



Full Appropriations Council on Education & Economic Development and General Government & Health Care

Thursday, March 18, 2010
1:30 PM – 4:30 PM
212 Knott Building

Council Meeting Packet

Larry Cretul
Speaker

David Rivera
Chair



The Florida House of Representatives

**Full Appropriations Council on Education & Economic Development
Full Appropriations Council on General Government & Health Care**

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Meeting Agenda

**Thursday, March 18, 2010
212 Knott Building
1:30 PM – 4:30 PM**

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

CS/HB 341 H. Lee Moffitt Cancer Center and Research Institute by State Universities & Private Colleges Policy Committee, Coley

CS/HB 665 Affordable Housing by Military & Local Affairs Policy Committee, Aubuchon

HB 1299 Streamlining the Issuance of Licenses, Certifications, and Registrations Issued by State Agencies by Horner

HB 7053 Public School Assessments by PreK-12 Policy Committee, Legg

- IV. Closing Remarks and Adjournment

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 H. Lee Moffitt Cancer Center and Research Institute

The H. Lee Moffitt Cancer Center and Research Institute is a leading cancer research, education, and treatment center in Tampa that is affiliated with the University of South Florida (USF) as well as other universities nationwide.¹

History of the H. Lee Moffitt Cancer Center and Research Institute

The 1982 Legislature provided for the transfer of \$45 million from the Cigarette Tax Collection Fund to complete a Cancer and Chronic Disease Research and Treatment Center (Cancer Center) at the USF College of Medicine.² The Board of Regents (BOR) and USF created a not-for-profit corporation to operate the Cancer Center medical facility.³ State corporate records show the H. Lee Moffitt Cancer Center and Research Institute, Inc., was incorporated as a not-for-profit corporation in 1984.⁴ The not-for-profit corporation was considered a direct support organization of USF and operated under a contract with the BOR. The Cancer Center was completed and officially opened in October 1986. The medical staff of the center was comprised of the faculty of the USF College of Medicine. The corporation had additional staff of approximately 500, who were not state employees but were paid from the corporation's state appropriated budget.⁵

Ch. 87-121, L.O.F., codified in law the relationship between the BOR and the not-for-profit organization created to operate the Cancer Center by establishing the H. Lee Moffitt Cancer Institute and Research Institute at USF and requiring the BOR to enter into an agreement for the utilization of the facilities on the USF campus known as the H. Lee Moffitt Cancer Center and Research Institute with a not-for-profit organization that was certified by the BOR as a direct support organization. The not-for-profit corporation, acting as an instrumentality of the state, was required to govern and operate the H. Lee Moffitt Cancer Center and Research Institute in accordance with the terms of the agreement between the BOR and the not-for-profit corporation. The agreement was required to provide for the following:

- Approval of the articles of incorporation of the not-for-profit corporation by the BOR.
- Certification of the not-for-profit corporation by the BOR as a university direct support organization.

¹ Moffitt Cancer Center analysis of HB 341 (January 27, 2010).

² Ch. 82-240, L.O.F.

³ Staff analysis of HB 790 (April 21, 1987).

⁴ State Corporation Records <http://www.sunbiz.org> (last visited February 10, 2010).

⁵ Staff analysis of CS/SB 757 (May 22, 1987).

- Utilization of hospital facilities and personnel for mutually approved teaching and research programs conducted by USF.

The 1990 Legislature enacted specific provisions regarding the membership of the board of directors of the not-for-profit corporation; expanded the teaching and research programs for which the facilities could be used to include other accredited medical schools or research institutes; provided for the center to be administered by a director who served at the pleasure of the board of directors of the H. Lee Moffitt Cancer Center and Research Institute, Inc.; and prescribed the powers and duties of the center director.⁶

In 1993, the Legislature granted the not-for-profit corporation the ability to create not-for-profit subsidiaries to provide it the flexibility necessary to compete in the health care industry.⁷ The legislative intent section of Ch. 93-167, L.O.F., includes the following statement:

“Whereas, the Legislature considers the not-for-profit corporation that governs and operates the H. Lee Moffitt Cancer Center and Research Institute to be performing a statewide function and to be a corporation primarily acting as an instrumentality of the state, and, therefore, considers any subsidiaries created by virtue of this act to be corporations acting primarily as instrumentalities of the state...”

The 2002 School Code Rewrite replaced references to the Board of Regents with references to the State Board of Education (SBE).⁸

In 2004, the Legislature authorized the not-for-profit corporation, with prior approval of the SBE, to create for-profit corporate subsidiaries as well as not-for-profit corporate subsidiaries.⁹

The responsibilities of the SBE with regard to the H. Lee Moffitt Cancer Center and Research Institute, including the agreement between the SBE and the not-for-profit corporation, were transferred to the Board of Governors in 2007.¹⁰

Current status of the H. Lee Moffitt Cancer Center and Research Institute (Moffitt Cancer Center)

Today, the Moffitt Cancer Center is an NCI Comprehensive Cancer Center that employs over 3,800 people and its facilities cover over 1.6 million square feet. The Moffitt Cancer Center currently admits approximately 7,500 patients per year and treats approximately 272,500 outpatients per year. The Moffitt Cancer Center also receives approximately \$59.7 million in grant funding per year. The Moffitt Cancer Center is licensed to operate 206 inpatient beds, plus a 36-bed blood and marrow transplant unit. The Moffitt Cancer Center also has 12 operating rooms; a diagnostic radiology department with MRI, PET/CT, digital mammography, and other imaging capabilities; and a radiation therapy with seven linear accelerators.¹¹

The not-for-profit corporation has created three not-for-profit subsidiaries which were approved by the Board of Regents and two for-profit subsidiaries which were approved by the Board of Governors.¹²

State corporation records identify three not-for-profit corporations that were formed in 1994: the H. Lee Moffitt Cancer Center and Research Hospital, Inc.; the H. Lee Moffitt Cancer Center and Research Institute Lifetime Cancer Screening Center, Inc.; and the H. Lee Moffitt Cancer Center and Research Institute Foundation, Inc.¹³ In 2006, the center announced that it was forming M2GEN, a for-profit

⁶ Ch. 90-56, L.O.F.

⁷ Ch. 93-167, L. O. F.

⁸ Ch. 2002-387, L.O.F.

⁹ Ch. 2004-2, L.O.F.

¹⁰ Ch. 2007-217, L.O.F.

¹¹ Moffitt Cancer Center's analysis of HB 341 (January 27, 2010).

¹² The Florida Senate, *Open Government Sunset Review of Section 1004.43(8)10. and 12., F.S., H. Lee Moffitt Cancer Center and Research Institute Trade Secrets and Information Exempt or Confidential Under the Laws of Another State, National or the Federal Government*, 3, Interim Report 2010-221, September 2009.

¹³ State Corporation Records <http://www.sunbiz.org> (last visited February 10, 2010). The search was limited to a search of the name "H. Lee Moffitt." The apparent related corporations are: H. Lee Moffitt Cancer Center and Research

subsidiary with drug manufacturer Merck & Co., to develop personalized cancer treatments for patients using molecular technology.¹⁴ The Moffitt Technologies Corporation is a for-profit corporation formed in 2005 to develop biotechnology.¹⁵

Current Role of the Board of Governors

The Board of Governors must provide for the following in the agreement with the not-for-profit corporation:¹⁶

- Approval of the articles of incorporation of the not-for-profit corporation and any not-for-profit subsidiary;
- Use of lands, facilities, and personnel by the not-for-profit corporation and its subsidiaries for mutually approved teaching and research programs conducted by the University of South Florida or other accredited medical schools or research institutes;
- Preparation of an annual financial audit of the accounts and records of the not-for-profit corporation and all subsidiaries and submittal of the annual audit report and a management letter to the Auditor General and the Board of Governors for review. The Board of Governors, the Auditor General, and the Office of Program Policy Analysis and Government Accountability are authorized to require and receive any detail or supplemental data relative to the operation of the not-for-profit corporation or subsidiary; and
- Provision by the not-for-profit corporation and its subsidiaries of equal employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

The Board of Governors is authorized to secure comprehensive general liability protection, including professional liability protection, for the not-for-profit corporation and its subsidiaries pursuant to s. 1004.24, F.S.¹⁷

In the event that the agreement between the not-for-profit corporation and the Board of Governors terminates, the Board of Governors resumes governance and operation of the facilities.¹⁸

Administration of the Moffitt Cancer Center

A not-for-profit corporation governs and operates the Moffitt Cancer Center in accordance with the terms of the agreement between the BOG and the not-for-profit corporation.¹⁹ The not-for-profit corporation is managed by a board of directors consisting of the President of the University of South Florida, the chair of the Board of Governors or his/her designee, 5 representatives of the state universities, and between 10-14 additional directors who are not medical doctors or state employees.²⁰

The Moffitt Cancer Center is administered by a chief executive officer who serves at the pleasure of the board of directors of the not-for-profit corporation.²¹ The duties of the chief executive officer include control over the budget and the dollars appropriated or donated to the institute from private, local, state, and federal sources, as well as technical and professional income that is generated or derived from the medical practice activities of the institute. Professional income generated by USF faculty from practice activities at the institute must be shared between the institute and USF as determined by the chief executive officer and the appropriate university dean or vice president.²²

Hospital, Inc.; H. Lee Moffitt Cancer Center and Research Institute Lifetime Cancer Screening Center, Inc.; and H. Lee Moffitt Cancer Center and Research Institute Foundation, Inc.

¹⁴ <http://www.moffitt.org/Site.aspx?spid=C54AF116F69244D49BACE202F69BC2A6> (last visited February 10, 2010).

¹⁵ State Corporation Records <http://www.sunbiz.org> (last visited February 10, 2010) and Moffitt Cancer Center 2005 Annual Report 5, <http://www.moffitt.org/Site.aspx?spid=CD60BED02BAC4E9299664B0F4AE463F1> (last visited February 10, 2010).

¹⁶ Section 1004.43(2), F.S.

¹⁷ Section 1004.43(3), F.S.

¹⁸ Section 1004.43(4), F.S.

¹⁹ Section 1004.43(1), F.S.

²⁰ Section 1004.43(1), F.S.

²¹ Section 1004.43(5), F.S.

²² Section 1004.43(5)(b), F.S.

The chief executive officer also appoints members to carry out the research, patient care, and educational activities of the institute and determines compensation, benefits, and terms of service. Members of the institute are eligible to hold concurrent appointments at affiliated academic institutions. University faculty are eligible to hold concurrent appointments at the institute.

Sovereign Immunity

The term "sovereign immunity" originally referred to the English common law concept that the government may not be sued because "the King can do no wrong." Sovereign immunity bars lawsuits against the government or its political subdivisions for the torts of officers or agents of such governments unless such immunity is expressly waived.

Article X, s. 13 of the Florida Constitution recognizes the concept of sovereign immunity and gives the Legislature the right to waive such immunity in part or in full by general law. Section 768.28, F.S., contains the limited waiver of sovereign immunity applicable to the state. Subsection (5) limits the recovery of any one person to \$100,000 for one incidence and limits all recovery related to one incidence to a total of \$200,000. Where the state's sovereign immunity applies, subsection (9) provides that the officers, employees and agents of the state that were involved in the commission of the tort are not personally liable to an injured party.

The term "state agencies or subdivisions" includes the executive departments, the Legislature, the judicial branch, and the independent establishments of the state, including state university boards of trustees; counties and municipalities; and corporations primarily acting as instrumentalities or agencies of the state, counties, or municipalities.²³

It is common for the state to create corporations and authorize subsidiary corporations. Whether such corporations are instrumentalities of the state is dependent upon the degree of control over the corporation or subsidiary. Where the subsidiary corporation is significantly controlled by government, it is an instrumentality of the state²⁴, but where the subsidiary acts with significant autonomy, it is not.²⁵

One circuit court in Hillsborough County has ruled that the "H. Lee Moffitt Cancer Center and Research Institute of Tampa, Inc.", is an instrumentality of the State of Florida and therefore the corporation is "entitled to the protections of sovereign immunity and the limited waiver set forth in Section 768.28, Florida Statutes."²⁶ The ruling did not consider whether any subsidiary corporation of the Moffitt Cancer Institute would similarly be considered an instrumentality of the state.

An entity that is an "instrumentality of the state" falls within the state's sovereign immunity. Section 1004.43(1), F.S., provides the H. Lee Moffitt Cancer Center and Research Institute is an instrumentality of the state, and thus it is clear that it is covered by sovereign immunity. The legislative intent of the bill allowing non-profit subsidiaries stated that any non-profit entity is an instrumentality of the state.²⁷ Such intent language is not law, but will be considered by any court that would be called upon to determine whether the non-profits are covered by sovereign immunity. On the issue of control, all of the subsidiaries appear to provide medical care and services for cancer research and treatment,

²³ Section 768.28(2), F.S.

²⁴ *Pagan v. Sarasota County Hospital Board*, 884 So.2d 257 (Fla. 2nd DCA 2004); *Prison Rehabilitative Industries & Diversified Enterprises v. Betterson*, 648 So.2d 778 (Fla. 1st DCA 1994).

²⁵ In *Shands Teaching Hospital & Clinics, Inc. v. Lee*, 478 So.2d 77, 79 (Fla. 1st DCA 1985), the court concluded that the nonprofit corporation to which the State Board of Education leased the Shands Teaching Hospital was not entitled to the benefit of sovereign immunity because the corporate entity was determined to be "an autonomous and self-sufficient entity, one not primarily acting as an instrumentality on behalf of the state."

²⁶ *McBride v. H. Lee Moffitt Cancer Center & Research Institute of Tampa, Inc.*, Case No. 95-CA-007231 (13th Judicial Circuit, February 2, 1996), at paragraph 1.b., recorded in OR Book 8039, Page 927, of the Public Records of Hillsborough County, Florida; *affirmed without opinion*, 683 So. 2d 122 (Fla. 2nd DCA 1996).

²⁷ Chapter 93-167, L.O.F., provided in part: "Whereas, the Legislature considers the not-for-profit corporation that governs and operates the H. Lee Moffitt Cancer Center and Research Institute to be performing a statewide function and to be a corporation primarily acting as an instrumentality of the state, and, therefore, considers any subsidiaries created by virtue of this act to be corporations acting primarily as instrumentalities of the state..."

operate out of the same campus next the University of South Florida, share corporate officers, and are controlled by the H. Lee Moffitt Cancer Center and Research Institute, Inc. It appears that the current subsidiaries are protected by sovereign immunity, although this is not specifically provided for in statute.

Effect of Proposed Changes

CS/HB 341 recognizes the expansion of the Moffitt Cancer Center's teaching and research programs to other state universities, including USF. The bill also notes the Moffitt Cancer Center's statewide mission by removing the initial reference to USF and providing that the Moffitt Cancer Center is a "statewide resource for basic and clinical research and multidisciplinary approaches to patient care."

The bill replaces the remaining reference to the State Board of Education with "Board of Governors" to conform to other references in s. 1004.43, F.S.

The bill specifically provides that the H. Lee Moffitt Cancer Center and Research Institute, Inc., and any not-for-profit subsidiary of the H. Lee Moffitt Cancer Center and Research Institute, Inc., are corporations primarily acting as instrumentalities of the state, and thus entitled to the sovereign immunity protection of s. 768.28, F.S.

The bill requires that the agreement between the Board of Governors and the not-for-profit corporation provide for the utilization of lands, facilities and personnel by the not-for-profit corporation and its subsidiaries for mutually approved teaching and research programs conducted by state universities, not just USF. The Moffitt Cancer Center indicates that this will allow for greater flexibility in creating programs statewide that will benefit institutions and attract high quality professionals and students to Florida in furtherance of the Moffitt Cancer Center's mission.²⁸

The bill provides that the chief executive officer will have control over income generated or derived from practice activities of the "not-for-profit corporation" rather than the "institute." Technical and professional income generated from practice activities may be shared between the not-for-profit corporation and its subsidiaries as determined by the chief executive officer. However, professional income generated by any state university employee from practice activities at the not-for-profit corporation and its subsidiaries must be shared between the employee's university and the not-for-profit corporation and its subsidiaries only as determined by the chief executive officer and the appropriate university dean or vice president. Representatives of the Moffitt Cancer Center indicate that these changes clarify the permissibility of sharing professional income generated between the not-for-profit corporation and its subsidiaries. Historically, the vast majority of the physicians on the medical staff at the Moffitt Center were employees of USF. On January 1, 2008, as part of the realignment of the affiliation between the Institute and USF, a majority of these physicians previously employed by USF transferred employment to the Moffitt Cancer Center. The changes proposed in the bill recognize the change in the employment status of these physicians.²⁹

The bill permits all state university faculty, rather than just USF faculty, to hold concurrent appointments at the Moffitt Cancer Center in recognition of the Moffitt Center's state-wide role and function. Representatives of the Moffitt Cancer Center indicate that this change will permit more meaningful affiliations between the Moffitt Center and other state universities as well as with USF³⁰

B. SECTION DIRECTORY:

Section 1. Amends s. 1004.43, F.S., revising provisions relating to the establishment of the institute and specifying primary responsibilities of the institute; conforming provisions relating to the agreement by the Board of Governors and the not-for-profit corporation for the use of facilities on the campus of the University of South Florida, specifying that the not-for-profit corporation and its not-for-profit subsidiaries shall conclusively act as

²⁸ Moffitt Cancer Center analysis of HB 341 (January 27, 2010).

²⁹ *Id.*

³⁰ *Id.*

instrumentalities of the state for purposes of sovereign immunity; authorizing the use of land, facilities, and personnel for teaching and research program conducted by state universities; revising provisions relating to the control and sharing of certain income.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The fiscal impact of the bill is indeterminate. According to the Board of Governors, there appears to be minimal potential fiscal impact to the State University System resulting from this legislation.

There is the potential for increased revenues for the state university system from faculty member practice activity if other universities in addition to USF choose to partner with Moffitt in the future and receive a portion of any additional practice activity income that is generated. The potential revenue amount cannot be determined at this time.³¹

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

³¹ Board of Governors analysis of CS/HB 341 (February 18, 2010).

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On February 17, 2010, the State Universities & Private Colleges Policy Committee adopted an amendment to HB 341 and reported the bill favorably as a Committee Substitute (CS). The amendment clarifies how technical and professional income from practice activities will be shared. The amendment:

- Allows technical and professional income generated from practice activities to be shared between the not-for-profit corporation and its subsidiaries as determined by the chief executive officer; and
- Requires professional income generated by state university employees from practice activities at the not-for-profit corporation and its subsidiaries to be shared between the university and the not-for-profit corporation and its subsidiaries only as determined by the chief executive officer and the appropriate university dean or vice president.

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A bill to be entitled
 An act relating to the H. Lee Moffitt Cancer Center and
 Research Institute; amending s. 1004.43, F.S.; revising
 provisions relating to the establishment of the institute
 and specifying primary responsibilities of the institute;
 conforming provisions relating to the agreement by the
 Board of Governors and the not-for-profit corporation for
 the use of facilities on the campus of the University of
 South Florida; specifying that the not-for-profit
 corporation and its not-for-profit subsidiaries shall
 conclusively act as instrumentalities of the state for
 purposes of sovereign immunity; authorizing the use of
 land, facilities, and personnel for teaching and research
 programs conducted by state universities; revising
 provisions relating to the control and sharing of certain
 income; providing an effective date.

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

Section 1. Section 1004.43, Florida Statutes, is amended
 to read:

1004.43 H. Lee Moffitt Cancer Center and Research
 Institute.—There is established the H. Lee Moffitt Cancer Center
 and Research Institute, a statewide resource for basic and
 clinical research and multidisciplinary approaches to patient
 care at the University of South Florida.

(1) The Board of Governors ~~State Board of Education~~ shall
 enter into an agreement for the utilization of the facilities on

29 | the campus of the University of South Florida to be known as the
 30 | H. Lee Moffitt Cancer Center and Research Institute, including
 31 | all furnishings, equipment, and other chattels used in the
 32 | operation of such ~~said~~ facilities, with a Florida not-for-profit
 33 | corporation organized solely for the purpose of governing and
 34 | operating the H. Lee Moffitt Cancer Center and Research
 35 | Institute. ~~This not-for-profit corporation, acting as an~~
 36 | ~~instrumentality of the State of Florida, shall govern and~~
 37 | ~~operate the H. Lee Moffitt Cancer Center and Research Institute~~
 38 | ~~in accordance with the terms of the agreement between the Board~~
 39 | ~~of Governors and the not-for-profit corporation.~~ The not-for-
 40 | profit corporation may, with the prior approval of the Board of
 41 | Governors, create either for-profit or not-for-profit corporate
 42 | subsidiaries, or both, to fulfill its mission. The not-for-
 43 | profit corporation and any approved not-for-profit subsidiary
 44 | shall be conclusively deemed corporations primarily acting as
 45 | instrumentalities of the state, pursuant to s. 768.28(2), for
 46 | purposes of sovereign immunity. For-profit subsidiaries of the
 47 | not-for-profit corporation may not compete with for-profit
 48 | health care providers in the delivery of radiation therapy
 49 | services to patients. The not-for-profit corporation and its
 50 | subsidiaries are authorized to receive, hold, invest, and
 51 | administer property and any moneys received from private, local,
 52 | state, and federal sources, as well as technical and
 53 | professional income generated or derived from practice
 54 | activities of the institute, for the benefit of the institute
 55 | and the fulfillment of its mission. The affairs of the
 56 | corporation shall be managed by a board of directors who shall

57 | serve without compensation. The President of the University of
 58 | South Florida and the chair of the Board of Governors, or his or
 59 | her designee, shall be directors of the not-for-profit
 60 | corporation, together with 5 representatives of the state
 61 | universities and no more than 14 nor fewer than 10 directors who
 62 | are not medical doctors or state employees. Each director shall
 63 | have only one vote, shall serve a term of 3 years, and may be
 64 | reelected to the board. Other than the President of the
 65 | University of South Florida and the chair of the Board of
 66 | Governors, directors shall be elected by a majority vote of the
 67 | board. The chair of the board of directors shall be selected by
 68 | majority vote of the directors.

