3 through 10. Comprehensive assessments of writing and science
 444 shall be administered at least once at the elementary, middle,
 445 and high school levels. End-of-course assessments for a subject
 446 may be administered in addition to the comprehensive assessments
 447 required for that subject under this paragraph. An end-of-course
 448 assessment must be rigorous, statewide, standardized, and
 449 developed or approved by the department. The content knowledge
 450 and skills assessed by comprehensive and end-of-course
 451 assessments must be aligned to the core curricular content
 452 established in the Sunshine State Standards. The commissioner
 453 may select one or more nationally developed comprehensive
 454 examinations, which may include, but need not be limited to,
 455 examinations for a College Board Advanced Placement course,
 456 International Baccalaureate course, or Advanced International
 457 Certificate of Education course or industry-approved
 458 examinations to earn national industry certifications as defined
 459 in s. 1003.492, for use as end-of-course assessments under this
 460 paragraph, if the commissioner determines that the content
 461 knowledge and skills assessed by the examinations meet or exceed
 462 the grade level expectations for the core curricular content
 463 established for the course in the Next Generation Sunshine State
 464 Standards. The commissioner may collaborate with the American
 465 Diploma Project in the adoption or development of rigorous end-
 466 of-course assessments that are aligned to the Next Generation
 467 Sunshine State Standards. The testing program must be designed
 468 as follows:

- 469 1. The tests shall measure student skills and competencies
 470 adopted by the State Board of Education as specified in

471 paragraph (a). The tests must measure and report student
 472 proficiency levels of all students assessed in reading, writing,
 473 mathematics, and science. The commissioner shall provide for the
 474 tests to be developed or obtained, as appropriate, through
 475 contracts and project agreements with private vendors, public
 476 vendors, public agencies, postsecondary educational
 477 institutions, or school districts. The commissioner shall obtain
 478 input with respect to the design and implementation of the
 479 testing program from state educators, assistive technology
 480 experts, and the public.

481 2. The testing program shall be composed of criterion-
 482 referenced tests that shall, to the extent determined by the
 483 commissioner, include test items that require the student to
 484 produce information or perform tasks in such a way that the core
 485 content knowledge and skills he or she uses can be measured.

486 3. Beginning with the 2008-2009 school year, the
 487 commissioner shall discontinue administration of the selected-
 488 response test items on the comprehensive assessments of writing.
 489 Beginning with the 2012-2013 school year, the comprehensive
 490 assessments of writing shall be composed of a combination of
 491 selected-response test items, short-response performance tasks,
 492 and extended-response performance tasks, which shall measure a
 493 student's content knowledge of writing, including, but not
 494 limited to, paragraph and sentence structure, sentence
 495 construction, grammar and usage, punctuation, capitalization,
 496 spelling, parts of speech, verb tense, irregular verbs, subject-
 497 verb agreement, and noun-pronoun agreement.

498 4. A score shall be designated for each subject area
 499 tested, below which score a student's performance is deemed
 500 inadequate. The school districts shall provide appropriate
 501 remedial instruction to students who score below these levels.

502 5. Except as provided in s. 1003.4282 ~~1003.428(8)(b) or s.~~
 503 ~~1003.43(11)(b)~~, students must earn a passing score on the grade
 504 10 assessment test described in this paragraph or attain
 505 concordant scores as described in subsection (10) in reading,
 506 writing, and mathematics to qualify for a standard high school
 507 diploma. The State Board of Education shall designate a passing
 508 score for each part of the grade 10 assessment test. In
 509 establishing passing scores, the state board shall consider any
 510 possible negative impact of the test on minority students. The
 511 State Board of Education shall adopt rules which specify the
 512 passing scores for the grade 10 FCAT. Such passing scores must
 513 at a minimum meet grade-level proficiency. Any such rules, which
 514 have the effect of raising the required passing scores, shall
 515 apply only to students taking the grade 10 FCAT for the first
 516 time after such rules are adopted by the State Board of
 517 Education.

518 6. Participation in the testing program is mandatory for
 519 all students attending public school, including students served
 520 in Department of Juvenile Justice programs, except as otherwise
 521 prescribed by the commissioner. If a student does not
 522 participate in the statewide assessment, the district must
 523 notify the student's parent and provide the parent with
 524 information regarding the implications of such nonparticipation.
 525 A parent must provide signed consent for a student to receive

526 classroom instructional accommodations that would not be
 527 available or permitted on the statewide assessments and must
 528 acknowledge in writing that he or she understands the
 529 implications of such instructional accommodations. The State
 530 Board of Education shall adopt rules, based upon recommendations
 531 of the commissioner, for the provision of test accommodations
 532 for students in exceptional education programs and for students
 533 who have limited English proficiency. Accommodations that negate
 534 the validity of a statewide assessment are not allowable in the
 535 administration of the FCAT. However, instructional
 536 accommodations are allowable in the classroom if included in a
 537 student's individual education plan. Students using
 538 instructional accommodations in the classroom that are not
 539 allowable as accommodations on the FCAT may have the FCAT
 540 requirement waived pursuant to the requirements of s. 1003.4282
 541 ~~1003.428(8)(b) or s. 1003.43(11)(b)~~.

542 7. A student seeking an adult high school diploma must
 543 meet the same testing requirements that a regular high school
 544 student must meet.

545 8. District school boards must provide instruction to
 546 prepare students to demonstrate proficiency in the core
 547 curricular content established in the Next Generation Sunshine
 548 State Standards adopted under s. 1003.41, including the core
 549 content knowledge and skills necessary for successful grade-to-
 550 grade progression and high school graduation. If a student is
 551 provided with instructional accommodations in the classroom that
 552 are not allowable as accommodations in the statewide assessment
 553 program, as described in the test manuals, the district must

554 | inform the parent in writing and must provide the parent with
 555 | information regarding the impact on the student's ability to
 556 | meet expected proficiency levels in reading, writing, and
 557 | mathematics. The commissioner shall conduct studies as necessary
 558 | to verify that the required core curricular content is part of
 559 | the district instructional programs.

560 | 9. District school boards must provide opportunities for
 561 | students to demonstrate an acceptable level of performance on an
 562 | alternative standardized assessment approved by the State Board
 563 | of Education following enrollment in summer academies.

564 | 10. The Department of Education must develop, or select,
 565 | and implement a common battery of assessment tools that will be
 566 | used in all juvenile justice programs in the state. These tools
 567 | must accurately measure the core curricular content established
 568 | in the Sunshine State Standards.

569 | 11. For students seeking a special diploma pursuant to s.
 570 | 1003.438, the Department of Education must develop or select and
 571 | implement an alternate assessment tool that accurately measures
 572 | the core curricular content established in the Sunshine State
 573 | Standards for students with disabilities under s. 1003.438.