69 | (2) The Board of Governors shall provide in the agreement
 70 | with the not-for-profit corporation for the following:

71 | (a) Approval of the articles of incorporation of the not-
 72 | for-profit corporation by the Board of Governors.

73 | (b) Approval of the articles of incorporation of any not-
 74 | for-profit corporate subsidiary created by the not-for-profit
 75 | corporation.

76 | (c) Utilization of lands, facilities, and personnel by the
 77 | not-for-profit corporation and its subsidiaries for research,
 78 | education, treatment, prevention, and the early detection of
 79 | cancer and for mutually approved teaching and research programs
 80 | conducted by the state universities ~~University of South Florida~~
 81 | or other accredited medical schools or research institutes.

82 | (d) Preparation of an annual financial audit of the not-
 83 | for-profit corporation's accounts and records and the accounts
 84 | and records of any subsidiaries to be conducted by an

85 independent certified public accountant. The annual audit report
 86 shall include a management letter, as defined in s. 11.45, and
 87 shall be submitted to the Auditor General and the Board of
 88 Governors. The Board of Governors, the Auditor General, and the
 89 Office of Program Policy Analysis and Government Accountability
 90 shall have the authority to require and receive from the not-
 91 for-profit corporation and any subsidiaries or from their
 92 independent auditor any detail or supplemental data relative to
 93 the operation of the not-for-profit corporation or subsidiary.

94 (e) Provision by the not-for-profit corporation and its
 95 subsidiaries of equal employment opportunities to all persons
 96 regardless of race, color, religion, sex, age, or national
 97 origin.

98 (3) The Board of Governors is authorized to secure
 99 comprehensive general liability protection, including
 100 professional liability protection, for the not-for-profit
 101 corporation and its subsidiaries pursuant to s. 1004.24. The
 102 not-for-profit corporation and its subsidiaries shall be exempt
 103 from any participation in any property insurance trust fund
 104 established by law, including any property insurance trust fund
 105 established pursuant to chapter 284, so long as the not-for-
 106 profit corporation and its subsidiaries maintain property
 107 insurance protection with comparable or greater coverage limits.

108 (4) In the event that the agreement between the not-for-
 109 profit corporation and the Board of Governors is terminated for
 110 any reason, the Board of Governors shall resume governance and
 111 operation of such facilities.

112 (5) The institute shall be administered by a chief
113 executive officer who shall serve at the pleasure of the board
114 of directors of the not-for-profit corporation and who shall
115 have the following powers and duties subject to the approval of
116 the board of directors:

117 (a) The chief executive officer shall establish programs
118 which fulfill the mission of the institute in research,
119 education, treatment, prevention, and the early detection of
120 cancer; however, the chief executive officer shall not establish
121 academic programs for which academic credit is awarded and which
122 terminate in the conferment of a degree without prior approval
123 of the Board of Governors.

124 (b) The chief executive officer shall have control over
125 the budget and the dollars appropriated or donated to the
126 institute from private, local, state, and federal sources, as
127 well as technical and professional income generated or derived
128 from practice activities of the not-for-profit corporation and
129 its subsidiaries institute. Technical and professional income
130 generated from practice activities may be shared between the
131 not-for-profit corporation and its subsidiaries as determined by
132 the chief executive officer. However, professional income
133 generated by state university employees faculty from practice
134 activities at the not-for-profit corporation and its
135 subsidiaries institute shall be shared between the ~~institute and~~
136 ~~the university and the not-for-profit corporation and its~~
137 subsidiaries only as determined by the chief executive officer
138 and the appropriate university dean or vice president.

139 (c) The chief executive officer shall appoint members to
 140 carry out the research, patient care, and educational activities
 141 of the institute and determine compensation, benefits, and terms
 142 of service. Members of the institute shall be eligible to hold
 143 concurrent appointments at affiliated academic institutions.
 144 State university faculty shall be eligible to hold concurrent
 145 appointments at the institute.

146 (d) The chief executive officer shall have control over
 147 the use and assignment of space and equipment within the
 148 facilities.

149 (e) The chief executive officer shall have the power to
 150 create the administrative structure necessary to carry out the
 151 mission of the institute.

152 (f) The chief executive officer shall have a reporting
 153 relationship to the Board of Governors or its designee.

154 (g) The chief executive officer shall provide a copy of
 155 the institute's annual report to the Governor and Cabinet, the
 156 President of the Senate, the Speaker of the House of
 157 Representatives, and the chair of the Board of Governors.

158 (6) The board of directors of the not-for-profit
 159 corporation shall create a council of scientific advisers to the
 160 chief executive officer comprised of leading researchers,
 161 physicians, and scientists. This council shall review programs
 162 and recommend research priorities and initiatives so as to
 163 maximize the state's investment in the institute. The council
 164 shall be appointed by the board of directors of the not-for-
 165 profit corporation. Each member of the council shall be

166 appointed to serve a 2-year term and may be reappointed to the
 167 council.

168 (7) In carrying out the provisions of this section, the
 169 not-for-profit corporation and its subsidiaries are not
 170 "agencies" within the meaning of s. 20.03(11).

171 (8)(a) Records of the not-for-profit corporation and of
 172 its subsidiaries are public records unless made confidential or
 173 exempt by law.

174 (b) Proprietary confidential business information is
 175 confidential and exempt from the provisions of s. 119.07(1) and
 176 s. 24(a), Art. I of the State Constitution. However, the Auditor
 177 General, the Office of Program Policy Analysis and Government
 178 Accountability, and the Board of Governors, pursuant to their
 179 oversight and auditing functions, must be given access to all
 180 proprietary confidential business information upon request and
 181 without subpoena and must maintain the confidentiality of
 182 information so received. As used in this paragraph, the term
 183 "proprietary confidential business information" means
 184 information, regardless of its form or characteristics, which is
 185 owned or controlled by the not-for-profit corporation or its
 186 subsidiaries; is intended to be and is treated by the not-for-
 187 profit corporation or its subsidiaries as private and the
 188 disclosure of which would harm the business operations of the
 189 not-for-profit corporation or its subsidiaries; has not been
 190 intentionally disclosed by the corporation or its subsidiaries
 191 unless pursuant to law, an order of a court or administrative
 192 body, a legislative proceeding pursuant to s. 5, Art. III of the
 193 State Constitution, or a private agreement that provides that

194 | the information may be released to the public; and which is
 195 | information concerning:

196 | 1. Internal auditing controls and reports of internal
 197 | auditors;

198 | 2. Matters reasonably encompassed in privileged attorney-
 199 | client communications;

200 | 3. Contracts for managed-care arrangements, including
 201 | preferred provider organization contracts, health maintenance
 202 | organization contracts, and exclusive provider organization
 203 | contracts, and any documents directly relating to the
 204 | negotiation, performance, and implementation of any such
 205 | contracts for managed-care arrangements;

206 | 4. Bids or other contractual data, banking records, and
 207 | credit agreements the disclosure of which would impair the
 208 | efforts of the not-for-profit corporation or its subsidiaries to
 209 | contract for goods or services on favorable terms;

210 | 5. Information relating to private contractual data, the
 211 | disclosure of which would impair the competitive interest of the
 212 | provider of the information;

213 | 6. Corporate officer and employee personnel information;

214 | 7. Information relating to the proceedings and records of
 215 | credentialing panels and committees and of the governing board
 216 | of the not-for-profit corporation or its subsidiaries relating
 217 | to credentialing;

218 | 8. Minutes of meetings of the governing board of the not-
 219 | for-profit corporation and its subsidiaries, except minutes of
 220 | meetings open to the public pursuant to subsection (9);

221 9. Information that reveals plans for marketing services
 222 that the corporation or its subsidiaries reasonably expect to be
 223 provided by competitors;

224 10. Trade secrets as defined in s. 688.002, including:

225 a. Information relating to methods of manufacture or
 226 production, potential trade secrets, potentially patentable
 227 materials, or proprietary information received, generated,
 228 ascertained, or discovered during the course of research
 229 conducted by the not-for-profit corporation or its subsidiaries;
 230 and

231 b. Reimbursement methodologies or rates;

232 11. The identity of donors or prospective donors of
 233 property who wish to remain anonymous or any information
 234 identifying such donors or prospective donors. The anonymity of
 235 these donors or prospective donors must be maintained in the
 236 auditor's report; or

237 12. Any information received by the not-for-profit
 238 corporation or its subsidiaries from an agency in this or
 239 another state or nation or the Federal Government which is
 240 otherwise exempt or confidential pursuant to the laws of this or
 241 another state or nation or pursuant to federal law.

242
 243 As used in this paragraph, the term "managed care" means systems
 244 or techniques generally used by third-party payors or their
 245 agents to affect access to and control payment for health care
 246 services. Managed-care techniques most often include one or more
 247 of the following: prior, concurrent, and retrospective review of
 248 the medical necessity and appropriateness of services or site of

249 services; contracts with selected health care providers;
 250 financial incentives or disincentives related to the use of
 251 specific providers, services, or service sites; controlled
 252 access to and coordination of services by a case manager; and
 253 payor efforts to identify treatment alternatives and modify
 254 benefit restrictions for high-cost patient care.

255 (c) Subparagraphs 10. and 12. of paragraph (b) are subject
 256 to the Open Government Sunset Review Act in accordance with s.
 257 119.15 and shall stand repealed on October 2, 2010, unless
 258 reviewed and saved from repeal through reenactment by the
 259 Legislature.

260 (9) Meetings of the governing board of the not-for-profit
 261 corporation and meetings of the subsidiaries of the not-for-
 262 profit corporation at which the expenditure of dollars
 263 appropriated to the not-for-profit corporation by the state are
 264 discussed or reported must remain open to the public in
 265 accordance with s. 286.011 and s. 24(b), Art. I of the State
 266 Constitution, unless made confidential or exempt by law. Other
 267 meetings of the governing board of the not-for-profit
 268 corporation and of the subsidiaries of the not-for-profit
 269 corporation are exempt from s. 286.011 and s. 24(b), Art. I of
 270 the State Constitution.

271 (10) In addition to the continuing appropriation to the
 272 institute provided in s. 210.20(2), any appropriation to the
 273 institute provided in a general appropriations act shall be paid
 274 directly to the board of directors of the not-for-profit
 275 corporation by warrant drawn by the Chief Financial Officer from
 276 the State Treasury.

CS/HB 341

2010

277

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 665 Affordable Housing
SPONSOR(S): Military & Local Affairs and Aubuchon
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Military & Local Affairs Policy Committee	12 Y, 0 N, As CS	Rojas	Hoagland
2) Full Appropriations Council on Education & Economic Development		Fennell	Leznoff
3) Economic Development & Community Affairs Policy Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

CS/HB 665 revises statutes which govern the implementation of affordable housing practices and procedures statewide by the Florida Housing Finance Corporation (FHFC). The FHFC is the state entity primarily responsible for encouraging the construction of affordable housing in Florida. The bill addresses a number of different subject areas.

- The bill removes the statutory limitations on the amount of documentary stamp revenue that goes into the State Housing Trust Fund and the Local Government Housing Trust Fund. The Office of Demographic & Economic Research's (EDR) consensus estimate found that there is no impact to cash in the current fiscal year. However, based on a four-year outlook there is an annualized negative impact to recurring general revenue of \$21.4 million and an annualized positive recurring impact to the state housing trust funds in the same amount.
- The bill repeals section 8 of chapter 2009-131, L.O.F., retroactively. This eliminates a conflicting version of s. 201.15, F.S., which passed concurrently with a different version during the 2009 legislative session, consistent with statutory revision's placement in the statute.
- The bill revises the state housing strategy to provide targeted assistance for persons with special needs. It includes an analysis of persons with special needs in the strategy's periodic review and report and provides for the distribution of housing funds for multifamily rental housing address the housing needs of persons most in need of housing. The bill creates two new definitions to enact the newly established state housing strategies. Those new definitions are aimed to serve populations defined as suffering from a "disabling condition" and those defined as a "person with special needs."
- The bill empowers the FHFC with specified powers necessary or convenient to carry out the purposes of affordable housing relating to:
 - the investment of surplus funds and,
 - the administration of programs receiving federal funding for which no corresponding program has been previously created by statute.
- The bill provides that funds from the State Housing Trust Fund or the Local Government Housing Trust Fund that are appropriated for use in the State Apartment Incentive Loan (SAIL) Program, Florida Homeownership Assistance Program (FHAP), Community Workforce Housing Innovation Pilot (CWHIP) Program, or the State Housing Initiatives Partnership (SHIP) Program may not be used to finance or otherwise assist new construction until July 1, 2011.
- The bill provides no impact to general revenue in the Fiscal Year 2010-11. There is a recurring negative impact to General Revenue of \$21.4 million in Fiscal Year 2013-14.
- The bill has an effective date of July 1, 2010.

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

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DATE: 3/16/2010

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Distribution of Documentary Stamp Taxes

Present Situation

Section 201.15, F.S., provides for the distribution of documentary stamp taxes. The taxes are primarily used to fund varied land and water conservation, preservation, and maintenance trust funds, as well as certain transportation trust funds. The distributions to the State and Local Government Housing Trust Funds are limited to a percentage of the collected documentary stamp taxes or \$243 million, whichever is less.

Effect of the Bill

The bill removes the statutory limitations on the amount of documentary stamp revenue that goes into the State Housing Trust Fund and the Local Government Housing Trust Fund. The bill accomplishes this by:

- Amending subsection 201.15(9), F.S., by striking the language that provides that the money to be distributed to the State Treasury to the credit of the State Housing Trust Fund for certain purposes will be the lesser of 7.53 percent or \$107 million and replaces it with "seven and fifty-three hundredths" percent.
- Amending subsection 201.15(10), F.S., by striking the language that provides that the money to be distributed to the State Treasury to the credit of the State Housing Trust Fund for certain purposes will be the lesser of 8.66 percent or \$136 million and replaces it with "eight and sixty-six hundredths" percent.

FHFC asserts that removal of the statutory limitations on the amount of documentary stamp revenue that goes into the trust funds would increase the amount of funds that could be allocated to FHFC for its various affordable housing programs.

The caps on the above trust fund distributions are eliminated, so that 7.53% of net documentary stamp tax collections are split 50% to the State Housing Trust Fund and 50% to the Local Government Housing Trust fund, and 8.66% of the net collections are split 12.5% to the State Housing Trust Fund and 87.5% to the Local Government Housing Trust Fund.

EDR's consensus estimate found that there is no impact to cash in the current fiscal year. However, based on a four-year outlook there is an annualized negative impact to recurring general revenue of \$21.4 million and an annualized positive recurring impact to the state housing trust funds in the same amount.

Repeal of section 8 of chapter 2009-131, Laws of Florida

Current Situation

Section 201.15, F.S., provides that all taxes collected under this chapter are subject to the service charge imposed in s. 215.20(1), F.S. In addition, prior to distribution under this section, the Department of Revenue deducts the amounts necessary to pay the costs of the collection and enforcement of the tax levied.

Section 8 of chapter 2009-131, L.O.F., amended s. 201.15, F.S., by adding language that provided for all costs of collection and enforcement of the tax and the service charge to be available and transferred to the extent necessary to pay debt service and any other amounts payable with respect to bonds authorized before July 1, 2009.

This chapter of law also created subsection 201.15(16), F.S., which provides that, if amounts necessary to pay debt service or any other amounts payable with respect to Preservation 2000 bonds, Florida Forever bonds, or Everglades Restoration bonds authorized before July 1, 2009, exceed the amounts distributable pursuant to subsection 201.15(1), F.S., all moneys, distributable pursuant to this section, are available for such obligations and transferred in the amounts necessary to pay such obligations when due. Those amounts distributable pursuant to subsection 201.15(2), (3), (4), and (5), and paragraphs (9)(a) and (10)(a), F.S., are not available to pay such obligations to the extent that such moneys are necessary to pay debt service on bonds secured by revenues pursuant to those provisions.

Effect of the Bill

The bill would repeal Section 8 of chapter 2009-131, L.O.F., retroactively to June 30, 2009, which predates its effective date of July 1, 2009. The purpose of this retroactive repeal is to eliminate a conflicting version of s. 201.15, F.S., that was included in SB 2430 (Relating to Taxation of Documents) from 2009. This version provides certain distribution guidelines for tax collections after subtracting costs and the service charge, and refers to bonds authorized before July 1, 2009. SB 2430 was signed into law by the Governor on June 10, 2009, and became ch. 2009-131, L.O.F.

The version that statutory revision included in the body of s. 201.15, F.S., provides different distribution guidelines for tax collections after subtracting costs and the service charge. This version of s. 201.15, F.S., was included in SB 1750 (Relating to Disposition of Tax Revenues) from 2009, and refers to bonds authorized before January 1, 2010. SB 1750 was signed into law by the Governor on May 27, 2009, and became ch. 2009-68, L.O.F.

State Housing Strategy

Current Situation

Currently under ch. 420, F.S., the only existing set-aside or prioritization requirements for affordable housing are for commercial fishing workers, farm-workers, elderly, and homeless. Current law does not specifically address affordable housing for persons with disabilities, youth aging out of foster care, disabled veterans and survivors of domestic violence who are groups at great risk of becoming homeless.

Effect of the bill

The bill revises the state housing strategy in s. 420.003, F.S., to provide targeted assistance for persons with special needs and includes an analysis of persons with special needs in the strategy's periodic review and report and provides for the distribution of housing funds for multifamily rental housing to be administered to address the housing needs of persons most in need of housing. Specifically, the bill:

- Includes persons with special needs as a tenant group for specified purposes of the State Apartment Incentive Loan (SAIL) Program.
- Extends low interest mortgage loans for the SAIL Program to sponsors of projects who set aside units for persons with special needs.

- Establishes a maximum threshold of ten percent of the SAIL funds available at that time to be used for persons with special needs.
- Adds projects that reserve units for persons with special needs to the scoring system for evaluation and competitive ranking of applications submitted in SAIL Program.

The bill creates two new definitions to enact the newly established state housing strategies.

- *“Disabling Condition”* means a diagnosable substance abuse disorder, serious mental illness, development disability, or chronic physical illness or disability, or the co-occurrence of two or more of these conditions, and a determination that the condition is:
 - Expected to be of long-continued and indefinite duration;
 - Not expected to impair the ability of the person with special needs to live independently with appropriate supports.
- *“Person with special needs”* means an adult person requiring independent living services in order to maintain housing or to develop independent living skills. This individual must also have a disabling condition; be a young adult existing foster care; a survivor of domestic violence; or a person receiving benefits under Social Security Disability Insurance (SSDI) program, Supplemental Social Security (SSI) program, or veterans’ disability benefit.

Powers conferred on the Florida Housing Finance Corporation

Current Situation

Sections 159.608 and 420.507, F.S., empower the FHFC with specified powers necessary or convenient to carry out and effectuate the purposes for the provision of affordable housing. Among these powers the FHFC is able to receive federal funding in connection with the corporation's programs directly from the Federal Government.

Section 218.415, F.S., provides guidelines for investment activity by local government units. It requires investment policies to be structured to place the highest priority on the safety of principal and liquidity of funds. It emphasizes that the optimization of investment returns is secondary to the requirements for safety and liquidity. Each unit of local government is required to adopt policies that are commensurate with the nature and size of the public funds within its custody.

Effect of the bill

The bill creates s. 159.608(11), F.S., authorizing the FHFC to invest and reinvest surplus funds in accordance with s. 218.415, F.S.

However, in addition to the investments expressly authorized in statute¹, the FHFC is empowered to invest surplus funds in interest-bearing time deposits or savings accounts that are fully insured by the Federal Deposit Insurance Corporation (FDIC) regardless of whether the bank or financial institution in which the deposit or investment is made is a qualified public depository as defined in s. 280.02, F.S.

State restrictions, pertaining to “qualified public depositories” do not apply to some investments, including “public deposits which are fully secured under federal regulations”² Legal counsel for some local housing finance authorities have opined that this waiver includes investments that are fully insured by the FDIC. However, proponents of the countervailing view have interpreted the language so that it does not include FDIC insured accounts. An auditor has suggested that a clarification would be beneficial.

This subsection contains explicit intent language to structure this empowerment as supplementary authority and to avoid interpretation as a limitation upon any powers of the FHFC.

¹ ss. 218.415(16)(a)-(g) and (17)(a)-(d)

² 280.03(3)(e), F.S.].

The bill also creates s. 420.507(33), F.S., establishing the authority of the FHFC to administer programs receiving federal funding for which no corresponding program has been previously created by statute and establish selection criteria for such funds by request for proposals or other competitive solicitation. This expands the ability of the FHFC to expend federal housing relief funds in an expedient and efficient manner.

Temporary Limitation of New Construction

The bill provides a legislative finding that:

“due to the current economic conditions in the housing market there is a critical need to rehabilitate or sell excess inventory of unsold homes, including foreclosed homes and newly constructed homes, as well as a critical need for the rehabilitation and preservation of older, affordable apartments. The Legislature further finds that there is a critical need to create housing-related jobs and that these conditions require the targeting of state and local housing trust fund moneys to assist in the sale or rehabilitation of existing homes and the preservation and rehabilitation of older rental apartments.”

The bill provides that notwithstanding current law³, funds from the State Housing Trust Fund or the Local Government Housing Trust Fund that are appropriated for use in the SAIL Program, Florida Homeownership Assistance Program (FHAP), Community Workforce Housing Innovation Pilot (CWHIP) Program, or the State Housing Initiatives Partnership (SHIP) Program may not be used to:

- Finance or otherwise assist the construction or purchase of housing sold to eligible individuals, unless the housing unit being sold had an initial certificate of occupancy prior to December 31, 2009; or
- Finance or otherwise assist in the construction or purchase of rental housing, unless the development being financed or assisted received its initial certificate of occupancy prior to December 31, 1995.

The bill expressly states that nothing in this section restricts the use of such funds to assist with the purchase of newly constructed homes that were completed prior to December 31, 2009, or the acquisition and rehabilitation of apartments that received their initial certificate of occupancy prior to December 31, 1995. It also provides that the use of such funds is subject to the restrictions of the program under which the funding is made available.

This section and the limitations imparted by it expires July 1, 2011.

B. SECTION DIRECTORY:

Section 1: Creates subsection 156.608(11), F.S., authorizing the FHFC to invest and reinvest surplus funds.

Section 2: Amends Subsections 201.15 (9), (10), (13), F.S., as amended by chapters 2009-17, 2009-21, and 2009-68, L.O.F., removing the statutory limitations on the amount of documentary stamp revenue that go into the State Housing Trust Fund and the Local Government Housing Trust Fund.

Section 3: Repeals section 8 of chapter 2009-131, L.O.F., retroactively to June 30, 2009.

Section 4: Creates subparagraph 10. and amends subsection (4) of s. 420.003, F.S., providing additional policy guidelines under the state housing strategy for the development of programs for housing production or rehabilitation; including persons with special needs in the strategy's periodic review and report.

Section 5: Creates subsections 420.004(7) and (13), F.S., defining the terms "disabling condition" and "person with special needs".

Section 6: Amends s. 420.507, F.S., extends low interest mortgage loans for the SAIL Program to sponsors of projects who set aside units for persons with special needs and creates s. 420.507(33),

³ ss. 420.507(22)(a) and (23)(a), 420.5087(6)(l), 420.5088, 420.5095, and 420.9075(1)(b) and (5)(b), F.S.

F.S., to establish the authority of the FHFC to administer programs receiving federal funding for which no corresponding program has been previously created by statute.

Section 7: Amends s. 420.5087, F.S., includes persons with special needs as a tenant group for specified purposes of the SAIL Program.

Section 8: Amends s. 163.31771, F.S., to conform cross references.

Section 9: Amends s. 212.08, F.S., to conform cross references.

Section 10: Amends s. 215.5586, F.S., to conform cross references.

Section 11: Amends s. 420.503, F.S., to conform cross references.

Section 12: Provides that funds from various affordable housing trust funds and programs may not be used to finance or otherwise assist new construction until July 1, 2011.

Section 13: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

EDR's consensus estimate found that the removal of the statutory limitations on the amount of documentary stamp tax revenues that go into the State Housing Trust Fund and the Local Government Housing Trust Fund will have no impact to general revenue cash in Fiscal Year 2010-11 and 2011-12. However, based on a four-year outlook there is a negative fiscal impact to general revenue cash of \$600,000 in Fiscal Year 2012-13 and \$21.4 million in Fiscal Year 2013-14. Therefore, EDR's consensus estimate found the bill has a recurring negative impact to General Revenue of \$21.4 million in Fiscal Year 2013-14.

Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill contains provisions that direct funds from various affordable housing trust funds and programs may not be used to finance or otherwise assist new construction until July 1, 2011. These provisions are aimed at reducing the surplus of available homes on the market.

D. FISCAL COMMENTS:

See above

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to require the counties or cities to spend funds or take an 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:

Establishes the authority of the FHFC to administer programs receiving federal funding for which no corresponding program has been previously created by statute and establish selection criteria for such funds by request for proposals or other competitive solicitation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 3, 2010, HB 665 was amended in the Military & Local Affairs Policy Committee upon adoption of a two amendments. The amendments are detailed below.

Amendment 1

This amendment removed the repeal of s. 201.15(15), F.S. If this section was repealed and the required funds were not allocated to the State Housing Trust Fund, the bonds under the program would be without backing and this would affect the rating of those bonds. This would affect Florida Housing's ability to raise funds through bond issuances going forward.

Amendment 2

This amendment removed the repeal of s. 420.5061, F.S., this provision requires the FHFC to transfer service charges to General Revenue. The repeal would have diverted approximately \$1.3M annually from General Revenue to the FHFC beginning in FY 2010-11.

The analysis reflects the bill as amended.

1 A bill to be entitled
2 An act relating to affordable housing; amending s.
3 159.608, F.S.; providing a housing finance authority with
4 an additional purpose for which it may exercise its power
5 to borrow; amending s. 201.15, F.S.; revising the
6 allocation of certain proceeds distributed from the excise
7 tax on documents that are paid into the State Treasury to
8 the credit of the State Housing Trust Fund; providing for
9 retroactive repeal of s. 8, ch. 2009-131, Laws of Florida,
10 to eliminate a conflicting version of s. 201.15, F.S.;
11 amending s. 420.0003, F.S.; providing additional policy
12 guidelines under the state housing strategy for the
13 development of programs for housing production or
14 rehabilitation; including the needs of persons with
15 special needs in the strategy's periodic review and
16 report; amending s. 420.0004, F.S.; defining the terms
17 "disabling condition" and "person with special needs";
18 conforming cross-references; amending s. 420.507, F.S.;
19 requiring certain rates of interest to be made available
20 to sponsors of projects for persons with special needs;
21 providing additional powers of the corporation relating to
22 receipt of federal funds; conforming a cross-reference;
23 amending s. 420.5087, F.S.; limiting the reservation of
24 funds within each notice of fund availability to the
25 persons with special needs tenant group; including persons
26 with special needs as a tenant group for specified
27 purposes of the State Apartment Incentive Loan Program;
28 requiring a specified review committee to include projects

29 that reserve units for persons with special needs in its
 30 evaluation and competitive ranking of applications for
 31 such program; conforming a cross-reference; amending ss.
 32 163.31771, 212.08, 215.5586, and 420.503, F.S.; conforming
 33 cross-references; providing legislative intent;
 34 prohibiting funds from the State Housing Trust Fund or the
 35 Local Government Housing Trust Fund that are appropriated
 36 for specified programs from being used for certain
 37 purposes; providing for future repeal; providing an
 38 effective date.

39

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

41

42 Section 1. Subsection (11) is added to section 159.608,
 43 Florida Statutes, to read:

44 159.608 Powers of housing finance authorities.—A housing
 45 finance authority shall constitute a public body corporate and
 46 politic, exercising the public and essential governmental
 47 functions set forth in this act, and shall exercise its power to
 48 borrow only for the purpose as provided herein:

49 (11) To invest and reinvest surplus funds of the housing
 50 finance authority in accordance with s. 218.415. However, in
 51 addition to the investments expressly authorized in ss.
 52 218.415(16)(a)-(g) and (17)(a)-(d), a housing finance authority
 53 may invest surplus funds in interest-bearing time deposits or
 54 savings accounts that are fully insured by the Federal Deposit
 55 Insurance Corporation regardless of whether the bank or
 56 financial institution in which the deposit or investment is made

57 is a qualified public depository as defined in s. 280.02. This
 58 subsection is supplementary to and may not be construed as
 59 limiting any powers of a housing finance authority or providing
 60 or implying a limiting construction of any other statutory
 61 provision.

62 Section 2. Subsections (9), (10), and (13) of section
 63 201.15, Florida Statutes, as amended by chapters 2009-17, 2009-
 64 21, and 2009-68, Laws of Florida, are amended to read:

65 201.15 Distribution of taxes collected.—All taxes
 66 collected under this chapter are subject to the service charge
 67 imposed in s. 215.20(1). Prior to distribution under this
 68 section, the Department of Revenue shall deduct amounts
 69 necessary to pay the costs of the collection and enforcement of
 70 the tax levied by this chapter. Such costs and the service
 71 charge may not be levied against any portion of taxes pledged to
 72 debt service on bonds to the extent that the costs and service
 73 charge are required to pay any amounts relating to the bonds.
 74 After distributions are made pursuant to subsection (1), all of
 75 the costs of the collection and enforcement of the tax levied by
 76 this chapter and the service charge shall be available and
 77 transferred to the extent necessary to pay debt service and any
 78 other amounts payable with respect to bonds authorized before
 79 January 1, 2010, secured by revenues distributed pursuant to
 80 subsection (1). All taxes remaining after deduction of costs and
 81 the service charge shall be distributed as follows:

82 (9) Seven and fifty-three hundredths ~~The lesser of 7.53~~
 83 percent of the remaining taxes ~~or \$107 million~~ in each fiscal
 84 year shall be paid into the State Treasury to the credit of the

85 State Housing Trust Fund and used as follows:

86 (a) Half of that amount shall be used for the purposes for
 87 which the State Housing Trust Fund was created and exists by
 88 law.

89 (b) Half of that amount shall be paid into the State
 90 Treasury to the credit of the Local Government Housing Trust
 91 Fund and used for the purposes for which the Local Government
 92 Housing Trust Fund was created and exists by law.

93 (10) Eight and sixty-six hundredths ~~The lesser of 8.66~~
 94 percent of the remaining taxes ~~or \$136 million~~ in each fiscal
 95 year shall be paid into the State Treasury to the credit of the
 96 State Housing Trust Fund and used as follows:

97 (a) Twelve and one-half percent of that amount shall be
 98 deposited into the State Housing Trust Fund and be expended by
 99 the Department of Community Affairs and by the Florida Housing
 100 Finance Corporation for the purposes for which the State Housing
 101 Trust Fund was created and exists by law.

102 (b) Eighty-seven and one-half percent of that amount shall
 103 be distributed to the Local Government Housing Trust Fund and
 104 used for the purposes for which the Local Government Housing
 105 Trust Fund was created and exists by law. Funds from this
 106 category may also be used to provide for state and local
 107 services to assist the homeless.

108 (13) Beginning July 1, 2008, in each fiscal year that the
 109 remaining taxes collected under this chapter exceed collections
 110 in the prior fiscal year, the stated maximum dollar amounts
 111 provided in subsections (2), (4), (6), and (7), ~~(9), and (10)~~
 112 shall each be increased by an amount equal to 10 percent of the

113 increase in the remaining taxes collected under this chapter
 114 multiplied by the applicable percentage provided in those
 115 subsections.

116 Section 3. Section 8 of chapter 2009-131, Laws of Florida,
 117 is repealed, retroactive to June 30, 2009.

118 Section 4. Paragraph (e) of subsection (3) and paragraph
 119 (c) of subsection (4) of section 420.0003, Florida Statutes, are
 120 amended to read:

121 420.0003 State housing strategy.—

122 (3) POLICIES.—

123 (e) Housing production or rehabilitation programs.—New
 124 programs for housing production or rehabilitation shall be
 125 developed in accordance with the following general guidelines as
 126 appropriate for the purpose of the specific program:

127 1. State and local governments shall provide incentives to
 128 encourage the private sector to be the primary delivery vehicle
 129 for the development of affordable housing.

130 2. State funds should be heavily leveraged to achieve the
 131 maximum local and private commitment of funds while achieving
 132 the program objectives.

133 3. To the maximum extent possible, state funds should be
 134 expended to provide housing units rather than to support program
 135 administration.

136 4. State money should be used, when possible, as loans
 137 rather than grants.

138 5. State funds should be available only to local
 139 governments that provide incentives or financial assistance for
 140 housing.

141 6. State funds should be made available only for projects
 142 which are consistent with the local government comprehensive
 143 plan.

144 7. State funding for housing should not be made available
 145 to local governments whose comprehensive plans have been found
 146 not in compliance with chapter 163 and who have not entered into
 147 a stipulated settlement agreement with the Department of
 148 Community Affairs to bring the plan into compliance.

149 8. Mixed income projects should be encouraged, to avoid a
 150 concentration of low-income residents in one area or project.

151 9. Distribution of state housing funds should be flexible
 152 and consider the regional and local needs, resources, and
 153 capabilities of housing producers.

154 10. Distribution of housing funds for multifamily rental
 155 housing should be administered to address the housing needs of
 156 persons most in need of housing.

157 ~~11.10.~~ Income levels used to determine program eligibility
 158 should be adjusted for family size in determining the
 159 eligibility of specific beneficiaries.

160 ~~12.11.~~ To the maximum extent possible, state-owned lands
 161 that are appropriate for the development of affordable housing
 162 shall be made available for that purpose.

163 (4) IMPLEMENTATION.—The Department of Community Affairs
 164 and the Florida Housing Finance Corporation in carrying out the
 165 strategy articulated herein shall have the following duties:

166 (c) The Shimberg Center for Affordable Housing, in
 167 consultation with the Department of Community Affairs and the
 168 Florida Housing Finance Corporation, shall review and evaluate

169 existing housing rehabilitation, production, and finance
 170 programs to determine their consistency with relevant policies
 171 in this section and identify the needs of specific populations,
 172 including, but not limited to, elderly persons, ~~and~~ handicapped
 173 persons, and persons with special needs, and shall recommend
 174 statutory modifications where appropriate. The Shimberg Center
 175 for Affordable Housing, in consultation with the Department of
 176 Community Affairs and the corporation, shall also evaluate the
 177 degree of coordination between state housing programs, and
 178 between state, federal, and local housing activities, and shall
 179 recommend improved program linkages. The recommendations
 180 required above and a report of any programmatic modifications
 181 made as a result of these policies shall be included in the
 182 housing report required by s. 420.6075, beginning December 31,
 183 1991, and every 5 years thereafter.

184 Section 5. Section 420.0004, Florida Statutes, is amended
 185 to read:

186 420.0004 Definitions.—As used in this part, unless the
 187 context otherwise indicates:

188 (1) "Adjusted for family size" means adjusted in a manner
 189 which results in an income eligibility level which is lower for
 190 households with fewer than four people, or higher for households
 191 with more than four people, than the base income eligibility
 192 determined as provided in subsection (9) ~~(8)~~, subsection (11)
 193 ~~(10)~~, subsection (12) ~~(11)~~, or subsection (17) ~~(15)~~, based upon
 194 a formula as established by the United States Department of
 195 Housing and Urban Development.

196 (2) "Adjusted gross income" means all wages, assets,
 197 regular cash or noncash contributions or gifts from persons
 198 outside the household, and such other resources and benefits as
 199 may be determined to be income by the United States Department
 200 of Housing and Urban Development, adjusted for family size, less
 201 deductions allowable under s. 62 of the Internal Revenue Code.

202 (3) "Affordable" means that monthly rents or monthly
 203 mortgage payments including taxes, insurance, and utilities do
 204 not exceed 30 percent of that amount which represents the
 205 percentage of the median adjusted gross annual income for the
 206 households as indicated in subsection (9) ~~(8)~~, subsection (11)
 207 ~~(10)~~, subsection (12) ~~(11)~~, or subsection (17) ~~(15)~~.

208 (4) "Corporation" means the Florida Housing Finance
 209 Corporation.

210 (5) "Community-based organization" or "nonprofit
 211 organization" means a private corporation organized under
 212 chapter 617 to assist in the provision of housing and related
 213 services on a not-for-profit basis and which is acceptable to
 214 federal and state agencies and financial institutions as a
 215 sponsor of low-income housing.

216 (6) "Department" means the Department of Community
 217 Affairs.

218 (7) "Disabling condition" means a diagnosable substance
 219 abuse disorder, serious mental illness, developmental
 220 disability, or chronic physical illness or disability, or the
 221 co-occurrence of two or more of these conditions, and a
 222 determination that the condition is:

223 (a) Expected to be of long-continued and indefinite
 224 duration; and

225 (b) Not expected to impair the ability of the person with
 226 special needs to live independently with appropriate supports.

227 ~~(8)-(7)~~ "Elderly" describes persons 62 years of age or
 228 older.

229 ~~(9)-(8)~~ "Extremely-low-income persons" means one or more
 230 natural persons or a family whose total annual household income
 231 does not exceed 30 percent of the median annual adjusted gross
 232 income for households within the state. The Florida Housing
 233 Finance Corporation may adjust this amount annually by rule to
 234 provide that in lower income counties, extremely low income may
 235 exceed 30 percent of area median income and that in higher
 236 income counties, extremely low income may be less than 30
 237 percent of area median income.

238 ~~(10)-(9)~~ "Local public body" means any county,
 239 municipality, or other political subdivision, or any housing
 240 authority as provided by chapter 421, which is eligible to
 241 sponsor or develop housing for farmworkers and very-low-income
 242 and low-income persons within its jurisdiction.

243 ~~(11)-(10)~~ "Low-income persons" means one or more natural
 244 persons or a family, the total annual adjusted gross household
 245 income of which does not exceed 80 percent of the median annual
 246 adjusted gross income for households within the state, or 80
 247 percent of the median annual adjusted gross income for
 248 households within the metropolitan statistical area (MSA) or, if
 249 not within an MSA, within the county in which the person or
 250 family resides, whichever is greater.

251 (12)~~(11)~~ "Moderate-income persons" means one or more
 252 natural persons or a family, the total annual adjusted gross
 253 household income of which is less than 120 percent of the median
 254 annual adjusted gross income for households within the state, or
 255 120 percent of the median annual adjusted gross income for
 256 households within the metropolitan statistical area (MSA) or, if
 257 not within an MSA, within the county in which the person or
 258 family resides, whichever is greater.

259 (13) "Person with special needs" means an adult person
 260 requiring independent living services in order to maintain
 261 housing or develop independent living skills and who has a
 262 disabling condition; a young adult formerly in foster care who
 263 is eligible for services under s. 409.1451(5); a survivor of
 264 domestic violence as defined in s. 741.28; or a person receiving
 265 benefits under the Social Security Disability Insurance (SSDI)
 266 program or the Supplemental Security Income (SSI) program or
 267 from veterans' disability benefits.

268 (14)~~(12)~~ "Student" means any person not living with his or
 269 her parent or guardian who is eligible to be claimed by his or
 270 her parent or guardian as a dependent under the federal income
 271 tax code and who is enrolled on at least a half-time basis in a
 272 secondary school, career center, community college, college, or
 273 university.

274 (15)~~(13)~~ "Substandard" means:

275 (a) Any unit lacking complete plumbing or sanitary
 276 facilities for the exclusive use of the occupants;

277 (b) A unit which is in violation of one or more major
 278 sections of an applicable housing code and where such violation
 279 poses a serious threat to the health of the occupant; or

280 (c) A unit that has been declared unfit for human
 281 habitation but that could be rehabilitated for less than 50
 282 percent of the property value.

283 (16)~~(14)~~ "Substantial rehabilitation" means repair or
 284 restoration of a dwelling unit where the value of such repair or
 285 restoration exceeds 40 percent of the value of the dwelling.

286 (17)~~(15)~~ "Very-low-income persons" means one or more
 287 natural persons or a family, not including students, the total
 288 annual adjusted gross household income of which does not exceed
 289 50 percent of the median annual adjusted gross income for
 290 households within the state, or 50 percent of the median annual
 291 adjusted gross income for households within the metropolitan
 292 statistical area (MSA) or, if not within an MSA, within the
 293 county in which the person or family resides, whichever is
 294 greater.

295 Section 6. Paragraph (a) of subsection (22) and
 296 subsections (33) and (46) of section 420.507, Florida Statutes,
 297 are amended to read:

298 420.507 Powers of the corporation.—The corporation shall
 299 have all the powers necessary or convenient to carry out and
 300 effectuate the purposes and provisions of this part, including
 301 the following powers which are in addition to all other powers
 302 granted by other provisions of this part:

303 (22) To develop and administer the State Apartment
 304 Incentive Loan Program. In developing and administering that
 305 program, the corporation may:

306 (a) Make first, second, and other subordinated mortgage
 307 loans including variable or fixed rate loans subject to
 308 contingent interest for all State Apartment Incentive Loans
 309 provided in this chapter based upon available cash flow of the
 310 projects. The corporation shall make loans exceeding 25 percent
 311 of project cost only to nonprofit organizations and public
 312 bodies that are able to secure grants, donations of land, or
 313 contributions from other sources and to projects meeting the
 314 criteria of subparagraph 1. Mortgage loans shall be made
 315 available at the following rates of interest:

316 1. Zero to 3 percent interest for sponsors of projects
 317 that set aside at least 80 percent of their total units for
 318 residents qualifying as farmworkers, commercial fishing workers,
 319 ~~or~~ the homeless as defined in s. 420.621, or persons with
 320 special needs as defined in s. 420.0004(13) over the life of the
 321 loan.