574 | 12. The Commissioner of Education shall establish
 575 | schedules for the administration of statewide assessments and
 576 | the reporting of student test results. The commissioner shall,
 577 | by August 1 of each year, notify each school district in writing
 578 | and publish on the department's Internet website the testing and
 579 | reporting schedules for, at a minimum, the school year following
 580 | the upcoming school year. The testing and reporting schedules
 581 | shall require that:

582 a. There is the latest possible administration of
 583 statewide assessments and the earliest possible reporting to the
 584 school districts of student test results which is feasible
 585 within available technology and specific appropriations;
 586 however, test results must be made available no later than the
 587 final day of the regular school year for students.

588 b. Beginning with the 2010-2011 school year, a
 589 comprehensive statewide assessment of writing is not
 590 administered earlier than the week of March 1 and a
 591 comprehensive statewide assessment of any other subject is not
 592 administered earlier than the week of April 15.

593 c. A statewide standardized end-of-course assessment is
 594 administered within the last 2 weeks of the course.

595
 596 The commissioner may, based on collaboration and input from
 597 school districts, design and implement student testing programs,
 598 for any grade level and subject area, necessary to effectively
 599 monitor educational achievement in the state, including the
 600 measurement of educational achievement of the Sunshine State
 601 Standards for students with disabilities. Development and
 602 refinement of assessments shall include universal design
 603 principles and accessibility standards that will prevent any
 604 unintended obstacles for students with disabilities while
 605 ensuring the validity and reliability of the test. These
 606 principles should be applicable to all technology platforms and
 607 assistive devices available for the assessments. The field
 608 testing process and psychometric analyses for the statewide
 609 assessment program must include an appropriate percentage of

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2009

610 students with disabilities and an evaluation or determination of
 611 the effect of test items on such students.

612 Section 9. Paragraph (b) of subsection (1) of section
 613 1009.531, Florida Statutes, is amended to read:

614 1009.531 Florida Bright Futures Scholarship Program;
 615 student eligibility requirements for initial awards.--

616 (1) Effective January 1, 2008, in order to be eligible for
 617 an initial award from any of the three types of scholarships
 618 under the Florida Bright Futures Scholarship Program, a student
 619 must:

620 (b) Earn a standard Florida high school diploma or its
 621 equivalent as described in s. 1003.428, s. 1003.429, s. 1003.43,
 622 or s. 1003.435 unless:

623 1. The student completes a home education program
 624 according to s. 1002.41; or

625 2. The student earns a high school diploma from a non-
 626 Florida school while living with a parent or guardian who is on
 627 military or public service assignment away from Florida.

628 Section 10. This act shall take effect July 1, 2009.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (01)

Bill No. **CS/HB 1293**

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: Full Appropriations Council on
2 Education & Economic Development
3 Representative Jones offered the following:
4

5 **Amendment (with directory and title amendments)**

6 Remove lines 53-125 and insert:

7 (2) (a) The 24 credits may be earned through applied,
8 integrated, and combined courses approved by the Department of
9 Education and shall be distributed as follows:

10 1. ~~(a)~~ Sixteen core curriculum credits:

11 a. ~~1.~~ Four credits in English, with major concentration in
12 composition, reading for information, and literature.

13 b. ~~2.~~ Four credits in mathematics, one of which must be
14 Algebra I, a series of courses equivalent to Algebra I, or a
15 higher-level mathematics course. ~~School districts are encouraged~~
16 ~~to set specific goals to increase enrollments in, and successful~~
17 ~~completion of, geometry and Algebra II.~~

18 c. ~~3.~~ Three credits in science, two of which must have a
19 laboratory component.

20 d. ~~4.~~ Three credits in social studies as follows: one
21 credit in American history; one credit in world history; one-

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (01)

22 half credit in economics; and one-half credit in American
23 government.

24 e. ~~5.~~ One credit in fine or performing arts, speech and
25 debate, or a practical arts course that incorporates artistic
26 content and techniques of creativity, interpretation, and
27 imagination. Eligible practical arts courses shall be identified
28 through the Course Code Directory.

29 f. ~~6.~~ One credit in physical education to include
30 integration of health. Participation in an interscholastic sport
31 at the junior varsity or varsity level for two full seasons
32 shall satisfy the one-credit requirement in physical education
33 if the student passes a competency test on personal fitness with
34 a score of "C" or better. The competency test on personal
35 fitness must be developed by the Department of Education. A
36 district school board may not require that the one credit in
37 physical education be taken during the 9th grade year.
38 Completion of one semester with a grade of "C" or better in a
39 marching band class, in a physical activity class that requires
40 participation in marching band activities as an extracurricular
41 activity, or in a dance class shall satisfy one-half credit in
42 physical education or one-half credit in performing arts. This
43 credit may not be used to satisfy the personal fitness
44 requirement or the requirement for adaptive physical education
45 under an individual education plan (IEP) or 504 plan. Completion
46 of 2 years in a Reserve Officer Training Corps (R.O.T.C.) class,
47 a significant component of which is drills, shall satisfy the
48 one-credit requirement in physical education and the one-credit
49 requirement in performing arts. This credit may not be used to
50 satisfy the personal fitness requirement or the requirement for

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (01)

51 adaptive physical education under an individual education plan
52 (IEP) or 504 plan.

53 2. ~~(b)~~ Eight credits in majors, minors, or electives:

54 a. ~~1.~~ Four credits in a major area of interest, such as
55 sequential courses in a career and technical program, fine and
56 performing arts, or academic content area, selected by the
57 student as part of the education plan required by s. 1003.4156.
58 Students may revise major areas of interest each year as part of
59 annual course registration processes and should update their
60 education plan to reflect such revisions. Annually by October 1,
61 the district school board shall approve major areas of interest
62 and submit the list of majors to the Commissioner of Education
63 for approval. Each major area of interest shall be deemed
64 approved unless specifically rejected by the commissioner within
65 60 days. Upon approval, each district's major areas of interest
66 shall be available for use by all school districts and shall be
67 posted on the department's website.

68 b. ~~2.~~ Four credits in elective courses selected by the
69 student as part of the education plan required by s. 1003.4156.
70 These credits may be combined to allow for a second major area
71 of interest pursuant to sub-subparagraph a. ~~subparagraph 1.~~, a
72 minor area of interest, elective courses, or intensive reading
73 or mathematics intervention courses as described in this sub-
74 subparagraph ~~subparagraph~~.

75 (I) ~~a.~~ Minor areas of interest are composed of three
76 credits selected by the student as part of the education plan
77 required by s. 1003.4156 and approved by the district school
78 board.

79 (II) ~~b.~~ Elective courses are selected by the student in
80 order to pursue a complete education program as described in s.

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81 1001.41(3) and to meet eligibility requirements for
82 scholarships.

83 (III) e. For each year in which a student scores at Level
84 1 on FCAT Reading, the student must be enrolled in and complete
85 an intensive reading course the following year. Placement of
86 Level 2 readers in either an intensive reading course or a
87 content area course in which reading strategies are delivered
88 shall be determined by diagnosis of reading needs. The
89 department shall provide guidance on appropriate strategies for
90 diagnosing and meeting the varying instructional needs of
91 students reading below grade level. Reading courses shall be
92 designed and offered pursuant to the comprehensive reading plan
93 required by s. 1011.62(9). A student who scores at Level 1 or
94 Level 2 on FCAT Reading, but who did not score below Level 3 on
95 FCAT Reading in any previous year, may be exempt from the
96 requirement in this sub-sub-subparagraph if the student
97 demonstrates acceptable performance on an alternative
98 standardized reading assessment approved by the State Board of
99 Education. The requirements in this sub-sub-subparagraph do not
100 apply to a student who has earned a passing score on grade 10
101 FCAT Reading pursuant to s. 1008.22(3)(c) or who has achieved a
102 score on a standardized test which is concordant with a passing
103 score on grade 10 FCAT Reading pursuant to s. 1008.22(10).

104 (IV) d. For each year in which a student scores at Level 1
105 or Level 2 on FCAT Mathematics, the student must receive
106 remediation the following year. These courses may be taught
107 through applied, integrated, or combined courses and are subject
108 to approval by the department for inclusion in the Course Code
109 Directory. The requirements of this sub-sub-subparagraph do not
110 apply to a student who has earned a passing score on grade 10

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111 FCAT Mathematics pursuant to s. 1008.22(3)(c) or who has
112 achieved a score on a standardized test which is concordant with
113 a passing score on grade 10 FCAT Mathematics pursuant to s.
114 1008.22(10).

115 (b) Beginning with students entering grade 9 in the 2010-
116 2011 school year, the 24 credits may be earned through applied,
117 integrated, and combined courses approved by the Department of
118 Education and shall be distributed as follows:

119 1. Sixteen and one-half core curriculum credits:

120 a. Four credits in English, with major concentration in
121 composition, reading for information, and literature.

122 b. Four credits in mathematics, one of which must be
123 Algebra I or a series of courses equivalent to Algebra I as
124 approved by the State Board of Education, and one credit must be
125 geometry or a series of courses equivalent to geometry as
126 approved by the State Board of Education. Beginning with
127 students entering grade 9 in the 2012-2013 school year, one of
128 the four credits must be Algebra I or a series of courses
129 equivalent to Algebra I as approved by the State Board of
130 Education, one credit must be geometry or a series of courses
131 equivalent to geometry as approved by the State Board of
132 Education, and one credit must be Algebra II or a series of
133 courses equivalent to Algebra II as approved by the State Board
134 of Education.

135 c. Three credits in science. One of the three credits must
136 be Biology I or a series of courses equivalent to Biology I as
137 approved by the State Board of Education, one credit must be a
138 physical science or a series of courses equivalent to a physical
139 science as approved by the State Board of Education, and one
140 credit must be a higher-level science course. At least two of

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141 the science courses must have a laboratory component. Beginning
142 with students entering grade 9 in the 2012-2013 school year, one
143 of the three credits must be Biology I or a series of courses
144 equivalent to Biology I as approved by the State Board of
145 Education, one credit must be chemistry or a series of courses
146 equivalent to chemistry as approved by the State Board of
147 Education, and one credit must be a higher-level science course.
148 At least two of the science courses must have a laboratory
149 component.

150 d. Three credits in social studies as follows: one credit
151 in American history; one credit in world history; one-half
152 credit in economics; and one-half credit in American government.

153 e. One credit in fine or performing arts, speech and
154 debate, or a practical arts course that incorporates artistic
155 content and techniques of creativity, interpretation, and
156 imagination. Eligible practical arts courses shall be identified
157 through the Course Code Directory.

158 f. One credit in physical education. Participation in an
159 interscholastic sport at the junior varsity or varsity level for
160 two full seasons shall satisfy the one-credit requirement in
161 physical education if the student passes a competency test on
162 personal fitness with a score of "C" or better. The competency
163 test on personal fitness must be developed by the Department of
164 Education. A district school board may not require that the one
165 credit in physical education be taken during the 9th grade year.
166 Completion of one semester with a grade of "C" or better in a
167 marching band class, in a physical activity class that requires
168 participation in marching band activities as an extracurricular
169 activity, or in a dance class shall satisfy one-half credit in
170 physical education or one-half credit in performing arts. This

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171 credit may not be used to satisfy the personal fitness
172 requirement or the requirement for adaptive physical education
173 under an individual education plan (IEP) or 504 plan. Completion
174 of 2 years in a Reserve Officer Training Corps (R.O.T.C.) class,
175 a significant component of which is drills, shall satisfy the
176 one-credit requirement in physical education and the one-credit
177 requirement in performing arts. This credit may not be used to
178 satisfy the personal fitness requirement or the requirement for
179 adaptive physical education under an individual education plan
180 (IEP) or 504 plan.

181 g. One-half credit in health education. The health
182 education requirement may be waived if the student requests to
183 take the health education assessment and scores a "C" or better.
184 The Department of Education shall develop the health education
185 assessment.

186 2. Seven and one-half credits in majors, minors, or
187 electives:

188 a. Four credits in a major area of interest, such as
189 sequential courses in a career and technical program, fine and
190 performing arts, or academic content area, selected by the
191 student as part of the education plan required by s. 1003.4156.
192 Students may revise major areas of interest each year as part of
193 annual course registration processes and should update their
194 education plan to reflect such revisions. Annually by October 1,
195 the district school board shall approve major areas of interest
196 and submit the list of majors to the Commissioner of Education
197 for approval. Each major area of interest shall be deemed
198 approved unless specifically rejected by the commissioner within
199 60 days. Upon approval, each district's major areas of interest

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200 shall be available for use by all school districts and shall be
201 posted on the department's website.

202 b. Three and one-half credits in elective courses selected
203 by the student as part of the education plan required by s.
204 1003.4156. These credits may be combined to allow for a second
205 major area of interest pursuant to subparagraph 1., a minor area
206 of interest, elective courses, or intensive reading or
207 mathematics intervention courses as described in this sub-
208 subparagraph.

209 (I) Minor areas of interest are composed of three credits
210 selected by the student as part of the education plan required
211 by s. 1003.4156 and approved by the district school board.

212 (II) Elective courses are selected by the student in order
213 to pursue a complete education program as described in s.
214 1001.41(3) and to meet eligibility requirements for
215 scholarships.

216 (III) For each year in which a student scores at Level 1
217 on FCAT Reading, the student must be enrolled in and complete an
218 intensive reading course the following year. Placement of Level
219 2 readers in either an intensive reading course or a content
220 area course in which reading strategies are delivered shall be
221 determined by diagnosis of reading needs. The department shall
222 provide guidance on appropriate strategies for diagnosing and
223 meeting the varying instructional needs of students reading
224 below grade level. Reading courses shall be designed and offered
225 pursuant to the comprehensive reading plan required by s.
226 1011.62(9). A student who scores at Level 1 or Level 2 on FCAT
227 Reading, but who did not score below Level 3 on FCAT Reading in
228 any previous year, may be exempt from the requirement in this
229 sub-sub-subparagraph if the student demonstrates acceptable

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230 performance on an alternative standardized reading assessment
231 approved by the State Board of Education. The requirements in
232 this sub-sub-subparagraph do not apply to a student who has
233 earned a passing score on grade 10 FCAT Reading pursuant to s.
234 1008.22(3)(c) or who has achieved a score on a standardized test
235 which is concordant with a passing score on grade 10 FCAT
236 Reading pursuant to s. 1008.22(10).