322 2. Zero to 3 percent interest based on the pro rata share
 323 of units set aside for homeless residents or persons with
 324 special needs if the total of such units is less than 80 percent
 325 of the units in the borrower's project.

326 3. One to 9 percent interest for sponsors of projects
 327 targeted at populations other than farmworkers, commercial
 328 fishing workers, ~~or~~ the homeless, or persons with special needs.

329 (33) To receive federal funding in connection with the
 330 corporation's programs directly from the Federal Government and

331 to receive federal funds for which no corresponding program has
 332 been created in statute and establish selection criteria for
 333 such funds by request for proposals or other competitive
 334 solicitation.

335 (46) To require, as a condition of financing a multifamily
 336 rental project, that an agreement be recorded in the official
 337 records of the county where the real property is located, which
 338 requires that the project be used for housing defined as
 339 affordable in s. 420.0004(3) by persons defined in s.
 340 420.0004 (9)~~(8)~~, (11)~~(10)~~, (12)~~(11)~~, and (17)~~(15)~~. Such an
 341 agreement is a state land use regulation that limits the highest
 342 and best use of the property within the meaning of s.
 343 193.011(2).

344 Section 7. Subsection (3) and paragraph (c) of subsection
 345 (6) of section 420.5087, Florida Statutes, are amended to read:

346 420.5087 State Apartment Incentive Loan Program.—There is
 347 hereby created the State Apartment Incentive Loan Program for
 348 the purpose of providing first, second, or other subordinated
 349 mortgage loans or loan guarantees to sponsors, including for-
 350 profit, nonprofit, and public entities, to provide housing
 351 affordable to very-low-income persons.

352 (3) During the first 6 months of loan or loan guarantee
 353 availability, program funds shall be reserved for use by
 354 sponsors who provide the housing set-aside required in
 355 subsection (2) for the tenant groups designated in this
 356 subsection. The reservation of funds to each of these groups
 357 shall be determined using the most recent statewide very-low-
 358 income rental housing market study available at the time of

359 publication of each notice of fund availability required by
 360 paragraph (6)(b). The reservation of funds within each notice of
 361 fund availability to the tenant groups in paragraphs (a), (b),
 362 and (e) ~~(d)~~ may not be less than 10 percent of the funds
 363 available at that time. Any increase in funding required to
 364 reach the 10-percent minimum must be taken from the tenant group
 365 that has the largest reservation. The reservation of funds
 366 within each notice of fund availability to the tenant group in
 367 paragraph (c) may not be less than 5 percent of the funds
 368 available at that time. The reservation of funds within each
 369 notice of fund availability to the tenant group in paragraph (d)
 370 may not be more than 10 percent of the funds available at that
 371 time. The tenant groups are:
 372 (a) Commercial fishing workers and farmworkers;
 373 (b) Families;
 374 (c) Persons who are homeless;
 375 (d) Persons with special needs; and
 376 (e) ~~(d)~~ Elderly persons. Ten percent of the amount reserved
 377 for the elderly shall be reserved to provide loans to sponsors
 378 of housing for the elderly for the purpose of making building
 379 preservation, health, or sanitation repairs or improvements
 380 which are required by federal, state, or local regulation or
 381 code, or lifesafety or security-related repairs or improvements
 382 to such housing. Such a loan may not exceed \$750,000 per housing
 383 community for the elderly. In order to receive the loan, the
 384 sponsor of the housing community must make a commitment to match
 385 at least 5 percent of the loan amount to pay the cost of such
 386 repair or improvement. The corporation shall establish the rate

387 of interest on the loan, which may not exceed 3 percent, and the
 388 term of the loan, which may not exceed 15 years; however, if the
 389 lien of the corporation's encumbrance is subordinate to the lien
 390 of another mortgagee, then the term may be made coterminous with
 391 the longest term of the superior lien. The term of the loan
 392 shall be based on a credit analysis of the applicant. The
 393 corporation may forgive indebtedness for a share of the loan
 394 attributable to the units in a project reserved for extremely-
 395 low-income elderly by nonprofit organizations, as defined in s.
 396 420.0004(5), where the project has provided affordable housing
 397 to the elderly for 15 years or more. The corporation shall
 398 establish, by rule, the procedure and criteria for receiving,
 399 evaluating, and competitively ranking all applications for loans
 400 under this paragraph. A loan application must include evidence
 401 of the first mortgagee's having reviewed and approved the
 402 sponsor's intent to apply for a loan. A nonprofit organization
 403 or sponsor may not use the proceeds of the loan to pay for
 404 administrative costs, routine maintenance, or new construction.

405 (6) On all state apartment incentive loans, except loans
 406 made to housing communities for the elderly to provide for
 407 lifesafety, building preservation, health, sanitation, or
 408 security-related repairs or improvements, the following
 409 provisions shall apply:

410 (c) The corporation shall provide by rule for the
 411 establishment of a review committee composed of the department
 412 and corporation staff and shall establish by rule a scoring
 413 system for evaluation and competitive ranking of applications

414 submitted in this program, including, but not limited to, the
 415 following criteria:

416 1. Tenant income and demographic targeting objectives of
 417 the corporation.

418 2. Targeting objectives of the corporation which will
 419 ensure an equitable distribution of loans between rural and
 420 urban areas.

421 3. Sponsor's agreement to reserve the units for persons or
 422 families who have incomes below 50 percent of the state or local
 423 median income, whichever is higher, for a time period to exceed
 424 the minimum required by federal law or the provisions of this
 425 part.

426 4. Sponsor's agreement to reserve more than:

427 a. Twenty percent of the units in the project for persons
 428 or families who have incomes that do not exceed 50 percent of
 429 the state or local median income, whichever is higher; or

430 b. Forty percent of the units in the project for persons
 431 or families who have incomes that do not exceed 60 percent of
 432 the state or local median income, whichever is higher, without
 433 requiring a greater amount of the loans as provided in this
 434 section.

435 5. Provision for tenant counseling.

436 6. Sponsor's agreement to accept rental assistance
 437 certificates or vouchers as payment for rent.

438 7. Projects requiring the least amount of a state
 439 apartment incentive loan compared to overall project cost except
 440 that the share of the loan attributable to units serving

441 extremely-low-income persons shall be excluded from this
 442 requirement.

443 8. Local government contributions and local government
 444 comprehensive planning and activities that promote affordable
 445 housing.

446 9. Project feasibility.

447 10. Economic viability of the project.

448 11. Commitment of first mortgage financing.

449 12. Sponsor's prior experience, including whether the
 450 developer and general contractor have substantial experience, as
 451 provided in s. 420.507(47).

452 13. Sponsor's ability to proceed with construction.

453 14. Projects that directly implement or assist welfare-to-
 454 work transitioning.

455 15. Projects that reserve units for extremely-low-income
 456 persons.

457 16. Projects that include green building principles,
 458 storm-resistant construction, or other elements that reduce
 459 long-term costs relating to maintenance, utilities, or
 460 insurance.

461 17. Domicile of the developer and general contractor, as
 462 provided in s. 420.507(47).

463 18. Projects that reserve units for persons with special
 464 needs, provided services for such persons are available to the
 465 project.

466 Section 8. Paragraphs (d), (e), (f), and (g) of subsection
 467 (2) of section 163.31771, Florida Statutes, are amended to read:
 468 163.31771 Accessory dwelling units.—

469 (2) As used in this section, the term:
 470 (d) "Low-income persons" has the same meaning as in s.
 471 420.0004 (11) ~~(10)~~.
 472 (e) "Moderate-income persons" has the same meaning as in
 473 s. 420.0004 (12) ~~(11)~~.
 474 (f) "Very-low-income persons" has the same meaning as in
 475 s. 420.0004 (17) ~~(15)~~.
 476 (g) "Extremely-low-income persons" has the same meaning as
 477 in s. 420.0004 (9) ~~(8)~~.
 478 Section 9. Paragraph (o) of subsection (5) of section
 479 212.08, Florida Statutes, is amended to read:
 480 212.08 Sales, rental, use, consumption, distribution, and
 481 storage tax; specified exemptions.—The sale at retail, the
 482 rental, the use, the consumption, the distribution, and the
 483 storage to be used or consumed in this state of the following
 484 are hereby specifically exempt from the tax imposed by this
 485 chapter.
 486 (5) EXEMPTIONS; ACCOUNT OF USE.—
 487 (o) Building materials in redevelopment projects.—
 488 1. As used in this paragraph, the term:
 489 a. "Building materials" means tangible personal property
 490 that becomes a component part of a housing project or a mixed-
 491 use project.
 492 b. "Housing project" means the conversion of an existing
 493 manufacturing or industrial building to housing units in an
 494 urban high-crime area, enterprise zone, empowerment zone, Front
 495 Porch Community, designated brownfield area, or urban infill
 496 area and in which the developer agrees to set aside at least 20

497 percent of the housing units in the project for low-income and
 498 moderate-income persons or the construction in a designated
 499 brownfield area of affordable housing for persons described in
 500 s. 420.0004 (9)~~(8)~~, (11)~~(10)~~, (12)~~(11)~~, or (17)~~(15)~~ or in s.
 501 159.603(7).

502 c. "Mixed-use project" means the conversion of an existing
 503 manufacturing or industrial building to mixed-use units that
 504 include artists' studios, art and entertainment services, or
 505 other compatible uses. A mixed-use project must be located in an
 506 urban high-crime area, enterprise zone, empowerment zone, Front
 507 Porch Community, designated brownfield area, or urban infill
 508 area, and the developer must agree to set aside at least 20
 509 percent of the square footage of the project for low-income and
 510 moderate-income housing.

511 d. "Substantially completed" has the same meaning as
 512 provided in s. 192.042(1).

513 2. Building materials used in the construction of a
 514 housing project or mixed-use project are exempt from the tax
 515 imposed by this chapter upon an affirmative showing to the
 516 satisfaction of the department that the requirements of this
 517 paragraph have been met. This exemption inures to the owner
 518 through a refund of previously paid taxes. To receive this
 519 refund, the owner must file an application under oath with the
 520 department which includes:

- 521 a. The name and address of the owner.
- 522 b. The address and assessment roll parcel number of the
 523 project for which a refund is sought.
- 524 c. A copy of the building permit issued for the project.

525 d. A certification by the local building code inspector
 526 that the project is substantially completed.

527 e. A sworn statement, under penalty of perjury, from the
 528 general contractor licensed in this state with whom the owner
 529 contracted to construct the project, which statement lists the
 530 building materials used in the construction of the project and
 531 the actual cost thereof, and the amount of sales tax paid on
 532 these materials. If a general contractor was not used, the owner
 533 shall provide this information in a sworn statement, under
 534 penalty of perjury. Copies of invoices evidencing payment of
 535 sales tax must be attached to the sworn statement.

536 3. An application for a refund under this paragraph must
 537 be submitted to the department within 6 months after the date
 538 the project is deemed to be substantially completed by the local
 539 building code inspector. Within 30 working days after receipt of
 540 the application, the department shall determine if it meets the
 541 requirements of this paragraph. A refund approved pursuant to
 542 this paragraph shall be made within 30 days after formal
 543 approval of the application by the department.

544 4. The department shall establish by rule an application
 545 form and criteria for establishing eligibility for exemption
 546 under this paragraph.

547 5. The exemption shall apply to purchases of materials on
 548 or after July 1, 2000.

549 Section 10. Paragraphs (a) and (g) of subsection (2) of
 550 section 215.5586, Florida Statutes, are amended to read:

551 215.5586 My Safe Florida Home Program.—There is
 552 established within the Department of Financial Services the My

553 Safe Florida Home Program. The department shall provide fiscal
 554 accountability, contract management, and strategic leadership
 555 for the program, consistent with this section. This section does
 556 not create an entitlement for property owners or obligate the
 557 state in any way to fund the inspection or retrofitting of
 558 residential property in this state. Implementation of this
 559 program is subject to annual legislative appropriations. It is
 560 the intent of the Legislature that the My Safe Florida Home
 561 Program provide trained and certified inspectors to perform
 562 inspections for owners of site-built, single-family, residential
 563 properties and grants to eligible applicants as funding allows.
 564 The program shall develop and implement a comprehensive and
 565 coordinated approach for hurricane damage mitigation that may
 566 include the following:

567 (2) MITIGATION GRANTS.—Financial grants shall be used to
 568 encourage single-family, site-built, owner-occupied, residential
 569 property owners to retrofit their properties to make them less
 570 vulnerable to hurricane damage.

571 (a) For a homeowner to be eligible for a grant, the
 572 following criteria must be met:

573 1. The homeowner must have been granted a homestead
 574 exemption on the home under chapter 196.

575 2. The home must be a dwelling with an insured value of
 576 \$300,000 or less. Homeowners who are low-income persons, as
 577 defined in s. 420.0004 (11) ~~(10)~~, are exempt from this
 578 requirement.

579 3. The home must have undergone an acceptable hurricane
 580 mitigation inspection after May 1, 2007.

581 4. The home must be located in the "wind-borne debris
 582 region" as that term is defined in s. 1609.2, International
 583 Building Code (2006), or as subsequently amended.

584 5. The building permit application for initial
 585 construction of the home must have been made before March 1,
 586 2002.

587

588 An application for a grant must contain a signed or
 589 electronically verified statement made under penalty of perjury
 590 that the applicant has submitted only a single application and
 591 must have attached documents demonstrating the applicant meets
 592 the requirements of this paragraph.

593 (g) Low-income homeowners, as defined in s.
 594 420.0004 (11) ~~(10)~~, who otherwise meet the requirements of
 595 paragraphs (a), (c), (e), and (f) are eligible for a grant of up
 596 to \$5,000 and are not required to provide a matching amount to
 597 receive the grant. Additionally, for low-income homeowners,
 598 grant funding may be used for repair to existing structures
 599 leading to any of the mitigation improvements provided in
 600 paragraph (e), limited to 20 percent of the grant value. The
 601 program may accept a certification directly from a low-income
 602 homeowner that the homeowner meets the requirements of s.
 603 420.0004 (11) ~~(10)~~ if the homeowner provides such certification in
 604 a signed or electronically verified statement made under penalty
 605 of perjury.

606 Section 11. Subsection (19) of section 420.503, Florida
 607 Statutes, is amended to read:

608 420.503 Definitions.—As used in this part, the term:

609 (19) "Housing for the elderly" means, for purposes of s.
 610 420.5087(3) (e)~~(d)~~, any nonprofit housing community that is
 611 financed by a mortgage loan made or insured by the United States
 612 Department of Housing and Urban Development under s. 202, s. 202
 613 with a s. 8 subsidy, s. 221(d)(3) or (4), or s. 236 of the
 614 National Housing Act, as amended, and that is subject to income
 615 limitations established by the United States Department of
 616 Housing and Urban Development, or any program funded by the
 617 Rural Development Agency of the United States Department of
 618 Agriculture and subject to income limitations established by the
 619 United States Department of Agriculture. A project which
 620 qualifies for an exemption under the Fair Housing Act as housing
 621 for older persons as defined by s. 760.29(4) shall qualify as
 622 housing for the elderly for purposes of s. 420.5087(3) (e)~~(d)~~ and
 623 for purposes of any loans made pursuant to s. 420.508. In
 624 addition, if the corporation adopts a qualified allocation plan
 625 pursuant to s. 42(m)(1)(B) of the Internal Revenue Code or any
 626 other rules that prioritize projects targeting the elderly for
 627 purposes of allocating tax credits pursuant to s. 420.5099 or
 628 for purposes of the HOME program under s. 420.5089, a project
 629 which qualifies for an exemption under the Fair Housing Act as
 630 housing for older persons as defined by s. 760.29(4) shall
 631 qualify as a project targeted for the elderly, if the project
 632 satisfies the other requirements set forth in this part.

633 Section 12. (1) The Legislature finds that due to the
 634 current economic conditions in the housing market there is a
 635 critical need to rehabilitate or sell excess inventory of unsold
 636 homes, including foreclosed homes and newly constructed homes,

637 as well as a critical need for the rehabilitation and
 638 preservation of older, affordable apartments. The Legislature
 639 further finds that there is a critical need to create housing-
 640 related jobs and that these conditions require the targeting of
 641 state and local housing trust fund moneys to assist in the sale
 642 or rehabilitation of existing homes and the preservation and
 643 rehabilitation of older rental apartments.

644 (2) Notwithstanding ss. 420.507(22)(a) and (23)(a),
 645 420.5087(6)(1), 420.5088, 420.5095, and 420.9075(1)(b) and
 646 (5)(b), Florida Statutes, funds from the State Housing Trust
 647 Fund or the Local Government Housing Trust Fund that are
 648 appropriated for use in the State Apartment Incentive Loan
 649 Program, Florida Homeownership Assistance Program, Community
 650 Workforce Housing Innovation Pilot Program, or the State Housing
 651 Initiatives Partnership Program may not be used to:

652 (a) Finance or otherwise assist the construction or
 653 purchase of housing sold to eligible individuals, unless the
 654 housing unit being sold had an initial certificate of occupancy
 655 prior to December 31, 2009; or

656 (b) Finance or otherwise assist in the construction or
 657 purchase of rental housing, unless the development being
 658 financed or assisted received its initial certificate of
 659 occupancy prior to December 31, 1995.

660
 661 Nothing in this section restricts the use of such funds to
 662 assist with the purchase of newly constructed homes that were
 663 completed prior to December 31, 2009, or the acquisition and
 664 rehabilitation of apartments that received their initial

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2010

665 | certificate of occupancy prior to December 31, 1995. The use of
666 | such funds is subject to the restrictions of the program under
667 | which the funding is made available.

668 | (3) This section expires July 1, 2011.

669 | Section 13. This act shall take effect July 1, 2010.

Amendment No. 01

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) Aubuchon offered the following:

Amendment (with title amendment)

Between lines 343 and 344, insert:

Section 7. Subsection (47) of section 420.507, Florida
 Statutes, is amended to read:

420.507 Powers of the corporation.—The corporation shall
 have all the powers necessary or convenient to carry out and
 effectuate the purposes and provisions of this part, including
 the following powers which are in addition to all other powers
 granted by other provisions of this part:

(47) To provide by rule in connection with any corporation
 competitive program, criteria establishing a preference for
 developers and general contractors who are either domiciled in
 this state or who, ~~and for developers and general contractors,~~
 regardless of domicile, ~~who~~ have substantial experience in
 developing ~~or building~~ affordable housing through the

Amendment No. 01

20 corporation's programs in the case of developers, or in building
21 multi-family housing, in the case of general contractors.

22 (a) In evaluating whether a developers and ~~or~~ general
23 contractors are ~~is~~ domiciled in this state, the corporation
24 shall consider whether the developer's or general contractor's
25 principal office is located in this state and whether a ~~majority~~
26 of the developer's and ~~or~~ general contractor's principals and
27 financial beneficiaries with a fifty percent or more financial
28 interest in a project reside in Florida.

29 (b) In evaluating whether a developers have ~~or~~ general
30 ~~contractor has~~ substantial experience, the corporation shall
31 consider whether the developer ~~or general contractor~~ has
32 completed at least five developments since 2003 using funds or
33 allocations either provided by or administered by the
34 corporation. For purposes of this sub-section, "completed" means
35 the date of the IRS Form 8609 for buildings containing a
36 majority of the units in developments involving federal low
37 income housing tax credits. In evaluating whether a general
38 contractor has substantial experience, the corporation shall
39 consider whether the general contractor has received a final
40 certificate of occupancy in connection with at least five multi-
41 family housing developments since 2003.

42 (c) The corporation shall adopt rules applying these
43 criteria to its competitive programs before the opening of the
44 next Universal Application Cycle following the effective date of
45 this Act. However, such rules shall not apply to projects that
46 have received an allocation of HOPE VI funding from the federal
47 Department of Housing and Urban Development if such projects

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48 were the subject of a contract between a local housing authority
49 and a development partner prior to the effective date of this
50 Act and such projects are subject to time limits for use of the
51 HOPE VI funds.

52

53

54

55

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

56

Remove line 22 and insert:

57

receipt of federal funds; defining eligible developers or

58

general contractors; conforming a cross-reference;

Amendment No. 02

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) Aubuchon offered the following:
4

Amendment (with title amendment)

5 Remove lines 449 through 462, and insert:

6 ~~12. Sponsor's prior experience, including whether the~~
7 ~~developer and general contractor have substantial experience, as~~
8 ~~provided in s. 420.507(47).~~
9

10 12. ~~13.~~ Sponsor's ability to proceed with construction.

11 13. ~~14.~~ Projects that directly implement or assist
12 welfare-to-work transitioning.

13 14. ~~15.~~ Projects that reserve units for extremely-low-
14 income persons.

15 15. ~~16.~~ Projects that include green building principles,
16 storm-resistant construction, or other elements that reduce
17 long-term costs relating to maintenance, utilities, or
18 insurance.

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 665 (2010)

Amendment No. 02

19 16. ~~17.~~ Domicile or substantial experience of the
20 developer and general contractor, as provided in s. 420.507(47).
21
22
23
24

25 -----

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

27 Remove line 31 and insert:
28 such program; amending competitive ranking criteria conforming a
29 cross-reference; amending ss.

Amendment No. 03

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) Aubuchon offered the following:
4

5 **Amendment (with title amendment)**

6 Between lines 668 and 669, insert:

7 Section 13. Paragraph (f) of subsection (6) of section
8 163.3177, Florida Statutes, is amended to read:

9 163.3177 Required and optional elements of comprehensive
10 plan; studies and surveys.--

11 (6) In addition to the requirements of subsections (1)-(5)
12 and (12), the comprehensive plan shall include the following
13 elements:

14 (f)1. A housing element consisting of standards, plans,
15 and principles to be followed in:

16 a. The provision of housing for all current and
17 anticipated future residents of the jurisdiction.

18 b. The elimination of substandard dwelling conditions.

Amendment No. 03

19 c. The structural and aesthetic improvement of existing
20 housing.

21 d. The provision of adequate sites for future housing,
22 including affordable workforce housing as defined in s.
23 380.0651(3)(j), housing for low-income, very low-income, and
24 moderate-income families, mobile homes, affordable housing for
25 seniors, and group home facilities and foster care facilities,
26 with supporting infrastructure and public facilities. Real
27 property that is conveyed to a local government for affordable
28 housing under this sub-subparagraph shall be disposed of by the
29 local government pursuant to s. 125.379 or s. 166.0451.

30 e. Provision for relocation housing and identification of
31 historically significant and other housing for purposes of
32 conservation, rehabilitation, or replacement.

33 f. The formulation of housing implementation programs.

34 g. The creation or preservation of affordable housing to
35 minimize the need for additional local services and avoid the
36 concentration of affordable housing units only in specific areas
37 of the jurisdiction.

38 h. Energy efficiency in the design and construction of new
39 housing.

40 i. Use of renewable energy resources.

41 j. Each county in which the gap between the buying power
42 of a family of four and the median county home sale price
43 exceeds \$170,000, as determined by the Florida Housing Finance
44 Corporation, and which is not designated as an area of critical
45 state concern shall adopt a plan for ensuring affordable
46 workforce housing. At a minimum, the plan shall identify

Amendment No. 03

47 adequate sites for such housing. For purposes of this sub-
48 subparagraph, the term "workforce housing" means housing that is
49 affordable to natural persons or families whose total household
50 income does not exceed 140 percent of the area median income,
51 adjusted for household size.

52 k. As a precondition to receiving any state affordable
53 housing funding or allocation for any project or program within
54 the jurisdiction of a county that is subject to sub-subparagraph
55 j., a county must, by July 1 of each year, provide certification
56 that the county has complied with the requirements of sub-
57 subparagraph j.

58

59 The goals, objectives, and policies of the housing element must
60 be based on the data and analysis prepared on housing needs,
61 including the affordable housing needs assessment. State and
62 federal housing plans prepared on behalf of the local government
63 must be consistent with the goals, objectives, and policies of
64 the housing element. Local governments are encouraged to use job
65 training, job creation, and economic solutions to address a
66 portion of their affordable housing concerns.

67 2. To assist local governments in housing data collection
68 and analysis and assure uniform and consistent information
69 regarding the state's housing needs, the state land planning
70 agency shall conduct an affordable housing needs assessment for
71 all local jurisdictions on a schedule that coordinates the
72 implementation of the needs assessment with the evaluation and
73 appraisal reports required by s. 163.3191. Each local government
74 shall utilize the data and analysis from the needs assessment as

Amendment No. 03

75 one basis for the housing element of its local comprehensive
76 plan. The agency shall allow a local government the option to
77 perform its own needs assessment, if it uses the methodology
78 established by the agency by rule.

79

80

81

82

83

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

84

Remove line 37 and insert:

85

purposes; providing for future repeal; providing affordable

86

housing for seniors; amending s. 163.3177, F.S.; revising

87

provisions relating to the elements of local comprehensive plans

88

to include an element for affordable housing for seniors;

89

providing for the disposition of real property by a local

90

government for the development of affordable housing; providing

91

an

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1299 Streamlining the Issuance of Licenses, Certifications, and Registrations Issued by State Agencies
SPONSOR(S): Horner
TIED BILLS: IDEN./SIM. BILLS: SB 2378

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance, Business & Financial Affairs Policy Committee	13 Y, 0 N	Livingston	Cooper
2) Full Appropriations Council on Education & Economic Development		Topp <i>BDT</i>	Leznoff <i>JL</i>
3) General Government Policy Council			
4)			
5)			

SUMMARY ANALYSIS

The license process is one of the core functions performed by agencies in protecting the health, safety, and welfare of the public. The public recognizes the importance of a professional license as an indicator that the business or individual has met the minimum legal qualifications to perform services.

The bill requires the Governor to establish a "One-Stop Business Connect Workgroup" composed of:

1. The Agency for Health Care Administration;
2. The Department of Business and Professional Regulation (workgroup chair);
3. The Department of Children and Family Services;
4. The Department of Health;
5. The Department of State; and
6. The Department of Revenue.

The bill requires the workgroup to:

- compile a complete, categorical inventory of all business licenses, certifications, and registrations required by each participating agency, including information regarding relevant laws and rules;
- analyze the business licensing, certification, and registration processes for each agency and identify processes that disrupt workflow and result in duplication, waste, unnecessary complexity, and errors and the root causes of those errors; and
- recommend the standardization and automation of business licensing, certification, and registration processes where appropriate.

The bill requires the workgroup to submit a plan, by February 15, 2011, for establishing a "licensing portal," to the Governor, the President of the Senate, and the Speaker of the House of Representatives that identifies:

- business requirements and the costs associated with implementation of a technology solution for businesses and individuals that provides easy access to state business licensing, certification, and registration requirements through MyFlorida.com;
- clear system wide objectives, a governance structure, accountability measures, and an opportunity for stakeholders to make suggestions regarding the use of the licensing portal; and
- issues that need to be addressed before a technology solution is implemented.

The bill specifies that the workgroup be supported by staff from the participating agencies. It is anticipated that any fiscal impact will not be significant and will be absorbed from within the agencies current appropriations.

The effective date of the bill is upon becoming a law.

HOUSE PRINCIPLES

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

- Balance the state budget.
- 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

MyFlorida.com is "The Official Portal of The State of Florida" and, in part, provides:

From architects to medical doctors to yacht brokers, Florida requires many professional activities to be state-licensed. This is a listing of regulated professions and businesses, including links to websites that allow you to lookup individual names, license numbers and more.¹

This site lists 327 categories of business activities that are licensed by the state.

The "Florida Statutes 2009 Definitions Index" prepared by the Division of Statutory Revision, includes twenty two categories of definitions for the term "license". The index lists thirteen separate definitions for the term "certificate." The term "registration" is identified by six different definitions.

Included in the index is a frequently referenced statutory definition in s. 455.01, F.S., under the general powers chapter of the Department of Business and Professional Regulation:

- 4) "License" means any permit, registration, certificate, or license issued by the department.

The "Administrative Procedure act," chapter 120, F.S., specifies under s. 120.52, F.S.:

(10) "License" means a franchise, permit, certification, registration, charter, or similar form of authorization required by law, but it does not include a license required primarily for revenue purposes when issuance of the license is merely a ministerial act.

(11) "Licensing" means the agency process respecting the issuance, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license or imposition of terms for the exercise of a license.

The license process is one of the core functions performed by agencies in protecting the health, safety, and welfare of the public. The public recognizes the importance of a professional license as an indicator that the business or individual has met the minimum legal qualifications to perform services.

¹ <http://www.myflorida.com/licensee/>
STORAGE NAME: h1299b.CEED.doc
DATE: 3/16/2010

An accurate and reliable licensing system is also emphasized because fees, taxes, and fines are annually collected from licensees.

The license requirements are set in statute and amount to a different set of standards that apply to each activity, either for initial licensure or as a practitioner. For instance, some acts require an academic degree for licensure, while others allow a variety of paths, including qualification through experience, internship training, or other specific training.

The practice requirements for most, but not all, businesses require an examination. The practice requirements may require a multi-part examination which must be taken when available and usually includes several days of testing. Other professions are subject to less time consuming examinations, usually developed by the state or by a vendor through a contract with the state.

Licensure requirements that apply to a particular practice will inevitably affect the application and licensure process. The time frame between the initial license application and the actual issuance of the license may vary as a result of the requirements applicable to that particular business activity.

Effect of proposed changes

The bill requires the Governor to establish a "One-Stop Business Connect Workgroup" composed of, at a minimum, the secretary or agency head, or his or her designee, of the following state agencies:

1. The Agency for Health Care Administration.
2. The Department of Business and Professional Regulation.
3. The Department of Children and Family Services.
4. The Department of Health.
5. The Department of State.
6. The Department of Revenue.

The Secretary of Business and Professional Regulation is designated as the chair of the workgroup. The mission statement of the DBPR is "*License Efficiently, Regulate Fairly.*"²

The bill also recognizes other agencies may have useful expertise and specifies that the workgroup seek consultation with these other agencies, such as the "Agency for Enterprise Information Technology."

The bill requires the workgroup to:

- compile a complete, categorical inventory of all business licenses, certifications, and registrations required by each participating agency, including information regarding relevant laws and rules;
- analyze the business licensing, certification, and registration processes for each agency and identify processes that disrupt workflow and result in duplication, waste, unnecessary complexity, and errors and the root causes of those errors; and
- recommend the standardization and automation of business licensing, certification, and registration processes where appropriate.

The bill requires the workgroup to submit a plan, by February 15, 2011, for establishing the licensing portal to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The bill requires the workgroup plan to identify:

- business requirements and the costs associated with implementation of a technology solution for businesses and individuals that provides easy access to state business licensing, certification, and registration requirements through MyFlorida.com;

² <http://www.myfloridalicense.com/dbpr/index.html>

- clear system wide objectives, a governance structure, accountability measures, and an opportunity for stakeholders to make suggestions regarding the use of the licensing portal; and
- issues that need to be addressed before a technology solution is implemented.

Additionally, section 20.051, F.S., in part, provides:

To achieve maximum efficiency and effectiveness of government as intended by s. 6, Art. IV of the State Constitution, and to promote quality management and accountability as required in s. 19, Art. III of the State Constitution, all programs, functions, and entities must be reviewed by the executive and the legislative branches. Reviews must determine whether the function, program, or entity:

- serves a beneficial purpose to state agencies in improving the effectiveness and efficiency of the operations of the state and
- is situated within an organizational structure that promotes its efficient and effective administration and does not duplicate activities conducted in other agencies of the state;³

The bill specifies:

It is the intent of the Legislature that by July 1, 2014, the state establish an online connection that is easily accessible through the state's official portal, "MyFlorida.com," and that provides an efficient and effective online, self-service method for an individual to access state requirements for starting and operating a business.

B. SECTION DIRECTORY:

Section 1. Creates the "Florida's One-Stop Business Connect Act" and requires the Governor to create a work group to recommend a plan to implement a technology solution that provides businesses and individuals with access to state requirements for business licenses, certifications, and registrations.

Section 2. Effective date – upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate.

³ These categories are only a partial listing of review determinations.

D. FISCAL COMMENTS:

The bill specifies that the workgroup be supported by staff from the participating agencies. The bill specifies that "to the extent that funds are available within the participating agencies' budgets, the workgroup may use services of consultants." It is anticipated that any fiscal impact will not be significant and will be absorbed from within the agencies current appropriations.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

NA

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to streamlining the issuance of licenses,
 3 certifications, and registrations issued by state
 4 agencies; providing a short title; providing legislative
 5 findings and intent; requiring the Governor to establish
 6 the One-Stop Business Workgroup; providing for the
 7 membership of the workgroup; authorizing the workgroup to
 8 consult with other agencies and use consultants; providing
 9 duties of the workgroup; requiring that the workgroup
 10 submit a plan for establishing a licensing portal to the
 11 Governor and Legislature by a specified date; providing
 12 requirements for the plan to implement a technology
 13 solution that provides businesses and individuals with
 14 easy access to state requirements for business licenses,
 15 certifications, and registrations; providing an effective
 16 date.

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

19
 20 Section 1. (1) This act may be cited as "Florida's One-
 21 Stop Business Connect Act."

22 (2) The Legislature finds that:

23 (a) Individuals who start and operate businesses in this
 24 state must interact with multiple state agencies to obtain
 25 licenses, registrations, and tax certificates needed to legally
 26 operate in this state. This process can be time-consuming and
 27 frustrating for businesses and often requires business owners to
 28 provide similar information to multiple agencies.

29 (b) State government requirements for starting and
 30 operating a business in this state are often cumbersome and
 31 place avoidable burdens on business owners. For several years,
 32 the Legislature has recognized that these requirements do not
 33 serve to promote this state as a business-friendly state that
 34 actively supports the growth of jobs, businesses, and economic
 35 opportunities.

36 (c) A phased, deliberative, and collaborative approach is
 37 necessary to streamline and automate the state's business
 38 processes; to simplify business requirements and eliminate
 39 unnecessary business requirements; and to provide a single point
 40 of entry for businesses to complete business transactions with
 41 the state.

42 (3) It is the intent of the Legislature that by July 1,
 43 2014, the state establish an online connection that is easily
 44 accessible through the state's official portal, "MyFlorida.com,"
 45 and that provides an efficient and effective online, self-
 46 service method for an individual to access state requirements
 47 for starting and operating a business.

48 (4) (a) The Governor shall establish a One-Stop Business
 49 Connect Workgroup composed of, at a minimum, the secretary or
 50 agency head, or his or her designee, of the following state
 51 agencies:

- 52 1. The Agency for Health Care Administration.
- 53 2. The Department of Business and Professional Regulation.
- 54 3. The Department of Children and Family Services.
- 55 4. The Department of Health.
- 56 5. The Department of State.

57 6. The Department of Revenue.
 58 (b) The Secretary of Business and Professional Regulation
 59 shall serve as the chair of the workgroup. The workgroup shall
 60 be supported by staff from the participating agencies.
 61 (c) The workgroup may consult with other agencies
 62 throughout the state, including the Agency for Enterprise
 63 Information Technology, and those agencies must provide
 64 requested assistance to the workgroup.
 65 (d) To the extent that funds are available within the
 66 participating agencies' budgets, the workgroup may use the
 67 services of consultants.
 68 (5)(a) The workgroup shall:
 69 1. Compile a complete, categorical inventory of all
 70 business licenses, certifications, and registrations required by
 71 each participating agency, including information regarding
 72 relevant laws and rules.
 73 2. Analyze the business licensing, certification, and
 74 registration processes for each agency and identify processes
 75 that disrupt workflow and result in duplication, waste,
 76 unnecessary complexity, and errors and the root causes of those
 77 errors.
 78 3. Recommend the standardization and automation of
 79 business licensing, certification, and registration processes
 80 where appropriate.
 81 (b) By February 15, 2011, the workgroup shall submit a
 82 plan for establishing the licensing portal to the Governor, the
 83 President of the Senate, and the Speaker of the House of
 84 Representatives that identifies:

85 1. Business requirements and the costs associated with
86 implementation of a technology solution for businesses and
87 individuals that provides easy access to state business
88 licensing, certification, and registration requirements through
89 MyFlorida.com.

90 2. Clear systemwide objectives, a governance structure,
91 accountability measures, and an opportunity for stakeholders to
92 make suggestions regarding the use of the licensing portal.

93 3. Issues that need to be addressed before a technology
94 solution is implemented.

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

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 1299 (2010)

Amendment No. 1

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Full Appropriations Council on
2 Education & Economic Development
3 Representative(s) Horner offered the following:

4

5 **Amendment 1**

6 On line 43 remove 2014 and insert 2012

7

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 1299 (2010)

Amendment No. 2

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Full Appropriations Council on
2 Education & Economic Development
3 Representative(s) Horner offered the following:

4

5 **Amendment 2**

6 On line 81 remove February 15, 2011 and insert December 15, 2010



7

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7053 PCB PT 10-01 Public School Assessments

SPONSOR(S): PreK-12 Policy Committee and Legg

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

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	PreK-12 Policy Committee	13 Y, 1 N	Duncan	Ahearn
1)	Full Appropriations Council on Education & Economic Development		Heflin 	Leznoff 
2)	Education Policy Council			
3)				
4)				
5)				

SUMMARY ANALYSIS

House Bill 7053 specifies geometry and Algebra II as two of the four mathematics credits needed for graduation and Biology I and chemistry or physics as two of the three science credits needed for graduation. For students selecting the accelerated college preparatory or career preparatory graduation options, the bill increases the required mathematics credits from three to four credits.

The bill requires end-of-course (EOC) assessments to be administered in the following courses:

- Algebra I. Beginning with students entering grade 9 in the 2011-2012 school year, passage of the EOC assessment is required to pass the course and earn course credit.
- Geometry. Beginning with students entering grade 9 in the 2012-2013 school year, passage of the EOC assessment is required to pass the course and earn course credit.
- Biology I. Beginning with students entering grade 9 in the 2012-2013 school year, passage of the EOC assessment is required to pass the course and earn course credit.

The bill eliminates grade 9 and grade 10 FCAT Mathematics and FCAT Science at the high school level.

The bill eliminates requirements for a revised FCAT Writing beginning with the 2012-2013 school year. The current FCAT Writing will continue to be administered at least once at the elementary, middle, and high school levels as provided in current law.

The bill directs the Commissioner of Education to develop an implementation schedule for the development and administration of additional EOC assessments in English/Language Arts II, Algebra II, chemistry, physics, Earth/Space science, United States history, and world history, subject to funding availability. A student's performance on these statewide, standardized EOC assessments must constitute at least 30 percent of the student's course grade.

The bill authorizes use of equivalent scores for EOC assessments and allows a high school student who fails an EOC assessment to receive a grade of "I" in the course until the next administration of the EOC assessment. The bill requires the State Board of Education to establish two cut scores for each EOC assessment: a passing score and a score indicating that a student is high achieving and likely to meet college-readiness standards. The bill defines achievement levels 1 through 5 and revises testing schedules for EOC assessments.

The bill requires high schools to provide acceleration courses and advise students of such courses. The bill creates the Credit Acceleration Program (CAP) to allow a student to earn high school course credit by attaining a certain score on a statewide, standardized EOC assessment.

See the FISCAL COMMENTS section of this analysis.

The bill takes effect July 1, 2010.

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

STORAGE NAME: h7053.CEED.doc

DATE: 3/16/2010

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Standards and Assessments

According to the Southern Regional Education Board, the purpose of high school is not only to graduate students, but to prepare them for responsible citizenship and their next step — a bachelor's or associate's degree, transfer study, a career/technical degree or certificate, a career program, employment, or the military.¹

Being college-ready means a high school graduate has the reading, writing and math knowledge and skills to qualify for and succeed in entry-level, credit-bearing, college-degree courses without the need for remedial classes. Similarly, being career-ready — ready to enter and advance in a job or succeed in training for a good job — means that high school graduates can read, comprehend, interpret, and analyze complex technical materials, can use mathematics to solve problems in the workplace, and can pass a state-approved industry certification or licensure exam in their field.²

According to information received from the American Diploma Project (ADP), 55 percent 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, with the state paying more than half of these costs (\$70 million). Also, employers estimate that 45 percent of recent high school graduates lack the skills to advance.³

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

In addition, studies show that low-achieving students fail less often in rigorous courses;⁴ that if high

¹ Southern Regional Education Board, *The Next Generation of School Accountability: A Blueprint for Raising High School Achievement and Graduation Rates in SREB States*, 2009, at 9.

² *Id.*

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

⁴ Cooney, Sondra and Gene Bottoms, Southern Regional Education Board, *Middle Grades to High School: Mending a Weak Link*, 2002, at 9.

schools had demanded more, graduates would have worked harder;⁵ and that a majority of graduates would have taken harder courses.⁶ Finally, research indicates that taking Algebra II is critical for both college and career.⁷

Over the past few years, more states are using end-of-course (EOC) assessments to measure student performance at the high school level. The results of EOC assessments can provide more specific information about student performance. Schools can use the results to determine more exactly what specific course content and skills students have mastered, and what they have not.⁸ Calling a course biology or Algebra I does not ensure a common level of content from one classroom to the next. Implementing statewide, standardized EOC assessments serves as a means of consistently evaluating the rigor of content in high school courses across a state.⁹

In testimony provided during the January 13, 2010, meeting of the Florida House of Representatives PreK-12 Policy Committee, the President of the Southern Regional Education Board stressed the importance of transitioning to EOC assessments methodically and over a period of time. He also emphasized the importance of introducing a small number of EOC assessments and limiting EOC assessments to courses such as Algebra I and Biology I.