237 (IV) For each year in which a student scores at Level 1 or
238 Level 2 on FCAT Mathematics, the student must receive
239 remediation the following year. These courses may be taught
240 through applied, integrated, or combined courses and are subject
241 to approval by the department for inclusion in the Course Code
242 Directory. The requirements of this sub-sub-subparagraph do not
243 apply to a student who has earned a passing score on grade 10
244 FCAT Mathematics pursuant to s. 1008.22(3)(c) or who has
245 achieved a score on a standardized test which is concordant with
246 a passing score on grade 10 FCAT Mathematics pursuant to s.
247 1008.22(10).

248
249
250 -----
251 **D I R E C T O R Y A M E N D M E N T**

252 Remove lines 35-36 and insert:

253 Section 1. Subsections (1), (2), and (5) through (11) of
254 section 1003.428,
255

256
257 -----
258 **T I T L E A M E N D M E N T**

259 Remove lines 3-11 and insert:

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260 1003.428, F.S.; providing credit requirements for high school
261 graduation with a standard diploma beginning with students
262 entering grade 9 in the 2010-2011 school year and students
263 entering grade 9 in the 2012-2013 school year; providing
264 exceptions; deleting provisions relating to general requirements
265 for high school graduation to conform to changes made by the
266 act; requiring that students be advised of the availability of
267 certain courses for purposes of high school graduation;
268 providing a one-half credit requirement in health education with
269 a waiver for students who request to take and successfully
270 complete a health education assessment developed by the
271 Department of Education; creating s. 1003.4282, F.S.; providing
272 for

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1377 Supplemental Educational Services
SPONSOR(S): Pre-K 12 Policy Committee; Dorworth
TIED BILLS: IDEN./SIM. BILLS: SB 2538

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	PreK-12 Policy Committee	11 Y, 0 N, As CS	Duncan	Ahearn
2)	PreK-12 Appropriations Committee	7 Y, 0 N	Clark	Heflin
3)	Full Appropriations Council on Education & Economic Development		Clark <i>DC</i>	Martin <i>[Signature]</i>
4)				
5)				

SUMMARY ANALYSIS

Under the provisions of the federal No Child Left Behind Act, low-income families can enroll their child in supplemental educational services if their child attends a Title I school that has been designated by the state to be in need of improvement for more than one year. The term "supplemental educational services" (SES) refers to free extra academic help, such as tutoring or remedial help, that is provided to students in subjects such as reading, language arts, and math.

Current state law requires the Department of Education (DOE) to assign a grade of "A," "B," "C," "D," or "F" to each state-approved SES provider based on a combination of learning gains and student proficiency levels as measured by the statewide assessment test. The Committee Substitute (CS) for HB 1377 requires the DOE to assign a service designation to each state-approved SES provider, rather than a grade; i.e., excellent, satisfactory, or unsatisfactory for the prior school year. A service designation cannot be assigned to a state-approved SES provider if the student population served by the SES provider does not meet the minimum sample size necessary, based on accepted professional practice, for statistical reliability and prevention of the unlawful release of personally identifiable student information.

The State Board of Education must specify, in rule, the threshold requirements for assigning the service designations. By July 1 of each year, the DOE must report the service designations to the SES providers, school districts, parents, and the public.

The CS also requires school districts to, by May 1 of each year, provide the following information to the DOE:

- Student learning gains as demonstrated by mastery of applicable benchmarks or access points set forth in the Sunshine State Standards.
- Student attendance and completion data provided to the district by each SES provider.
- Parent satisfaction survey results.
- School district satisfaction survey results.
- Principal satisfaction survey results.

The CS requires the State Board of Education to adopt rules, including an internal complaint procedure to resolve disputes regarding the SES state approval process, termination of state approval, and assignment of a service designation.

School districts are authorized to use Title I, Part A funds, as provided in the Elementary and Secondary Education Act to meet these requirements.

See FISCAL COMMENTS section of this analysis.

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

No Child Left Behind Act (NCLB)

Federal law sets forth specific testing requirements for public school students. Testing that is performed pursuant to federal law 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. The definition of AYP is established by the state's educational agency within the parameters of NCLB's requirements. The determination of AYP must be based on academic assessments.¹ In Florida, the Department of Education (DOE) sets the standards for AYP of all public elementary and secondary schools, local educational agencies, and of the state itself.

A school that fails to make AYP for two consecutive years is designated as "in need of improvement" and must develop a school improvement plan and provide students with the option of transferring to another school that is not "in need of improvement." The following table outlines the consequences for Title I schools that fail to make AYP over a period of years:

Year	Consequences
Year 1 Not Making AYP	No consequences.
Year 2 Not Making AYP	Must offer all students choice with transportation.
Year 3 Not Making AYP	Must offer choice with transportation and state-approved supplemental educational services to eligible students.
Year 4 Not Making AYP	Must offer choice with transportation and state-approved supplemental educational services to eligible students and implement corrective action.
Year 5 Not Making AYP	Must offer choice with transportation and state-approved supplemental educational services to eligible students and plan for restructuring.

¹ 20 U.S.C. s. 6311(b)(2).

² <http://www.fldoe.org/faq/default.asp?ALL=Y&Dept=307&ID=831>, Florida Department of Education, Bureau of Student Assistance.

Supplemental Education Services (SES)

Low-income families can enroll their child in supplemental educational services if their child attends a Title I school that has been designated by the state to be in need of improvement for more than one year. The term "supplemental educational services" refers to free extra academic help, such as tutoring or remedial help, that is provided to students in subjects such as reading, language arts, and math. This extra help can be provided before or after school, on weekends, or in the summer.³

Each state education agency is required to identify organizations that qualify to provide these services. Districts must make a list available to parents of state-approved SES providers in the area and must let parents choose the provider that will best meet the educational needs of the child. Providers of SES may include nonprofit entities, for-profit entities, local educational agencies, public schools, public charter schools, private schools, public or private institutions of higher education, and faith-based organizations.⁴

Within the last two years, the Government Accountability Office (GAO) conducted two reviews of the supplemental education services program and reported the following:

- Nationally, the SES participation increased substantially from 12 percent of eligible students receiving services in school year 2003-2004 to 19 percent in 2004-2005.
- District actions to increase participation have included greater efforts to notify parents. However, timely and effective notification of parents remains a challenge, as does attracting providers to serve certain areas and students, such as rural districts and students with disabilities.
- While states' monitoring of district and provider efforts to implement the program had been limited in past years, more states reported conducting on-site reviews and other monitoring activities during 2005-2006.
- Districts also increased their oversight role.
- Many states continue to struggle with how to evaluate whether providers are improving student achievement.
- While a few states have completed evaluations, none provides a conclusive assessment of SES providers' effect on student academic achievement.⁵

The report recommended that the U.S. Department of Education clarify guidance and provide information on promising practices, consider expanding flexibility and clarifying state authority, collect information on district SES expenditures, and provide evaluation assistance. Since the GAO's report was published, the U.S. Department of Education has taken several actions to improve SES implementation and monitoring, such as disseminating practices and guidance, and meeting with states, districts, and providers.⁶

The Department of Education's responsibilities in providing SES include, but are not limited to, the following:

- Identify schools that must offer SES.
- Request and review provider applications.