Statewide Assessment Program

Current Law

Florida Comprehensive Assessment Test (FCAT)

The FCAT is a part of the statewide assessment program, which measures a student's content knowledge and skills and the achievement of the benchmarks contained in Florida's Next Generation Sunshine State Standards.¹⁰ The FCAT consists of criterion-referenced tests in reading, writing, mathematics, and science.¹¹

Comprehensive assessments of reading and mathematics must be administered annually in grades 3 through 10. Comprehensive assessments of writing and science are administered at least once at the elementary, middle, and high school levels.¹² Students are tested in writing in grades 4, 8, and 10; reading and mathematics in grades 3 through 10; and science in grades 5, 8, and 11.¹³

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) to receive a standard high school diploma.¹⁴

FCAT Writing

Currently, FCAT Writing measures student writing proficiency and consists of a writing prompt randomly assigned to students in grades 4, 8, and 10.¹⁵ Beginning with the 2012-2013 school year, FCAT Writing

⁵ 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.

⁶ *Id.*

⁷ *Id.*; see also, *Achieve Report: Out of Many, One: Toward Rigorous Common Core Standards from the Ground Up*, July 2008, at 4.

⁸ Southern Regional Education Board, *The Changing Roles of Statewide High School Exams*, 2007, at p. 17. Available at http://www.sreb.org/page/1095/high_schools.html (last visited January 20, 2010).

⁹ Education Commission of the States, *High School Level STEM Initiatives*, 2008. Available at <http://mb2.ecs.org/reports/Report.aspx?id=1409> (last visited January 20, 2010).

¹⁰ s. 1008.22(3)(c), F.S.; See Florida Department of Education, FCAT Frequently Asked Questions. Available at <http://www.fldoe.org/faq/default.asp?Dept=179&Cat=95> (last visited January 20, 2010).

¹¹ s. 1008.22(3)(c), F.S.

¹² *Id.*

¹³ Florida Department of Education. FCAT Fact Sheet, 2008. Available at <http://fcats.fldoe.org/fcatpub3.asp> and Rule 6A-1.09422(3)(a), F.S.

¹⁴ s. 1003.428(4)(b) and s. 1003.429(5)(a), F.S.

¹⁵ Florida Department of Education, Office of Assessment, *Writing Assessment in Florida*, February 2010.

must be composed of a combination of selected-response test items, short-response performance tasks, and extended-response performance tasks, which must measure a student's content knowledge of writing, including but not limited to, paragraph and sentence structure, sentence construction, grammar and usage, punctuation, capitalization, spelling, and parts of speech.¹⁶

Florida, represented by the Department of Education (DOE), is partnering with the Common Core State Standards Initiative to develop a common core of state standards in English-language arts and mathematics for grades K-12.¹⁷ It is anticipated that the transition to the Common Core Standards for Writing will begin in the 2011-2012 school year and a common core assessment will be available by the 2014-2015 school year.¹⁸

End-Of-Course (EOC) Assessments

Current law authorizes an EOC assessment for a subject to be administered in addition to the comprehensive assessments required for that subject. An EOC assessment must be rigorous, statewide, standardized, and developed or approved by the DOE. The content knowledge and skills assessed by comprehensive and EOC assessments must be aligned to the core curricular content established in the Sunshine State Standards.¹⁹

The Commissioner of Education (COE) may select one or more nationally developed comprehensive examinations for use as an EOC assessment, including but not limited to, examinations for a College Board Advanced Placement course, International Baccalaureate course, or Advanced International Certificate of Education course or industry-approved examinations to earn national industry certifications, if the COE determines that the content knowledge and skills assessed by the examinations meet or exceed the grade level expectations for the core curricular content established for the course in the Next Generation Sunshine State Standards.²⁰ To date, the COE has not selected any examinations for use as an EOC assessment.

The COE is authorized to collaborate with the American Diploma Project in the adoption or development of rigorous EOC assessments that are aligned to the Next Generation Sunshine State Standards.²¹

The DOE is conducting field test²² administrations of the Algebra I assessment during the current 2009-2010 school year and plans to field test a Biology I EOC assessment during the 2010-2011 school year.²³

Achievement Levels

FCAT Achievement Levels are based on both scale scores and developmental scale scores²⁴ and

¹⁶ *Id.*

¹⁷ The Common Core State Standards Initiative is a state-led effort coordinated by the National Governors Association Center for Best Practices and the Council of Chief State School Officers. The Governors and commissioners of education from 48 states and 2 territories and the District of Columbia are participating in the initiative. See <http://www.corestandards.org/>.

¹⁸ Florida Department of Education, Office of Assessment, *Writing Assessment in Florida*, February 2010.

¹⁹ s. 1008.22(3)(c), F.S.

²⁰ *Id.*

²¹ *Id.*

²² Field-test questions are newly-developed questions that are being tried out before they can be used on a future test. Field-test questions must be tried out at least one year before they are used to decide a student's score. If the data on the field-test questions are acceptable, then the questions may be used on an actual test and count toward a student's score.

<http://www.fldoe.org/faq/default.asp?Dept=202&ID=656> (last visited January 21, 2010).

²³ Florida Department of Education, Office of Assessment, *Transition to Next Generation and Computer-Based Tests in Florida: Plans Currently Included in the FCAT Contract*, January 2010. Field test administrations will occur in a sample of high schools.

²⁴ 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 Rule 6A-1.09422(5), F.A.C. and <http://www.fcat.fldoe.org/pdf/fcAchievementLevels.pdf>, Florida Department of Education, FCAT Achievement Levels, July 2008.

range from Level 1 (lowest) to Level 5 (highest).²⁵ Scores on FCAT Writing are reported on a score scale from 1 to 6 defined by the FCAT Writing holistic rubrics.²⁶

Passing Scores

The State Board of Education (SBE), by rule, establishes the passing scores for statewide assessments. If the COE revises a statewide assessment and the revisions require the SBE to modify the assessment's proficiency levels or modify the passing scores required for a standard high school diploma, until the SBE adopts the modifications by rule, the COE must use calculations for scoring the assessment which adjust student scores on the revised assessment for statistical equivalence to student scores on the former assessment.²⁷ A student must attain the passing scores on the statewide assessment required for a standard high school diploma which are in effect at the time the student enters grade 9 if the student's enrollment is continuous.²⁸

Should the COE revise a statewide assessment and the revisions require the SBE to modify the passing scores required for a standard high school diploma, the COE is authorized to, with approval of the SBE, discontinue administration of the former assessment upon the graduation, based on normal student progression, of students participating in the final regular administration of the former assessment. The SBE must adopt, by rule, passing scores for the revised assessment which are statistically equivalent to passing scores on the discontinued assessment for a student to attain passing scores on the discontinued assessment.²⁹

Concordant Scores

The SBE is required to analyze the content and concordant data sets for widely used high school achievement tests, including, but not limited to, the PSAT, PLAN, SAT, ACT and College Placement Test, to assess if concordant scores can be determined for high school graduation, college placement and scholarship awards.

If a student fails to attain passing scores on the Grade 10 FCAT, the student may attain concordant scores on either the SAT or ACT.³⁰ 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.³¹ Current law does not address whether students who take the SAT or ACT tests and achieve a concordant score *prior* to taking the Grade 10 FCAT are allowed to use that score to satisfy graduation requirements.

Assessment Administration Schedule

The COE is required to establish schedules for the administration of statewide assessments and the reporting of student test results. By August 1 of each year, the COE must notify each school district in writing and publish on the DOE's Internet website the testing and reporting schedules for, at a minimum, the school year following the upcoming school year.³²

The testing and reporting schedules must require the latest possible administration of statewide assessments and the earliest possible reporting to the school districts of student test results which is feasible based on the available technology and funding; however, test results must be made available no later than the final day of the regular school year for students.³³

²⁵ <http://www.fcatt.fldoe.org/pdf/fcAchievementLevels.pdf>, Florida Department of Education. FCAT Achievement Levels, July 2008.

²⁶ Rule 6A-1.09422, F.A.C.

²⁷ s. 1008.22(9)(a), F.S.

²⁸ s. 1008.22(9)(b), F.S.

²⁹ s. 1008.22(9)(c), F.S.

³⁰ s. 1008.22(10), F.S.

³¹ s. 1008.22(10), F.S.

³² s. 1008.22(3)(c)12., F.S.

³³ s. 1008.22(3)(c)12.a., F.S.

Beginning with the 2010-2011 school year, a comprehensive statewide assessment of writing cannot be administered earlier than the week of March 1 and a comprehensive statewide assessment of any other subject cannot be administered earlier than the week of April 15.³⁴

A statewide, standardized EOC assessment is required to be administered within the last two weeks of the course.³⁵

Waiver of FCAT for Certain Students

School districts are required to provide instruction to prepare students with disabilities to demonstrate proficiency in the core content knowledge and skills necessary for such students to progress from grade-to-grade and to graduate from high school.³⁶

For a student with a disability, if the individual education plan (IEP) committee determines that the FCAT cannot accurately measure a student's abilities, then the FCAT requirements must be waived for the purpose of receiving a standard high school diploma. In addition, in order for the FCAT requirement to be waived, the student must have completed the minimum number of credits and met the other requirements for high school graduation and must have taken FCAT reading and mathematics once in the 10th grade and once in the 11th grade.³⁷

Effect of Proposed Changes

Florida Comprehensive Assessment Test (FCAT)

The bill eliminates Grade 9 FCAT Mathematics, Grade 10 FCAT Mathematics, and FCAT Science administered at the high school level.

FCAT Writing

The bill removes the multiple performance tasks required for FCAT Writing beginning with the 2012-2013 school year, thereby avoiding the significant costs associated with developing a new assessment.³⁸ The current FCAT Writing will continue to be administered at least once at the elementary, middle, and high school levels as provided in current law.³⁹ It is anticipated that the Common Core Standards for Writing will be adopted in 2010 and the Common Core writing assessment will be available in the 2014-2015 school year; accordingly, developing a new writing assessment prior to possibly implementing the Common Core writing assessment would appear fiscally imprudent.⁴⁰

End-of-Course (EOC) Assessments

The bill requires three EOC assessments, as follows:

Mathematics Courses

- Algebra I

Beginning with the 2010-2011 school year, all students enrolled in Algebra I or an equivalent course must take the Algebra I EOC assessment.

For students entering grade 9 during the 2010-2011 school year, a student's performance on the EOC assessment in Algebra I will constitute 30 percent of the student's final course grade.

³⁴ s. 1008.22(3)(c)12.b., F.S.

³⁵ s. 1008.22(3)(c)12.c., F.S.

³⁶ s. 1003.428(8)(a), F.S.

³⁷ s. 1003.428(8)(b), F.S.

³⁸ See *supra* text accompanying fn16.

³⁹ s. 1008.22(3)(c), F.S. and Rule 6A-1.09422, F.A.C.

⁴⁰ See *supra* text accompanying fn 18.

Beginning with students entering grade 9 in the 2011-2012 school year, a student must earn a passing score on the EOC assessment in Algebra I in order to *pass the course and earn course credit*.

- **Geometry**

Beginning with the 2010-2011 school year, all students enrolled in geometry or an equivalent course must take the geometry EOC assessment.

For students entering grade 9 during the 2010-2011 and 2011-2012 school years, a student's performance on the EOC assessment in geometry will constitute 30 percent of the student's final course grade.

Beginning with students entering grade 9 in the 2012-2013 school year, a student must earn a passing score on the EOC assessment in geometry in order to *pass the course and earn course credit*.

Science Course

- **Biology I**

Beginning with the 2011-2012 school year, all students enrolled in Biology I or an equivalent course must take the Biology I EOC assessment.

For students entering grade 9 during the 2011-2012 school year, a student's performance on the EOC assessment in Biology I will constitute 30 percent of the student's final course grade.

Beginning with students entering grade 9 in the 2012-2013 school year, a student must earn a passing score on the EOC assessment in Biology I in order to *pass the course and earn course credit*.

The bill directs the COE to establish an implementation schedule for the development and administration of statewide, standardized EOC assessments in English/Language Arts II, Algebra II, chemistry, physics, Earth/Space science, United States history, and world history, contingent upon funding provided in the General Appropriations Act, including appropriation of federal funds. The student's performance on these statewide, standardized EOC assessments must constitute at least 30 percent of a student's course grade.

Priority must be given to the development of an EOC assessment in English/Language Arts II. The COE is directed to evaluate the feasibility and effect of transitioning from the grade 9 and grade 10 FCAT Reading and high school level FCAT Writing to an EOC assessment in English/Language Arts II. The COE must report the results of the evaluation to the President of the Senate and the Speaker of the House of Representatives no later than July 1, 2011.

Achievement Levels

The bill requires the use of achievement levels for all comprehensive and EOC assessments. FCAT Reading, Mathematics, and Science and all statewide, standardized EOC assessments must measure the content knowledge and skills a student has attained by use of scaled scores and achievement levels. Achievement levels range from 1 through 5, with level 1 being the lowest achievement level, level 5 being the highest achievement level, and level 3 indicating satisfactory performance on an assessment.⁴¹

The bill codifies the current practice of scoring FCAT Writing using the rubric scale ranging from 1 through 6 and incorporating scores earned in calculating school grades.

⁴¹ Currently, student performance on FCAT Reading, Mathematics, and Science are evaluated using the five achievement levels; however, current law does not identify or define the five levels.

Passing Scores, Including Scores Indicating High Achievement

The bill requires the SBE to designate passing scores for EOC assessments.⁴² In addition, the SBE must designate a score for each statewide, standardized EOC assessment which indicates that a student is high achieving and likely to meet college-readiness standards by the time the student graduates from high school.

Concordant and Equivalent Scores

The bill revises the use of concordant scores for the FCAT as follows:

- Requires the COE, rather than the SBE, to analyze the content and concordant data sets for high school achievement tests and to assess if concordant scores for FCAT scores can be determined for high school graduation only, rather than, in addition to, college placement and scholarship awards.
- Clarifies that concordant scores earned prior to taking the grade 10 FCAT are not eligible for use in fulfilling the student assessment requirement in order to obtain a standard high school diploma.⁴³
- Provides that a student who has not earned a passing score on the grade 10 FCAT must participate in each retake of the assessment until the student earns a passing score on a concordant assessment.
- Removes the requirement that a student must take the grade 10 FCAT a total of three times without earning a passing score before concordant scores can be used to satisfy the assessment requirement for a standard high school diploma. The DOE maintains that the requirement to take and fail the FCAT three times prior to using a concordant score is frustrating for students and particularly difficult for students transferring into a Florida school district toward the end of grade 11 and in grade 12. The FCAT summer retakes were eliminated due to budget cuts, making it more difficult to retake the test.⁴⁴

For EOC assessments, the bill directs the COE to analyze the content and equivalent data sets for high school achievement tests such as the grade 10 Mathematics retakes until such retakes are discontinued, the PSAT, the PLAN, the SAT, the ACT, and the College Placement Test, to assess if equivalent scores for EOC assessment scores can be determined. When content alignment and equivalent scores can be determined, the COE must adopt those scores as meeting the requirement to pass the EOC assessment and may adopt those scores as being sufficient to achieve additional purposes as determined by rule.

New equivalent scores must be established each time that assessment content or scoring procedures change for an EOC assessment or for a high school achievement test for which an equivalent score is determined. Equivalent scores earned before taking an EOC assessment for the first time may not be used to satisfy the requirement to pass the EOC assessment. Use of equivalent scores for purposes of grade adjustment, grade forgiveness, or credit recovery is contingent upon and subject to school board

⁴² An EOC assessment must be field-tested and the following year the EOC assessment is administered to establish baseline performance data. The SBE will not establish a passing score for the baseline administration of the assessment because no comparison can be made. The baseline exam should be scored 1 to 100. Therefore, the raw score a student receives, e.g., 70 points, will be used as 30 percent of the student's grade. The teacher will average the raw score received on the EOC assessment with other performance and/or participation data, such as quizzes, classroom and homework assignments, and projects in order to determine a student's grade. When the EOC assessment is administered the following year, the SBE will establish a passing score and the range of scores for each of the five achievement levels.

⁴³ The DOE states that the purpose of this requirement is to maintain the integrity of each student's first attempt on the grade 10 FCAT. If a student has a concordant SAT/ACT score prior to taking the grade 10 FCAT, the student's motivation to pass the assessment will be diminished. In addition, allowing use of prior concordant scores erodes the NCLB requirement that students take a state comprehensive exam. Also, SAT/ACT and FCAT tests are modified at various times, thus a previously-earned "passing" score on the SAT/ACT may not accurately reflect "concordancy" with the current FCAT assessment.

⁴⁴ Conversation with the Department of Education staff concerning HB 7087 during the 2009 Legislative Session.

rule.

Assessment Testing Schedules

The bill requires the COE to consider the observance of religious and school holidays when establishing the schedules for the administration of statewide assessments.

The bill changes the current requirement that FCAT test results must be made available no later than the final day of the regular school year to no later than the week of June 8.

The bill revises the EOC assessment testing schedule as follows:

- Changes the requirement that a statewide, standardized EOC assessment be administered within a two-week period by authorizing the EOC assessment to be administered during a three-week period at the end of a year-long course.
- Requires the COE to select a three-week period for the administration of the assessment in order to provide student results prior to the end of the course.
- Requires school districts to select one testing week within the three-week administration period for each EOC assessment.
- Requires the COE to determine the most appropriate testing dates, based on a school district's academic calendar, for EOC assessments administered at the end of a semester-long course.

The bill requires that EOC assessment results be provided no later than one week after the school district completes testing for each course.

Waivers of EOC Assessments for Certain Students

Like current law regarding the FCAT, the bill provides that if the individual education plan committee determines that an EOC assessment cannot accurately measure the abilities of a student with a disability, considering all allowable accommodations, then the results of the EOC assessment must be waived for the purpose of determining the student's course grade and credit.

Echoing current law with regard to the FCAT, the bill authorizes the waiver of an EOC assessment for students in exceptional education programs and students who have limited English proficiency.

High School Credit Requirements

Current Law

24-Credit Graduation Option

To graduate from high school and receive a standard diploma, students must complete an accelerated college or career preparatory program,⁴⁵ an International Baccalaureate (IB) curriculum, an Advanced International Certificate of Education (AICE) curriculum, or earn 24 credits in required courses and pass the Grade 10 FCAT.⁴⁶ Of the 24 credits, 16 credits are core curriculum credits comprised of: four credits in English; four credits in mathematics; three credits in science; three credits in social studies; one credit in fine or performing arts, speech and debate, or a practical arts course; and one credit in physical education to include integration of health.⁴⁷

⁴⁵ See text accompanying *infra* notes 55, 56, and 57.

⁴⁶ s. 1003.428(4)(b), F.S., and s. 1008.22(3)(c), F.S.

⁴⁷ s. 1003.428(1), F.S.

Mathematics Courses

Of the four credits required in mathematics, one 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.

There are several options available for students to meet the mathematics credit requirements. Courses equivalent to Algebra I include Algebra Ia and Ib, Applied Math I and Math II and pre-AICE Math I. In addition, there are a series of integrated mathematics courses (Integrated Math I and II) that incorporate Algebra I and II and geometry. Courses equivalent to Algebra II are Integrated Math II and III. Courses equivalent to geometry include Informal Geometry, Analytical Geometry, and Analytical Geometry IB. Algebra I, geometry, and Algebra II all have equivalent honors level courses.⁴⁸

In 2008-2009, 59 percent of grade 9 students were enrolled in Algebra I or an equivalent and 27 percent of grade 8 students were enrolled in Algebra I or an equivalent. In 2008-2009, 47 percent of grade 10 students were enrolled in geometry or an equivalent and 21 percent of grade 9 students were enrolled in geometry or an equivalent.⁴⁹

Science Courses

Of the three credits required in science, two must have a laboratory component. However, no specific science courses are identified.⁵⁰

Courses equivalent to Biology I include Integrated Science 3, AICE Biology I, Advance Placement (AP) Biology, and Biology I Pre-IB. There are also Biology I Honors and Integrated Science 3 Honors courses.⁵¹ In 2008-2009, 46 percent of grade 10 students were enrolled in biology or an equivalent and 33 percent of grade 9 students were enrolled in biology or an equivalent.⁵²

Courses equivalent to chemistry include a series of Integrated Science 1, 2, and 3; AICE Chemistry 1; and Chemistry 1 Pre-IB. There are also Chemistry 1 Honors and Integrated Science 1, 2, and 3 Honors courses. Courses equivalent to physics include Physics 1 Honors, AICE Physics, and Physics 3 IB.⁵³

In 2008-2009, 74 percent of the middle or high school students were enrolled in either a chemistry course *or* a physics course. In 2008-2009, 22 percent of the middle or high school students were enrolled in a chemistry course *and* a physics course.⁵⁴

Accelerated High School Graduation

In addition to the traditional 24-credit/4-year option, students may choose an accelerated 18-credit/3-year College Preparatory Program option or an accelerated 18-credit/3-year Career Preparatory Program option. Students choosing one of these options must also pass the grade 10 FCAT in reading and mathematics or attain concordant scores on either the SAT or the ACT.⁵⁵

Students selecting an accelerated 18-credit/3-year College Preparatory Program must complete three credits in mathematics at the Algebra I level or higher that qualify for state university admission and

⁴⁸ Information provided by staff at the Department of Education to the House PreK-12 Policy Committee meeting on January 20, 2010.

⁴⁹ *Id.*

⁵⁰ s. 1003.428(2)(a), F.S.

⁵¹ Information provided by staff at the Department of Education to the House PreK-12 Policy Committee meeting on January 20, 2010.