³ <http://www.ed.gov/nclb/choice/help/ses/description.html>, U.S. Department of Education, Description of Educational Services (Last visited March 13, 2009).

⁴ *Id.*

⁵ <http://www.gao.gov/products/GAO-07-738T>, U.S. Government Accountability Office, No Child Left Behind Education Actions May Help Improve Implementation and Evaluation of Supplemental Educational Services, Report GAO-07-738T, April 18, 2007.

⁶ *Id.*

- Maintain list of approved providers.
- Monitor provider performance and report results.⁷

A list of approved providers is available online and includes information on the type of instruction available, the cost of services, grade levels served, and location of services.⁸ The DOE also maintains an online list of schools in need of improvement whose students would be eligible for these services.⁹

A state-approved SES provider can be removed from the approved list for one or more of the following reasons:

- Failure to deliver services.
- Failure to contribute to increasing the academic proficiency of students for two consecutive years.
- When the DOE determines that the matter is of such a magnitude that it cannot be addressed by the school district through its enforcement mechanisms, the failure to comply with provider responsibilities and assurances, the failure to meet and maintain the eligibility application requirements, and the failure to comply with the requirements for providers.¹⁰

In 2008, the Legislature required the DOE to assign a grade of "A," "B," "C," "D," or "F" to each state-approved SES provider based on a combination of learning gains and student proficiency levels as measured by the statewide assessment and norm-referenced tests approved by the DOE for students in kindergarten through grade 3.¹¹

This requirement has not been implemented for at least two reasons. First, the Florida Comprehensive Assessment Test (FCAT) scores are only available for students in grades 3-10¹² and in 2004-2005 and 2005-2006 approximately 70% of all students served in SES were in kindergarten-grade 3.¹³ Second, SES providers spend a limited amount of time with students since, by law, SES providers are permitted to provide extra help to students before or after school, on weekends, or during the summer.¹⁴ Therefore, assigning a grade based solely on learning gains and student proficiency levels that may or may not be exclusively attributable to the SES provider raised concerns.

Effect of Proposed Changes

The Committee Substitute (CS) requires the DOE to assign a service designation to state-approved SES providers, rather than a grade as provided in current law. The DOE must evaluate each state-approved SES provider and assign a service designation of excellent, satisfactory, or unsatisfactory for the prior school year. A service designation cannot be assigned if the student population served by the SES provider does not meet the minimum sample size necessary, based on accepted professional practice, for statistical reliability and prevention of the unlawful release of personally identifiable student information.

The State Board of Education (SBE) must specify, in rule, the threshold requirements for assigning the service designations. By July 1 of each year, the DOE must report the service designations to the SES providers, school districts, parents, and the public.

⁷ <http://www.fldoe.org/flbpso/nclbchoice/ses/responsibilities.asp>, Florida Department of Education, Bureau of Student Assistance, Role & Responsibilities.

⁸ <http://data.fldoe.org/ses/search/>, Florida Department of Education, Bureau of Student Assistance, List of Approved SES Providers 2008-2009 school year.

⁹ http://www.fldoe.org/flbpso/nclbchoice/ses/ses_title1.asp, Florida Department of Education, Bureau of Student Assistance, Title I School Lists.

¹⁰ Rule 6A-1.039, F.A.C.

¹¹ Chapter 2008-171, L.O.F. (Committee Substitute for SB 1414).

¹² s. 1008.22, F.S.

¹³ Department of Education, Analysis of SB 1414 (2008 Legislative Session) similar to HB 1377.

¹⁴ See *supra* note 3.

The CS also requires school districts to provide, by May 1 of each year, the following information to the DOE:

- Student learning gains as demonstrated by mastery of applicable benchmarks or access points set forth in the Sunshine State Standards.¹⁵
- Student attendance and completion data provided to the district by each SES provider.
- Parent satisfaction survey results.
- School district satisfaction survey results.
- Principal satisfaction survey results.

School districts are authorized to use Title I, Part A funds, as provided in the Elementary and Secondary Education Act to meet these requirements.¹⁶

The rules adopted by the SBE to implement the provisions relating to SES service designations must include an internal complaint procedure to resolve disputes regarding the state approval process, termination of state approval, and assignment of a service designation. The internal complaint must provide for both an informal and formal review by a DOE hearing officer who must make a recommendation to the Commissioner of Education. The decision of the commissioner constitutes final agency action and the internal complaint procedure is exempt from the provisions of chapter 120, F.S.¹⁷

B. SECTION DIRECTORY:

Section 1: Amends s. 1008.331, F.S., relating to supplemental educational services in Title I schools; school district, provider, and department responsibilities.

Section 2: Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

See FISCAL COMMENTS section.

¹⁵ The Sunshine State Standards establish the core content of the curricula to be taught in Florida and specify the core content knowledge and skills that Kindergarten through grade 12 public school students are expected to acquire. See s. 1003.41(1), F.S.

¹⁶ The purpose of Title I of the Elementary and Secondary Education Act (20 U.S.C. 6301 et. seq.) is to improve the academic achievement of disadvantaged children. Title I funds are used to provide additional academic support and learning opportunities to help low-achieving children master challenging curricula and meet state standards in core academic subjects. See <http://www.ed.gov/programs/titleiparta/index.html>, U.S. Department of Education, Student Achievement and School Accountability Programs.

¹⁷ The Administrative Procedure Act contains the procedures by which agency actions are formulated and can be challenged and litigated.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

School districts are authorized to use Title I, Part A funds, as provided in the Elementary and Secondary Education Act to meet the requirements of this act.

DOE Comment:

The student learning gains and the student attendance and completion data collection is projected to add three data elements to what is collected now for each student who receives Title I Supplemental Educational Services. The cost to each district to add these elements are estimated to cost \$1,500 - \$2,100 for each of the three data elements. Therefore, the cost for 67 school districts and 4 developmental research (lab) schools lab schools is estimated to cost \$319,500 - \$447,300.¹⁸

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The State Board of Education must specify, in rule, the threshold requirements for assigning the SES provider designations.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DOE Comments:

DOE has not assigned grades to providers due to the limitations of the current statutory requirements. The amended statute provides for a more valid and reliable methodology for evaluating SES providers and removes the "high-stakes" nature of assigning grades to SES providers.

The DOE has designed an accountability model for state-approved supplemental educational services (SES) providers based on compliance, monitoring, and data analysis. To ensure compliance with state and federal requirements, the DOE has developed a rigorous provider approval process consistent with requirements of the No Child Left Behind Act. The DOE approved 219 providers to serve students in Florida for the 2007-08 school year. Approximately, 70,000 students participated in SES programs during the 2006-07 school year.¹⁹

¹⁸ Department of Education, Analysis of HB 1377, March 15, 2009.

¹⁹ *Id.*

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 18, 2009, the PreK-12 Policy Committee adopted 1 amendment to HB 1377 and reported the bill favorably as a Committee Substitute (CS). The difference between the CS and the House Bill are as follows:

The CS requires the State Board of Education to adopt rules, including an internal complaint procedure to resolve disputes regarding the SES state approval process, termination of state approval, and assignment of a service designation.

1 A bill to be entitled
 2 An act relating to supplemental educational services;
 3 amending s. 1008.331, F.S.; requiring each school district
 4 to report to the Department of Education information
 5 regarding certain supplemental educational services
 6 providers; requiring the department to evaluate each
 7 state-approved provider and assign a service designation;
 8 providing an exception; requiring rulemaking and reporting
 9 relating to service designations; authorizing the use of
 10 certain funds; requiring rulemaking for implementation;
 11 requiring rules to include an internal complaint procedure
 12 to resolve certain disputes; providing for a review
 13 process and final agency action; providing an effective
 14 date.

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

17
 18 Section 1. Subsections (5) and (6) of section 1008.331,
 19 Florida Statutes, are amended to read:

20 1008.331 Supplemental educational services in Title I
 21 schools; school district, provider, and department
 22 responsibilities.--

23 (5) RESPONSIBILITIES OF THE DEPARTMENT OF EDUCATION.--

24 (a) By May 1 of each year, each school district must
 25 report to the department, on the form prescribed by the
 26 department, the following information regarding each
 27 supplemental educational services provider that provides service
 28 to public school students in the district:

29 1. Student learning gains as demonstrated by mastery of
 30 applicable benchmarks or access points set forth in the Sunshine
 31 State Standards.

32 2. Student attendance and completion data provided to the
 33 district by each provider.

34 3. Parent satisfaction survey results.

35 4. School district satisfaction survey results.

36 5. Principal satisfaction survey results.

37 (b) The department shall evaluate each state-approved
 38 provider using the information received pursuant to paragraph
 39 (a) and assign a service designation of excellent, satisfactory,
 40 or unsatisfactory for the prior school year. However, if the
 41 student population served by the provider does not meet the
 42 minimum sample size necessary, based on accepted professional
 43 practice for statistical reliability and prevention of the
 44 unlawful release of personally identifiable student information,
 45 the department may not assign the provider a service
 46 designation. The State Board of Education shall specify, in
 47 rule, the threshold requirements for assigning the service
 48 designations. By July 1 of each year, the department must report
 49 the service designations to the supplemental educational
 50 services providers, the school districts, parents, and the
 51 public.

52 (c) School districts may use Title I, Part A funds to meet
 53 the requirements of this subsection, as provided in the
 54 Elementary and Secondary Education Act, as amended.

55 ~~(a) The Department of Education shall assign to each~~
 56 ~~state-approved supplemental educational services provider one of~~

57 ~~the following grades, defined according to rules of the State~~
 58 ~~Board of Education:~~

- 59 1. ~~"A," providing superior service.~~
- 60 2. ~~"B," providing above satisfactory service.~~
- 61 3. ~~"C," providing satisfactory service.~~
- 62 4. ~~"D," providing below satisfactory service.~~
- 63 5. ~~"F," providing unsatisfactory service.~~

64 ~~(b) A state-approved supplemental educational services~~
 65 ~~provider's grade shall be based on a combination of student~~
 66 ~~learning gains and student proficiency levels, as measured by~~
 67 ~~the statewide assessment pursuant to s. 1008.22, and norm-~~
 68 ~~referenced tests approved by the Department of Education for~~
 69 ~~students in kindergarten through grade 3.~~

70 ~~(c) Beginning with the 2007-2008 school year, the~~
 71 ~~Department of Education shall assign a grade to each state-~~
 72 ~~approved supplemental educational services provider and by March~~
 73 ~~1 report the grades to the supplemental educational services~~
 74 ~~providers, the school districts, parents, and the public.~~

75 (6) RULES.--

76 (a) The State Board of Education shall ~~may~~ adopt rules
 77 pursuant to ss. 120.536(1) and 120.54 to implement the
 78 provisions of this section and may enforce the provisions of
 79 this section pursuant to s. 1008.32.

80 (b) Agency rules shall include an internal complaint
 81 procedure to resolve disputes regarding the state approval
 82 process, termination of state approval, and assignment of a
 83 service designation. The internal complaint procedure shall
 84 afford an informal review by a hearing officer employed by the

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85 department and, if requested, a formal review by a hearing
86 officer employed by the department who shall recommend a
87 resolution of the dispute to the Commissioner of Education. The
88 internal complaint procedure is exempt from the provisions of
89 chapter 120. The decision of the Commissioner of Education
90 constitutes final agency action.

91 Section 2. This act shall take effect July 1, 2009.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (01)

Bill No. **CS/HB 1377**

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: Full Appropriations Council on
2 Education & Economic Development
3 Representative(s) Flores offered the following:
4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (5) of section 1008.331, Florida
8 Statutes, is amended to read:

9 1008.331 Supplemental educational services in Title I
10 schools; school district, provider, and department
11 responsibilities.--

12 (5) RESPONSIBILITIES OF THE DEPARTMENT OF EDUCATION.--

13 (a) By May 1 of each year, each supplemental educational
14 services provider must report to the department, unless a prior
15 agreement has been made with the local school district, in an
16 electronic form prescribed by the department, the following
17 information regarding services provided to public school
18 students in the district:

19 1. Student learning gains as demonstrated by mastery of
20 applicable benchmarks or access points set forth in the Sunshine
21 State Standards;

22 2. Student attendance and completion data;

23 3. Parent satisfaction survey results;

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24 4. School district satisfaction survey results received
25 directly from the school district; and

26 5. Satisfaction survey results received directly from the
27 school district from principals in whose schools supplemental
28 educational services were provided on site.

29
30 The Department shall provide a uniform survey to be completed
31 online for principals and school districts.

32 ~~The Department of Education shall assign to each state-approved~~
33 ~~supplemental educational services provider one of the following~~
34 ~~grades, defined according to rules of the State Board of~~
35 ~~Education:~~

- 36 ~~1. "A," providing superior service.~~
37 ~~2. "B," providing above satisfactory service.~~
38 ~~3. "C," providing satisfactory service.~~
39 ~~4. "D," providing below satisfactory service.~~
40 ~~5. "F," providing unsatisfactory service.~~

41 (b) The department shall evaluate each state-approved
42 provider using the information received pursuant to paragraph
43 (a) and assign a service designation of excellent, satisfactory,
44 or unsatisfactory for the prior school year. However, if the
45 student population served by the provider does not meet the
46 minimum sample size necessary, based on accepted professional
47 practice for statistical reliability and the prevention of the
48 unlawful release of personally identifiable student information,
49 the provider will not receive a service designation. The
50 department shall specify, by rule, the threshold requirements
51 for assigning the service designations; however, the service
52 designations must be based primarily on student learning gains.
53 By July 1 of each year, the department must report the service
54 designation to the supplemental educational services providers,
55 the school districts, parents, and the public. A state-approved
56 ~~supplemental educational services provider's grade shall be~~

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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57 ~~based on a combination of student learning gains and student~~
58 ~~proficiency levels, as measured by the statewide assessment~~
59 ~~pursuant to s. 1008.22, and norm-referenced tests approved by~~
60 ~~the Department of Education for students in kindergarten through~~
61 ~~grade 3.~~

62 (c) School districts may use Title I, Part A funds to meet
63 the requirements, as provided in the Elementary and Secondary
64 Education Act, as amended. Beginning with the 2007-2008 school
65 year, the Department of Education shall assign a grade to each
66 state-approved supplemental educational services provider and by
67 March 1 report the grades to the supplemental educational
68 services providers, the school districts, parents, and the
69 public.