⁵² *Id.*

⁵³ Correspondence with the Department of Education concerning PCB PT 10-01, February 16, 2010.

⁵⁴ *Id.*

⁵⁵ s. 1003.428, 1003.429 and s. 1003.43, F.S.

three credits in electives.⁵⁶

Students selecting an accelerated 18-credit/3-year Career Preparatory Program must complete three credits in mathematics, one of which must be Algebra I and two credits in electives.⁵⁷

Course Credit

For the purpose of meeting high school graduation requirements, “one full credit means a minimum of 135 hours of bona fide instruction in a designated course of study that contains student performance standards.”⁵⁸ For a district school authorized to implement block scheduling by the district school board, one full credit means a minimum of 120 hours of actual instruction.⁵⁹

In awarding credit for high school graduation, each district school board must maintain a one-half credit earned system that must include courses provided on a full-year basis. “A student enrolled in a full-year course [must] receive one-half credit if the student successfully completes either the first half or the second half of a full-year course, but fails to successfully complete the other half of the course and the averaging of the grades obtained in each half would *not result in a passing grade*.”⁶⁰

A student enrolled in a full-year course must receive a full credit if the student successfully completes either the first half or the second half of a full-year course, but fails to successfully complete the other half of the course and the averaging of the grades obtained in each half would result in a *passing grade*, provided that such additional requirements specified in district school board policies, such as class attendance, homework, participation, and other indicators of performance, are successfully completed by the student.⁶¹

Transfer of Credits and Grades Earned

Each school principal is required to maintain a permanent cumulative record for each student enrolled in a public K-12 school.⁶² The SBE, by rule, prescribes the procedures relating to transferring and maintaining records of students who transfer from school to school and procedures relating to the acceptance of transfer work and credit for students.⁶³ Credits and grades earned and offered for acceptance must be based on official transcripts and must be accepted at face value subject to validation if necessary.⁶⁴

Grade of “Incomplete”

Current law defines the letter grades “A,” “B,” “C,” “D,” and “F” for students in public school in grades 6-12. Current law provides that Grade “I” equals zero percent, has a grade point average value of zero, and is defined as “incomplete.”⁶⁵ Policies for use of Grade “I” vary by school district.⁶⁶

Middle Grades Students Enrolled in High School Level Courses

Each middle school must offer at least one high school level mathematics course for which students may earn high school credit.⁶⁷ In 2008-2009, 63,178 grade 8 students were enrolled in Algebra I or an

⁵⁶ s. 1003.429(1)(b)2.& 6., F.S.

⁵⁷ s. 1003.429(1)(c)2.& 6., F.S.

⁵⁸ s. 1003.436(1)(a), F.S.

⁵⁹ s. 1003.436(1), F.S.

⁶⁰ s. 1003.436(2), F.S., emphasis added.

⁶¹ *Id.*

⁶² s. 1003.25(1), F.S.

⁶³ s. 1003.25, F.S. See Rule 6A-1.09941(1), F.A.C., and Rule 6A-1.09942(1), F.A.C.

⁶⁴ Rule 6A-1.09941(1), F.A.C. and Rule 6A-1.09942(1), F.A.C.

⁶⁵ s. 1003.437, F.S.

⁶⁶ Conversation with Florida Department of Education staff on November 24, 2009.

⁶⁷ s. 1003.4156(1)(a)2., F.S.

equivalent and 13,648 grade 7 students were enrolled in Algebra I or an equivalent.⁶⁸ In 2008-2009, 8,834 grade 8 students were enrolled in geometry or an equivalent and 87 grade 7 students were enrolled in geometry or an equivalent.⁶⁹

Effect of Proposed Changes

24-Credit Graduation Option

The bill modifies the 24-credit 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 bill provides the following schedule for the requirement of specific courses:

Mathematics Courses

Beginning with students entering grade 9 in the 2010-2011 school year

- In addition to Algebra I, which is currently required by law, one credit must be geometry or a series of courses equivalent to geometry as approved by the SBE.⁷⁰

Beginning with students entering grade 9 in the 2012-2013 school year

- In addition to Algebra I and geometry, one credit must be Algebra II or a series of courses equivalent to Algebra II as approved by the SBE.⁷¹

Science Courses

Beginning with students entering grade 9 in the 2011-2012 school year

- One of the three science credits must be Biology I or a series of courses equivalent to Biology I as approved by the SBE.⁷²

Beginning with students entering grade 9 in the 2013-2014 school year

- In addition to Biology I, one credit must be chemistry or physics or a series of courses equivalent to chemistry or physics as approved by the SBE.⁷³

Accelerated High School Graduation Options

The bill modifies the 18-credit accelerated college preparatory and career preparatory high school graduation requirements for receipt of a standard high school diploma by specifying the mathematics

⁶⁸ Information provided by staff at the Department of Education to the House PreK-12 Policy Committee meeting on January 20, 2010.

⁶⁹ *Id.*

⁷⁰ See discussion of End-of-Course (EOC) Assessments in this analysis at pp. 6-7.

⁷¹ The number of mathematics credits required is not being increased. Therefore, the number of teachers required will not increase and there are no increased costs. Certification requirements are not specific to courses. Teachers certified to teach mathematics in grades 5 through 9 are eligible to teach Algebra I and geometry. Teachers certified to teach mathematics in grades 6 through 12 are eligible to teach all mathematics course requirements. Purchases of mathematics instructional materials are scheduled for 2010-2011. Correspondence with the Department of Education concerning PCB PT 10-01, February 16, 2010.

⁷² See discussion of End-of-Course (EOC) Assessments in this analysis at pp. 6-7.

⁷³ The number of science credits required is not being increased. Therefore, the number of teachers required to teach science will not increase and there are no increased costs. The certification requirements specific to science areas are: biology (grades 6 through 12), chemistry (grades 6 through 12), and physics (grades 6 through 12). In the next three years Florida will need to produce and recruit teachers to teach chemistry or physics. Another option is to fulfill the science course requirements with equivalent integrated courses which allow more flexibility with required certification. Purchases of science instructional materials are scheduled for 2010-2011. Correspondence with the Department of Education concerning PCB PT 10-01, February 16, 2010.

and science courses required. The bill also increases the required mathematics credits from three to four.

Mathematics Courses

Beginning with students entering grade 9 in the 2010-2011 school year

- In addition to Algebra I, which is currently required by law, one credit must be geometry or a series of courses equivalent to geometry as approved by the SBE.⁷⁴

Beginning with students entering grade 9 in the 2012-2013 school year

- In addition to Algebra I and geometry, one credit must be Algebra II or a series of courses equivalent to Algebra II as approved by the SBE.

Science Courses

Beginning with students entering grade 9 in the 2011-2012 school year

- One of the three science credits must be Biology I or a series of courses equivalent to Biology I as approved by the SBE.⁷⁵

Beginning with students entering grade 9 in the 2013-2014 school year

- In addition to Biology I, one credit must be chemistry or physics or a series of courses equivalent to chemistry or physics as approved by the SBE.

For the accelerated college preparatory graduation option the bill reduces electives from three to two credits and for the career preparatory graduation option the bill reduces electives from two credits to one credit.

Online Courses

Beginning with students entering grade 9 in the 2013-2014 school year, one of the credits under the 24-credit or 18-credit options must contain online learning. The requirement must be met through an online course offered by the Florida Virtual School, a course offered by the high school that significantly integrates online content, or an online dual enrollment course offered pursuant to a district interinstitutional articulation agreement.⁷⁶ A student who is enrolled in a full-time virtual instruction program under s. 1002.45, F.S., is considered to have met this requirement.⁷⁷

Course Credit

When, under the bill, a student is required to pass the EOC assessment to pass the course (i.e., Algebra I, geometry, and Biology I), a student who successfully completes the first half of a year long course, but fails the EOC assessment, may not earn a full credit in the course regardless of whether averaging the grades obtained in each would result in a passing grade. However, the student may earn a half credit as provided in current law.⁷⁸

Transfer of Credits and Grades Earned

The bill clarifies the provisions regarding the uniform procedures required for the transfer of credits and grades earned by students entering Florida's public schools. The bill requires credits and grades

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ s. 1007.235, F.S., establishes district interinstitutional articulation agreements.

⁷⁷ s. 1002.45, F.S., establishes the school district virtual instruction programs.

⁷⁸ s. 1003.436, F.S.

earned in courses, including those courses that, in Florida, require a statewide, standardized EOC assessment, to be accepted at face value if based on official transcripts - subject to validation procedures established by rule.

Grade of "Incomplete"

The bill specifically authorizes a high school student who fails to pass an EOC assessment to receive a grade "I" in the course until the next administration of the EOC assessment. If the student passes the EOC assessment, a grade must be substituted. The school district will determine when a student should receive a grade "I" and how many times a student may take the EOC assessment, and fail, before the grade of "F" is substituted for that course.

Middle Grades Students Enrolled in High School Level Courses

For purposes of a course grade or for middle grades promotion, a middle school student's successful completion of a high school level Algebra I, geometry, or Biology I course is not contingent upon the student's performance on the EOC assessment. However, the student is required to pass the EOC assessment in an Algebra I, geometry, or Biology I course in order to receive high school credit.

Middle grades students who earn a high school credit in Algebra I or geometry before the 2010-2011 school year are not required to meet the EOC assessment requirements. In addition, middle grade students who earn a high school credit in Biology I before the 2011-2012 school year are not required to meet the EOC assessment requirements.

School Grades

Current Law

All public schools, including charter schools, which have at least 30 students with valid FCAT scores in reading for the current and prior years and at least 30 students with valid FCAT scores in mathematics for the current and prior years are assigned a school grade.⁷⁹ Student achievement data from the FCAT are used to establish both proficiency levels and annual progress for individual students, schools, districts, and the state.⁸⁰

Currently, 50 percent of a high school's grade is based upon a combination of:

- Student achievement scores on FCAT, i.e., reading, writing, mathematics, and science;
- Student learning gains as measured by annual FCAT assessments in reading and mathematics; 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."⁸¹ Despite the statutory requirement, learning gains cannot be calculated for FCAT Writing because it is only administered once at the elementary, middle, and high school levels.

The remaining 50 percent is based upon the:

- High school's graduation rate;
- High school's graduation rate of at-risk students scoring at achievement Level 1 or 2 in reading and mathematics on the Grade 8 FCAT;

⁷⁹ s. 1008.34(3)(a)1., F.S. and Rule 6A-1.09981(4), F.A.C.

⁸⁰ s. 1008.34, F.S.

⁸¹ s. 1008.34(3)(b)1.c., F.S.

- Performance and participation of the school's students in AP, IB, dual enrollment, and AICE courses (as valid data becomes available);⁸²
- Achievement by the school's students of industry certification in a career and professional academy;⁸³
- Postsecondary readiness of the school's students, as measured by the SAT, ACT, or the Common Placement Test;⁸⁴
- Performance of the school's students on statewide, standardized EOC assessments approved by the DOE (as valid data becomes available); and
- Growth or decline in these components.⁸⁵

In addition, a high school may not receive an "A" unless its at-risk students (scoring at achievement Level 1 or 2 in reading and mathematics on the grade 8 FCAT) make adequate progress.⁸⁶

Effect of Proposed Changes

The bill includes student performance on EOC assessments as a component for determining a high school's grade. The bill provides that a high school's grade is based on:

- Student achievement scores on FCAT Reading and Writing *and* adds performance on EOC assessments in Algebra I, geometry, and Biology I.⁸⁷
- Student learning gains as measured by FCAT Reading *and* adds performance on Algebra I and geometry EOC assessments.
- Improvement of the lowest 25th percentile of students in FCAT Reading *and* adds performance on Algebra I and geometry EOC assessments.
- Achievement by the school's students of national industry certifications identified in the Industry Certification Funding List pursuant to rules adopted by the SBE.⁸⁸

An integral component of Florida's school accountability system, student learning gains, including improvement of a school's lowest 25th percentile of students, can continue to be calculated, using EOC assessment data for Algebra I and geometry, in lieu of performance data from Grade 9 and Grade 10

⁸² See ss. 1007.27 & 1007.271, F.S. (articulated acceleration mechanisms, dual enrollment); College Board, *Advanced Placement Program*, <http://www.collegeboard.com/student/testing/ap/about.html> (last visited January 21, 2010); International Baccalaureate, <http://www.ibo.org> (last visited January 21, 2010); University of Cambridge, International Examinations, *Cambridge Advanced International Certificate of Education Diploma*, <http://www.cie.org.uk/qualifications/academic/uppersec/aice> (last visited January 21, 2010).

⁸³ See s. 1003.493, F.S.

⁸⁴ See s. 1008.30, F.S. (common placement test assesses the basic computation and communication skills of students who intend to enter a degree program at any public postsecondary educational institution); *College Board, About the SAT*, <http://www.collegeboard.com/student/testing/sat/about.html> (last visited January 21, 2010); ACT, Inc., *The ACT Test*, <http://www.act.org/aap> (last visited January 21, 2010).

⁸⁵ s. 1008.34(3)(b)2. & (c)4., F.S.

⁸⁶ s. 1008.34(3), F.S.

⁸⁷ The PCB authorizes additional statewide, standardized EOC assessments to be developed and administered, contingent upon the appropriation of funds, in English/Language Arts II, Algebra II, chemistry, physics, Earth/Space science, United States history, and World History. A student's performance on these EOC assessments constitutes at least 30 percent of a student's course grade. If these EOC assessments are developed and administered, then a high school's grade must be based upon the performance of a high school's students on statewide, standardized EOC assessments as part of the remaining 50 percent of the high school's total grade. See discussion of End-of-Course (EOC) Assessments in this analysis at pp. 6-7 and s. 1008.34(3)(b)4.h., F.S.

⁸⁸ The Industry Certification Funding List is incorporated by reference in Rule 6A-6.0573, F.A.C., and may be obtained from the Department of Education's website at <http://www.fldoe.org/workforce/fcpea/default.asp>. See s. 1003.493, F.S., Rule 6A-6.0573, F.A.C., and s. 1011.62(1)(o), F.S.

With respect to school grades, the requirement to include improvement of the school's lowest 25th percentile on FCAT Writing is removed because learning gains cannot be calculated since FCAT Writing is only administered once at the elementary, middle, and high school levels.

School Improvement Ratings

Current Law

An alternative school that provides dropout prevention and academic intervention services receives a school improvement rating which is based on the aggregate test scores of all students enrolled in the school who have been assessed on the FCAT and who have FCAT scores or comparable scores for the preceding school year and all students enrolled in the school who have scored in the lowest 25th percentile of students in the state on FCAT Reading.⁹⁰

Effect of Proposed Changes

The bill includes performance of students on statewide, standardized EOC assessments as a factor in determining school improvement ratings.

Acceleration Courses

Current Law

Current law authorizes a variety of articulated acceleration mechanisms for secondary⁹¹ and postsecondary students attending public educational institutions. Articulated acceleration mechanisms serve to reduce the time necessary for a student to complete the requirements associated with the receipt of a high school diploma and a postsecondary degree, broaden the scope of curricular options available to students, or increase the depth of study available for a particular subject.⁹²

Acceleration courses through which a high school student can earn postsecondary course credit include dual enrollment, AP, IB, AICE, and industry certification.⁹³ Credit earned through the Florida Virtual School also provides additional opportunities for acceleration.⁹⁴

During the 2008-2009 school year, of the 474 schools with students in grades 9-12, 459, or 97 percent, had students enrolled in dual enrollment, AP, IB, or AICE.⁹⁵

Effect of Proposed Changes

Students choosing the 24-credit or the accelerated 18-credit college or career preparatory graduation options⁹⁶ must be advised of the availability of IB, AICE, AP, dual enrollment, career academy courses, and programs that lead to national industry certification courses, as well as the availability of course offerings through the Florida Virtual School.⁹⁷ Beginning with the 2011-2012 school year, each high school must offer an IB Program, AICE Program, or a combination of at least four courses in Advanced

⁸⁹ Correspondence from staff of the Florida Department of Education and information provided by the Florida Department of Education, Division of Accountability, Research and Measurement, *Learning Gains Proposal for Florida EOC Assessments*, October 9, 2009.

⁹⁰ s. 1008.341, (2) and (3), F.S.

⁹¹ Secondary schools are schools that primarily serve students in grades 6 through 12. *See* s. 1003.413, F.S.

⁹² s. 1007.27(1), F.S.

⁹³ *See supra* note 82.

⁹⁴ s. 1007.27(1), F.S.

⁹⁵ Florida Department of Education, PK-20 Data Warehouse, *2008-2009 Acceleration*, February 4, 2010.

⁹⁶ s. 1003.429(1)(b) and (c), F.S.

⁹⁷ The Florida Virtual School offers over 90 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* s. 1002.37, F.S., and <http://www.fldoe.org/Schools/virtual-schools/faqs.asp>

Placement or dual enrollment, including one course each in English, mathematics, science, and social studies. To meet this requirement school districts may utilize the course offerings provided by the Florida Virtual School or through authorized virtual instruction programs.⁹⁸

The bill creates the Credit Acceleration Program (CAP). CAP allows a middle school or high school student to earn high school course credit in a course that requires a statewide, standardized EOC assessment if the student attains a score that indicates the student is high achieving⁹⁹ on the corresponding statewide, standardized EOC assessment. A student who is not enrolled in the course or who has not completed the course may take the statewide, standardized EOC assessment during the regular administration of the assessment and may only take the EOC assessment once pursuant to CAP.

Middle Grades Students Career and Education Planning

Current Law

In addition to other courses required for middle grades promotion, middle grades students are required to complete a course in career education planning in the 7th or 8th grade. The course must include educational planning using the online student advising system Florida Academic Counseling and Tracking for Students and must result in the completion of a personalized academic and career plan.¹⁰⁰

Effect of Proposed Changes

The bill specifies that the personalized academic and career plan inform students of high school graduation requirements, high school assessment and college entrance test requirements, Florida Bright Futures Scholarship Program requirements, state university and Florida college admission requirements, and opportunities through which a high school student can earn college credit including the Advanced Placement, International Baccalaureate, Advanced International Certificate of Education, dual enrollment, career academy courses,¹⁰¹ and programs that lead to national industry certification.

Florida School Recognition Program

Current Law

The Florida School Recognition Program provides public recognition and financial awards to schools sustaining high student performance by receiving a school grade of "A" or showing substantial improvement in student performance by improving a letter grade.¹⁰² Selected schools receive financial awards depending on the availability of funds appropriated and the number and size of schools selected to receive an award. Funds must be distributed as determined jointly by the school's staff and school advisory council. If school staff and the school advisory council cannot reach agreement by November 1, the awards must be equally distributed to all classroom teachers currently teaching in the school.¹⁰³

Effect of Proposed Changes

The bill changes the date from November 1 to February 1 of each year by which school staff and the school advisory council must reach an agreement on how school recognition funds will be distributed. Because school grades for high schools are not reported until fall, this gives school advisory councils

⁹⁸ See supra note 77.

⁹⁹ The bill requires the SBE to designate a passing score and a score which indicates that a student is high achieving and likely to meet college-readiness standards for each statewide, standardized EOC assessment. See discussion of Passing Scores, Including Scores Indicating High Achievement in this analysis at 8.

¹⁰⁰ s. 1003.4156(1)(a)5., F.S.

¹⁰¹ A career and professional academy is a research-based program that integrates a rigorous academic curriculum with an industry-specific curriculum aligned directly to priority workforce needs established by a regional workforce board. See s. 1003.493, F.S.

¹⁰² s. 1008.36(2), F.S.

¹⁰³ s. 1008.36(4), F.S.

an additional three months to determine how to distribute award funds.¹⁰⁴

Beginning with the 2009-2010 school year, if a school selected to receive a school recognition award is no longer in existence at the time the award is paid, the district superintendent must determine how the school recognition funds must be used to support the district.¹⁰⁵

B. SECTION DIRECTORY:

Section 1: Amends s. 1003.25, F.S., relating to procedures for maintenance and transfer of student records.

Section 2: Amends s. 1003.413, F.S., relating to secondary school design, to delete obsolete references and conform cross-references.

Section 3: Amends s. 1003.4156, F.S., relating to middle grades promotion.

Section 4: Amends s. 1003.428, F.S., relating to the revised general requirements for high school graduation.

Section 5: Amends s. 1003.429, F.S., relating to accelerated high school graduation requirements.

Section 6: Creates s. 1003.4295, relating to acceleration opportunities for secondary students.

Section 7: Amends s. 1003.437, F.S., relating to middle and high school grading system.

Section 8: Amends s. 1003.493, F.S., relating to career and professional academies to conform to changes made by the act.

Section 9: Amends s. 1007.35, F.S., relating to the Florida Partnership for Minority and Underrepresented Student Achievement to conform changes made by the act.

Section 10: Amends s. 1008.22, F.S., relating to the statewide student achievement testing program.

Section 11: Amends s. 1008.25, F.S., relating to public school student progression, to conform to changes made by the act.

Section 12: Amends s. 1008.30, F.S., relating the common placement test, to conform to changes made by the act.

Section 13: Amends s. 1008.34, F.S., relating to school grading system; school report cards; and district grade.

Section 14: Amends s. 1008.341, F.S., relating to school improvement rating for alternative schools.