70 (d) The State Board of Education shall adopt rules
71 pursuant to ss. 120.536(1) and 120.54 to administer the
72 provisions of this subsection.

73 (e) The board's rules shall include an internal complaint
74 procedure to resolve disputes regarding the state approval
75 process, termination of state approval, and assignment of a
76 service designation. The internal complaint procedure shall
77 afford an informal review by a hearing officer employed by the
78 department and, if requested, a formal review by a hearing
79 officer employed by the department who shall recommend a
80 resolution of the dispute to the Commissioner of Education. The
81 internal complaint procedure is exempt from the provisions of
82 chapter 120. The decision by the Commissioner of Education shall
83 constitute final action.

84 (f) By September 1, 2009, the department shall approve
85 acceptable pre- and post-methods for measuring student learning
86 gains, to include standardized assessments, diagnostic
87 assessments, criterion-referenced and skill-based assessments,
88 or other applicable methods appropriate for each grade level,
89 for use by supplemental educational services providers and local

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (01)

90 school districts in determining student learning gains. Each
91 method must be able to measure student progress toward mastering
92 the targeted benchmarks or access points set forth in the
93 Sunshine State Standards and the student's supplemental
94 educational services plan. The use of a diagnostic assessment
95 instrument, which is aligned to a providers curriculum, is an
96 acceptable pre- and post-method if the provider can demonstrate
97 that the assessment meets the requirements of this paragraph and
98 is not deemed unreliable or invalid by the department.

99 (g) As a condition for state approval, a provider must use
100 a method for measuring student learning gains that results in
101 reliable and valid results as approved by the department.

102 (h) The provider shall report data on individual student
103 learning gains to the department, unless a prior agreement has
104 been made with the local school district to report such student
105 achievement data. The report must include individual student
106 learning gains as demonstrated by mastery of applicable
107 benchmarks or access points set forth in the Sunshine State
108 Standards.

109 Section 2. This act shall take effect July 1, 2009

110
111
112 -----
113 **T I T L E A M E N D M E N T**

114 Remove the entire title and insert:

115 An act relating to supplemental educational services; amending
116 s. 1008.331, F.S.; requiring that the department evaluate and
117 approve student assessment instruments for use by providers;
118 requiring that each state-approved supplemental educational
119 services provider report certain information to the Department
120 of Education regarding services to public school students in the
121 district by a specified date each year; requiring that the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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122 department evaluate each provider based on such information and
123 assign a service designation; providing an exception for such
124 designation; requiring that the department adopt rules
125 specifying the threshold requirements for such designation;
126 requiring that the department report the service designations to
127 the providers, the school districts, parents, and the public by
128 a specified date each year; authorizing school districts to use
129 certain funds to meet the requirements in the act; requiring
130 that the State Board of Education adopt rules; requiring that
131 the board's rules include certain procedures; requiring that the
132 department review and evaluate the school districts' diagnostic
133 and assessment instruments to measure student learning gains;
134 requiring that a supplemental educational services provider
135 report data on individual student learning gains to the
136 department; providing for exceptions; providing an effective
137 date.

138

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Drivers' Privacy Protection Act

The Drivers' Privacy Protection Act (DPPA)¹ requires all states to protect the privacy of personal information contained in an individual's motor vehicle record. This information includes the driver's name, address, phone number, Social Security number, driver identification number, photograph, height, weight, gender, age, certain medical or disability information, and in some states, fingerprints. It does not include information concerning a driver's traffic violations, license status, or accidents.

The Act has a number of exceptions. A driver's personal information may be obtained from a state's Department of Motor Vehicles for any federal, state or local agency use in carrying out its functions; for any state, federal or local proceeding if the proceeding involves a motor vehicle; for automobile and driver safety purposes, such as conducting recall of motor vehicles; and for use in market research activities. Personal data is also available to licensed private investigators.

The Act imposes criminal fines for non-compliance and grants individuals a private right of action including actual and punitive damages, as well as attorney's fees.

The DPPA limits the use of a driver's motor vehicle record to certain purposes. These purposes are defined in 18 U.S.C. § 2721:

- Legitimate government agency functions.
- Use in matters of motor vehicle safety, theft, emissions, product recalls.
- Motor vehicle market research and surveys.
- "Legitimate" business needs in transactions initiated by the individual to verify accuracy of personal information.
- Use in connection with a civil, criminal, administrative or arbitral proceeding.
- Research activities and statistical reports, so long as personal information is not disclosed or used to contact individuals.
- Insurance activities.
- Notice for towed or impounded vehicles.

¹ 18 U.S.C. 2721, *et seq.* (Public Law 103-322). Information in this section was adopted from the Electronic Privacy Information Center's survey of DPPA issues, available online at: <http://epic.org/privacy/drivers/> (last visited February 25, 2009).

- Use by licensed investigators or security service.
- Use by private toll transportation facilities.
- In response to requests for individual records if the state has obtained express consent from the individual.
- For bulk marketing distribution if the state has obtained express consent from the individual.
- Use by any requestor where the requestor can show written consent of the individual.
- For any other legitimate state use if it relates to motor vehicle or public safety.

If an individual has not given consent to the release of a motor vehicle record, the DPPA limits sharing of information once it is obtained. Information may only be shared with other approved users only for permitted uses. In addition, records must be kept of each additional disclosure identifying each person or entity that is receiving the disclosure and for what purpose. The disclosure records must be kept for a period of 5 years.

Florida Lawsuit

Mary Ann Collier, et al. v. Dickinson, et al., Case No. 04-21351-DV-JEM (S.D. Fla.), is a potential class action lawsuit originally filed on June 7, 2004. The suit names present and former employees of the Department of Highway Safety and Motor Vehicles (DHSMV) as defendants and alleges the continued disclosure of personal information maintained by DHSMV obtained from motor vehicle and driver license records in violation of the DPPA. DHSMV is represented by Chesterfield Smith, Senior Assistant Attorney General, and each of the three named defendants is represented by attorneys appointed through the Department of Financial Services, Division of Risk Management.

The Federal law was effective June 1, 2000. However, Florida statute was not amended to conform to the federal requirements until September 30, 2004, when s. 119.0712(2), F.S., was amended to mirror DPPA. The above legal action led to the 2004 change in Florida law.

The initial complaint demanded approximately \$39 billion in liquidated damages, \$2,500 per release of information. The parties engaged in three separate mediation sessions. The mediated agreement reached on June 5, 2008, provides that all motor vehicle registrants who are class members (all natural persons who had a valid driver license, identification card, or motor vehicle registration) would receive a \$1 credit on the renewal of their motor vehicle registration during the period of July 1, 2009, through June 30, 2010. The total amount of the credit would be approximately \$10.4 million.

There will also be equitable relief which includes changing the procedures of DHSMV regarding disclosure of personal information. DHSMV is required by the settlement agreement to maintain a website informing the public of their rights under DPPA.

In addition, the Division of Risk Management would pay each of the four named plaintiffs \$3,000 and attorneys' fees in the amount of \$2.85 million.

Proposed Changes

The bill provides that any person who held a driver's license, identification card, or motor vehicle registration that was valid between June 1, 2000, and September 30, 2004, is eligible to receive a single \$1 credit on a new or renewed motor vehicle registration between July 1, 2009, and June 30, 2010.

Section 320.08046, F.S., provides a \$1 surcharge on license taxes for all vehicles required to be registered in Florida. Of this \$1 surcharge, 58 percent is directed to the General Revenue Fund and 42 percent is directed to the Grants and Donations Trust Fund in the Department of Juvenile Justice, to fund community juvenile justice partnership grants. The bill identifies only the General Revenue Fund portion of this surcharge as the funding mechanism for the estimated \$10.4 million in revenue not collected as a result of the settlement. An eligible recipient may elect not to receive the \$1 credit. The bill recognizes the credits are authorized if the United States District Court for the Southern District of Florida grants an order approving the settlement agreement.

The provisions of the bill explicitly expire on July 1, 2011.

B. SECTION DIRECTORY:

Section 1 Implements a litigation settlement; provides eligibility and procedures to collect the credit; provides an opportunity for eligible recipients to refuse the \$1 credit; provides a funding mechanism; provides an expiration of the provision. Recognizes the credits are authorized if the United States District Court for the Southern District of Florida grants an order approving the settlement agreement.

Section 2 Provides an Effective Date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill will reduce the amount of revenue received from certain drivers when registering or renewing a motor vehicle in the State of Florida. The estimated reduction is \$10.4 million.

The bill redirects revenue authorized in s. 320.08046, F.S., which is currently designated to the General Revenue Fund, to fund the \$1 credit to implement the litigation settlement provisions of *Collier v. Dickinson* for the period July 1, 2009, through June 30, 2010.

This will result in a non-recurring revenue loss to the General Revenue Fund for the credit amount. The department estimates approximately 10.4 million driver license/ID card holders and/or motor vehicle registrants would be eligible to receive the credit.

	<u>FY 09-10</u>	<u>FY 10-11</u>	<u>FY 11-12</u>
License Tax Surcharge	\$10.4	\$0	\$0

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Floridians holding a driver's license, identification card, or motor vehicle registration that was valid between June 1, 2000, and September 30, 2004, may elect to receive a \$1 reduction on a new or renewed motor vehicle registration between July 1, 2009, and June 30, 2010.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 4, 2009, the Roads, Bridges, and Ports Policy Committee adopted two amendments and reported the bill favorably.

Amendment 1 clarifies that the revenue source for the credit, the \$1 surcharge on license taxes levied by s. 320.08046, F.S., is only be derived from the 58 percent of the surcharge that currently goes to the General Revenue Fund. The 42 percent of the surcharge that goes to the Department of Juvenile Justice is not a revenue source for the credit.

Amendment 2 amends the bill to allow eligible recipients of the credit to return their credit to the department, if they so choose.

On March 19, 2009, the Transportation & Economic Development Appropriations Committee adopted one amendment and reported the bill favorably as a Committee Substitute.

Amendment 1 recognizes the credits are authorized if the United States District Court for the Southern District of Florida grants an order approving the settlement agreement.

1 A bill to be entitled
 2 An act relating to motor vehicle registration; providing
 3 for the implementation of a certain litigation settlement;
 4 providing eligibility and procedures to collect a credit
 5 on new or renewal registrations; providing a funding
 6 mechanism for the credit; requiring the credit amounts to
 7 be deducted from specified moneys deposited into the
 8 General Revenue Fund; authorizing recipients to return the
 9 credit; providing that the credits are contingent on court
 10 approval of a final settlement; providing for expiration;
 11 providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:
 14

15 Section 1. Implementation of litigation settlement
 16 provisions of Collier v. Dickinson.--

17 (1) Any person who held a driver's license, identification
 18 card, or motor vehicle registration that was valid between June
 19 1, 2000, and September 30, 2004, is eligible to receive a single
 20 \$1 credit on a new or renewed motor vehicle registration between
 21 July 1, 2009, and June 30, 2010.

22 (2) Notwithstanding the provisions of s. 320.08046,
 23 Florida Statutes, the 58 percent of the surcharge levied under
 24 s. 320.08046, Florida Statutes, that is to be deposited into the
 25 General Revenue Fund pursuant to that section shall be used to
 26 fund the \$1 credit authorized in subsection (1).

27 (3) Eligible recipients may elect to return their credit.

28 (4) The Department of Highway Safety and Motor Vehicles
 29 may only allow the credits authorized in subsection (1) if the
 30 United States District Court for the Southern District of
 31 Florida grants an order finally approving the settlement
 32 agreement in Collier, et al. v. Dickinson, et al., case number
 33 04-21351-DV-JEM.

34 (5) This section expires July 1, 2011.
 35 Section 2. Section 320.08046, Florida Statutes, reads:
 36 320.08046 Surcharge on license tax; General Revenue
 37 Fund.--There is levied on each license tax imposed under s.
 38 320.08, except those set forth in s. 320.08(11), a surcharge in
 39 the amount of \$1, which shall be collected in the same manner as
 40 the license tax. Of the proceeds of the license tax surcharge,
 41 58 percent shall be deposited into the General Revenue Fund and
 42 42 percent shall be deposited into the Grants and Donations
 43 Trust Fund in the Department of Juvenile Justice to fund the
 44 community juvenile justice partnership grants program.

45 Section 3. This act shall take effect July 1, 2009.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

Bill No. **CS/HB 7029**

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: Full Appropriations Council on
2 Education & Economic Development

3
4 Representatives Glorioso and Evers offered the following:

5
6 **Amendment**

7 Delete line 45 and insert:

8
9 Section 3. Section 20.24, Florida Statutes, is reenacted
10 and amended to read:

11 20.24 Department of Highway Safety and Motor Vehicles. -
12 There is created a Department of Highway Safety and Motor
13 Vehicles.

14 (1) The head of the Department of Highway Safety and Motor
15 Vehicles is the Governor and Cabinet.

16 2) The following divisions, and bureaus within the
17 divisions, of the Department of Highway Safety and Motor
18 Vehicles are established:

19 (a) Division of the Florida Highway Patrol.

20 (b) Division of Driver Licenses.

21 (c) Division of Motor Vehicles.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

22 | ~~1. Bureau of Motor Vehicle Inspection.~~

23 | Section 4. This act shall take effect July 1, 2009.