Section 15: Amends s. 1008.36, F.S., relating to the Florida School Recognition Program.

Section 16: Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

¹⁰⁴ Department of Education Bill Analysis on Senate Bill 2482, March 2, 2009, at 5.

¹⁰⁵ To date, 5 schools and \$80,000 have been impacted. Conversation with Florida Department of Education Staff, January 2010.

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The fiscal impact of this bill is indeterminate although not significant. Typically, the cost associated with administering a statewide, standardized assessment is approximately \$1 to \$1.5 million annually. However, based on the current budget proposal for the assessment and evaluation budget, DOE estimates the costs of the bill will be absorbed except for a cost of \$393,799 for the 2011 base line test for Geometry I. Additional costs will be off-set by replacing the Grade 9 and Grade 10 Mathematics FCAT with Algebra I and geometry EOC assessments and the replacing the high school Science FCAT with the Biology I EOC assessment.

There could be costs associated with transitioning from the Grade 9 and Grade 10 Mathematics FCAT and Grade 11 Science FCAT to Algebra I, geometry, and Biology I EOC assessments. The DOE is currently field-testing the Algebra I EOC assessments and plans for all EOC assessments to be computer-based tests. If this occurs, the administration of EOC assessments should result in a savings to the state over time.

By eliminating the requirement for a revised assessment in writing in 2012-2013, there should be a significant, yet indeterminate, amount of cost deferred. According to DOE staff, the savings resulting from not having to substantially revise FCAT Writing will help offset the cost associated with transitioning from the Grade 9 and Grade 10 FCAT Mathematics and the FCAT Science at the high school level to Algebra I, geometry, and Biology I EOC assessments.

All of the estimated costs and savings will be absorbed in the current assessment and evaluation budget plan except for the cost of the 2011 base line test for Geometry.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the State Board of Education to adopt rules for provisions relating to:

- Procedures for maintaining and transferring student records.
- Middle grade promotion requirements.
- High school graduation requirements.
- FCAT concordant scores.
- Statewide, standardized EOC assessments, including establishing passing scores and equivalent scores.
- Designation of school grades.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On February 17, 2010, the PreK-12 Policy Committee reported the Proposed Committee Bill favorably with six amendments.

- Amendment 1 creates the Credit Acceleration Program (CAP). CAP allows a middle school or high school student to earn high school course credit in a course that requires a statewide, standardized EOC assessment if the student attains a score that indicates the student is high achieving on the corresponding statewide, standardized EOC assessment. A student who is not enrolled in the course or who has not completed the course may take the statewide, standardized EOC assessment during the regular administration of the assessment and may only take the EOC assessment once.
- Amendment 2 provides that middle and high school students must be advised of career academy courses, clarifies references to industry certification, and specifies which industry certification courses count toward the designation of school grades.
- Amendment 3 eliminates the phrase “otherwise substantially knows and understands the course curriculum” leaving the authority to school districts to determine when a student should receive a grade “I” or incomplete should a student fail an EOC assessment.
- Amendment 4 is a technical amendment.
- The bill establishes two passing scores for EOC assessments. With regard to the higher score, amendment 5 replaces the phrase “has the potential to meet college-readiness standards” with “is likely to meet college-readiness standards.”
- Amendment 6 requires the COE to consider the observance of religious and school holidays when establishing the schedules for the administration of statewide assessments.

1 A bill to be entitled
2 An act relating to public school assessments; amending s.
3 1003.25, F.S.; requiring the State Board of Education to
4 establish uniform procedures for the acceptance of student
5 credits and grades according to certain criteria; amending
6 s. 1003.413, F.S., relating to secondary school redesign,
7 to delete obsolete provisions and to conform to changes
8 made by the act; amending s. 1003.4156, F.S.; revising
9 requirements for middle grades promotion; providing that
10 successful completion of a high school level Algebra I,
11 geometry, or Biology I course is not contingent upon a
12 student's performance on the end-of-course assessment;
13 requiring a student to pass the end-of-course assessment
14 to earn high school credit for such courses; specifying
15 information that must be provided to students as part of
16 the personalized academic and career plan; amending s.
17 1003.428, F.S.; revising requirements for high school
18 graduation; requiring students entering grade 9 in
19 specified school years to meet end-of-course assessment
20 requirements and revised credit requirements in
21 mathematics and science for high school graduation;
22 requiring credit in an online course; requiring district
23 school board standards for grades in certain courses;
24 providing for waiver of end-of-course assessment results
25 for the purpose of receiving a course grade and credit for
26 students with disabilities; amending s. 1003.429, F.S.;
27 revising requirements for accelerated high school
28 graduation options; updating cross-references; requiring

29 students entering grade 9 in specified school years to
 30 meet end-of-course assessment requirements and revised
 31 credit requirements in mathematics and science for high
 32 school graduation; requiring credit in an online course;
 33 requiring district school board standards for grades in
 34 certain courses; creating s. 1003.4295, F.S.; requiring
 35 high schools to advise students of, and offer,
 36 acceleration opportunities; establishing the Credit
 37 Acceleration Program to allow a secondary student who is
 38 not enrolled in or has not completed a course to earn
 39 credit if certain requirements are met; amending s.
 40 1003.437, F.S.; revising the middle and high school
 41 grading system as it relates to grades for a high school
 42 student who fails an end-of-course assessment; amending s.
 43 1003.493, F.S., relating to career and professional
 44 academies; clarifying provisions relating to industry
 45 certifications; conforming provisions to changes made by
 46 the act; amending s. 1007.35, F.S., relating to the
 47 Florida Partnership for Minority and Underrepresented
 48 Student Achievement, to conform to changes made by the
 49 act; amending s. 1008.22, F.S.; revising the statewide
 50 student achievement testing program; requiring end-of-
 51 course assessments in mathematics and science to replace
 52 FCAT Mathematics and FCAT Science beginning with students
 53 entering grade 9 in specified school years; providing
 54 requirements for administration of, and student
 55 performance on, statewide, standardized end-of-course
 56 assessments in mathematics and science; clarifying

57 provisions relating to industry certifications; providing
 58 for establishment of an implementation schedule to develop
 59 and administer end-of-course assessments in certain
 60 courses; requiring evaluation and reporting of transition
 61 to specified end-of-course assessments; deleting certain
 62 requirements relating to the assessment of writing;
 63 requiring the use of scaled scores and achievement levels
 64 for measuring a student's knowledge and skills; requiring
 65 the State Board of Education to designate passing scores
 66 for end-of-course assessments and scores that indicate
 67 high achievement; providing requirements for retaking
 68 specified assessments; providing for waiver of end-of-
 69 course assessment requirements for students in exceptional
 70 education programs and students who have limited English
 71 proficiency; revising provisions relating to testing and
 72 reporting schedules; conforming provisions and cross-
 73 references; deleting certain uses of concordant scores for
 74 the FCAT; deleting retake requirements for the use of
 75 concordant scores; authorizing the Commissioner of
 76 Education to adopt equivalent scores for end-of-course
 77 assessments; providing requirements for use of equivalent
 78 scores; amending s. 1008.25, F.S., relating to public
 79 school student progression, to conform to changes made by
 80 the act; amending s. 1008.30, F.S., relating to the common
 81 placement test, to conform to changes made by the act;
 82 amending s. 1008.34, F.S.; revising provisions that
 83 specify the basis for determining school grades to include
 84 student performance on end-of-course assessments and to

85 conform provisions to current FCAT assessments; clarifying
 86 provisions relating to industry certifications; amending
 87 s. 1008.341, F.S.; revising provisions that specify the
 88 basis for determining an alternative school's school
 89 improvement rating to include student performance on end-
 90 of-course assessments; amending s. 1008.36, F.S.; revising
 91 provisions relating to the use of school recognition
 92 awards; providing an effective date.

93
 94 Be It Enacted by the Legislature of the State of Florida:

95
 96 Section 1. Subsection (3) of section 1003.25, Florida
 97 Statutes, is amended to read:

98 1003.25 Procedures for maintenance and transfer of student
 99 records.—

100 (3) The State Board of Education shall establish, by rule,
 101 uniform procedures relating to the acceptance of credits and
 102 grades earned by students entering Florida's public schools.
 103 Credits and grades earned in courses, including those courses
 104 that in Florida would require a statewide, standardized end-of-
 105 course assessment under s. 1008.22(3)(c)2., shall be accepted at
 106 face value if based on official transcripts and subject to
 107 validation procedures established by rule ~~transfer work and~~
 108 ~~credit for students shall be prescribed by rule by the State~~
 109 ~~Board of Education.~~

110 Section 2. Paragraph (d) of subsection (3) and subsections
 111 (4) and (5) of section 1003.413, Florida Statutes, are amended
 112 to read:

113 1003.413 Florida Secondary School Redesign Act.—

114 (3) Based on these guiding principles, district school
 115 boards shall establish policies to implement the requirements of
 116 ss. 1003.4156, 1003.428, and 1003.493. The policies must
 117 address:

118 (d) Credit recovery courses and intensive reading and
 119 mathematics intervention courses based on student performance on
 120 ~~the FCAT Reading and FCAT Mathematics~~. These courses should be
 121 competency based and offered through innovative delivery
 122 systems, including computer-assisted instruction. School
 123 districts should use learning gains as well as other appropriate
 124 data and provide incentives to identify and reward high-
 125 performing teachers who teach credit recovery and intensive
 126 intervention courses.

127 (4) In order to support the successful implementation of
 128 this section by district school boards, the Department of
 129 Education shall:

130 ~~(a) By February 1, 2007, increase the number of approved~~
 131 ~~applied, integrated, and combined courses available to school~~
 132 ~~districts.~~

133 ~~(b) By the beginning of the 2006-2007 school year, make~~
 134 ~~available a professional development package designed to provide~~
 135 ~~the information that content area teachers need to become~~
 136 ~~proficient in applying scientifically based reading strategies~~
 137 ~~through their content areas.~~

138 (a)(e) Share best practices for providing a complete
 139 education program to students enrolled in course recovery,
 140 credit recovery, intensive reading intervention, or intensive

141 mathematics intervention.

142 (b)~~(d)~~ Expedite assistance and decisions and coordinate
 143 policies throughout all divisions within the department to
 144 provide school districts with support to implement this section.

145 ~~(c) Use data to provide the Legislature with an annual~~
 146 ~~longitudinal analysis of the success of this reform effort,~~
 147 ~~including the progress of 6th grade students and 9th grade~~
 148 ~~students scoring at Level 1 on FCAT Reading or FCAT Mathematics.~~

149 ~~(5) The Commissioner of Education shall create and~~
 150 ~~implement the Secondary School Improvement Award Program to~~
 151 ~~reward public secondary schools that demonstrate continuous~~
 152 ~~student academic improvement and show the greatest gains in~~
 153 ~~student academic achievement in reading and mathematics.~~

154 Section 3. Paragraph (a) of subsection (1) of section
 155 1003.4156, Florida Statutes, is amended to read:

156 1003.4156 General requirements for middle grades
 157 promotion.—

158 (1) Beginning with students entering grade 6 in the 2006-
 159 2007 school year, promotion from a school composed of middle
 160 grades 6, 7, and 8 requires that:

161 (a) The student must successfully complete academic
 162 courses as follows:

163 1. Three middle school or higher courses in English. These
 164 courses shall emphasize literature, composition, and technical
 165 text.

166 2. Three middle school or higher courses in mathematics.
 167 Each middle school must offer at least one high school level
 168 mathematics course for which students may earn high school

169 | credit. Successful completion of a high school level Algebra I
 170 | or geometry course is not contingent upon the student's
 171 | performance on the end-of-course assessment required under s.
 172 | 1008.22(3)(c)2.a.(I). However, to earn high school credit for an
 173 | Algebra I or geometry course, a middle school student must meet
 174 | the end-of-course assessment requirement under s.
 175 | 1008.22(3)(c)2.a.(I). Students in grades 6 through 8 who earn
 176 | high school credit for an Algebra I or geometry course before
 177 | the 2010-2011 school year are not subject to the end-of-course
 178 | assessment requirement.

179 | 3. Three middle school or higher courses in social
 180 | studies, one semester of which must include the study of state
 181 | and federal government and civics education.

182 | 4. Three middle school or higher courses in science.
 183 | Successful completion of a high school level Biology I course is
 184 | not contingent upon the student's performance on the end-of-
 185 | course assessment required under s. 1008.22(3)(c)2.a.(II).
 186 | However, to earn high school credit for a Biology I course, a
 187 | middle school student must meet the end-of-course assessment
 188 | requirement under s. 1008.22(3)(c)2.a.(II). Students in grades 6
 189 | through 8 who earn high school credit for a Biology I course
 190 | before the 2011-2012 school year are not subject to the end-of-
 191 | course assessment requirement.

192 | 5. One course in career and education planning to be
 193 | completed in 7th or 8th grade. The course may be taught by any
 194 | member of the instructional staff; must include career
 195 | exploration using Florida CHOICES ~~for the 21st Century~~ or a
 196 | comparable cost-effective program; must include educational

197 | planning using the online student advising system known as
 198 | Florida Academic Counseling and Tracking for Students at the
 199 | Internet website FACTS.org; and shall result in the completion
 200 | of a personalized academic and career plan. The required
 201 | personalized academic and career plan must inform students of
 202 | high school graduation requirements, high school assessment and
 203 | college entrance test requirements, Florida Bright Futures
 204 | Scholarship Program requirements, state university and Florida
 205 | college admission requirements, and opportunities through which
 206 | a high school student can earn college credit, including
 207 | Advanced Placement, International Baccalaureate, Advanced
 208 | International Certificate of Education, dual enrollment, career
 209 | academy courses, and programs that lead to national industry
 210 | certification.

211 |
 212 | Each school must hold a parent meeting either in the evening or
 213 | on a weekend to inform parents about the course curriculum and
 214 | activities. Each student shall complete an electronic personal
 215 | education plan that must be signed by the student; the student's
 216 | instructor, guidance counselor, or academic advisor; and the
 217 | student's parent. ~~By January 1, 2007,~~ The Department of
 218 | Education shall develop course frameworks and professional
 219 | development materials for the career exploration and education
 220 | planning course. The course may be implemented as a stand-alone
 221 | course or integrated into another course or courses. The
 222 | Commissioner of Education shall collect longitudinal high school
 223 | course enrollment data by student ethnicity in order to analyze
 224 | course-taking patterns.

225 Section 4. Subsections (1) and (2), paragraph (a) of
 226 subsection (4), and paragraph (b) of subsection (8) of section
 227 1003.428, Florida Statutes, are amended to read:

228 1003.428 General requirements for high school graduation;
 229 revised.—

230 (1) Except as otherwise authorized pursuant to s.
 231 1003.429, beginning with students entering grade 9 ~~their first~~
 232 ~~year of high school~~ in the 2007-2008 school year, graduation
 233 requires the successful completion of a minimum of 24 credits,
 234 an International Baccalaureate curriculum, or an Advanced
 235 International Certificate of Education curriculum. Students must
 236 be advised of eligibility requirements for state scholarship
 237 programs and postsecondary admissions.

238 (2) The 24 credits may be earned through applied,
 239 integrated, and combined courses approved by the Department of
 240 Education. Beginning with students entering grade 9 in the 2013-
 241 2014 school year, one of the 24 credits must contain online
 242 learning. This requirement shall be met through an online course
 243 offered by the Florida Virtual School, through a course offered
 244 by the high school that significantly integrates online content,
 245 or through an online dual enrollment course offered pursuant to
 246 a district interinstitutional articulation agreement under s.
 247 1007.235. A student who is enrolled in a full-time virtual
 248 instruction program under s. 1002.45 meets this requirement. The
 249 24 credits ~~and~~ shall be distributed as follows:

250 (a) Sixteen core curriculum credits:
 251 1. Four credits in English, with major concentration in
 252 composition, reading for information, and literature.

253 2. Four credits in mathematics, one of which must be
 254 Algebra I, a series of courses equivalent to Algebra I, or a
 255 higher-level mathematics course. Beginning with students
 256 entering grade 9 in the 2010-2011 school year, in addition to
 257 the Algebra I credit requirement, one of the four credits in
 258 mathematics must be geometry or a series of courses equivalent
 259 to geometry as approved by the State Board of Education.
 260 Beginning with students entering grade 9 in the 2010-2011 school
 261 year, the end-of-course assessment requirements under s.
 262 1008.22(3)(c)2.a.(I) must be met in order for a student to earn
 263 the required credits in Algebra I and geometry. Beginning with
 264 students entering grade 9 in the 2012-2013 school year, in
 265 addition to the Algebra I and geometry credit requirements, one
 266 of the four credits in mathematics must be Algebra II or a
 267 series of courses equivalent to Algebra II as approved by the
 268 State Board of Education. ~~School districts are encouraged to set~~
 269 ~~specific goals to increase enrollments in, and successful~~
 270 ~~completion of, geometry and Algebra II.~~

271 3. Three credits in science, two of which must have a
 272 laboratory component. Beginning with students entering grade 9
 273 in the 2011-2012 school year, one of the three credits in
 274 science must be Biology I or a series of courses equivalent to
 275 Biology I as approved by the State Board of Education. Beginning
 276 with students entering grade 9 in the 2011-2012 school year, the
 277 end-of-course assessment requirements under s.
 278 1008.22(3)(c)2.a.(II) must be met in order for a student to earn
 279 the required credit in Biology I. Beginning with students
 280 entering grade 9 in the 2013-2014 school year, in addition to

281 the Biology I credit requirement, one of the three credits in
 282 science must be chemistry or physics or a series of courses
 283 equivalent to chemistry or physics as approved by the State
 284 Board of Education.

285 4. Three credits in social studies as follows: one credit
 286 in United States ~~American~~ history; one credit in world history;
 287 one-half credit in economics; and one-half credit in United
 288 States ~~American~~ government.

289 5. One credit in fine or performing arts, speech and
 290 debate, or a practical arts course that incorporates artistic
 291 content and techniques of creativity, interpretation, and
 292 imagination. Eligible practical arts courses shall be identified
 293 through the Course Code Directory.

294 6. One credit in physical education to include integration
 295 of health. Participation in an interscholastic sport at the
 296 junior varsity or varsity level for two full seasons shall
 297 satisfy the one-credit requirement in physical education if the
 298 student passes a competency test on personal fitness with a
 299 score of "C" or better. The competency test on personal fitness
 300 must be developed by the Department of Education. A district
 301 school board may not require that the one credit in physical
 302 education be taken during the 9th grade year. Completion of one
 303 semester with a grade of "C" or better in a marching band class,
 304 in a physical activity class that requires participation in
 305 marching band activities as an extracurricular activity, or in a
 306 dance class shall satisfy one-half credit in physical education
 307 or one-half credit in performing arts. This credit may not be
 308 used to satisfy the personal fitness requirement or the

309 requirement for adaptive physical education under an individual
 310 education plan (IEP) or 504 plan. Completion of 2 years in a
 311 Reserve Officer Training Corps (R.O.T.C.) class, a significant
 312 component of which is drills, shall satisfy the one-credit
 313 requirement in physical education and the one-credit requirement
 314 in performing arts. This credit may not be used to satisfy the
 315 personal fitness requirement or the requirement for adaptive
 316 physical education under an individual education plan (IEP) or
 317 504 plan.

318 (b) Eight credits in majors, minors, or electives:

319 1. Four credits in a major area of interest, such as
 320 sequential courses in a career and technical program, fine and
 321 performing arts, or academic content area, selected by the
 322 student as part of the education plan required by s. 1003.4156.
 323 Students may revise major areas of interest each year as part of
 324 annual course registration processes and should update their
 325 education plan to reflect such revisions. Annually by October 1,
 326 the district school board shall approve major areas of interest
 327 and submit the list of majors to the Commissioner of Education
 328 for approval. Each major area of interest shall be deemed
 329 approved unless specifically rejected by the commissioner within
 330 60 days. Upon approval, each district's major areas of interest
 331 shall be available for use by all school districts and shall be
 332 posted on the department's website.

333 2. Four credits in elective courses selected by the
 334 student as part of the education plan required by s. 1003.4156.
 335 These credits may be combined to allow for a second major area
 336 of interest pursuant to subparagraph 1., a minor area of

337 interest, elective courses, or intensive reading or mathematics
 338 intervention courses as described in this subparagraph.

339 a. Minor areas of interest are composed of three credits
 340 selected by the student as part of the education plan required
 341 by s. 1003.4156 and approved by the district school board.

342 b. Elective courses are selected by the student in order
 343 to pursue a complete education program as described in s.
 344 1001.41(3) and to meet eligibility requirements for
 345 scholarships.

346 c. For each year in which a student scores at Level 1 on
 347 FCAT Reading, the student must be enrolled in and complete an
 348 intensive reading course the following year. Placement of Level
 349 2 readers in either an intensive reading course or a content
 350 area course in which reading strategies are delivered shall be
 351 determined by diagnosis of reading needs. The department shall
 352 provide guidance on appropriate strategies for diagnosing and
 353 meeting the varying instructional needs of students reading
 354 below grade level. Reading courses shall be designed and offered
 355 pursuant to the comprehensive reading plan required by s.
 356 1011.62(9).

357 d. For each year in which a student scores at Level 1 or
 358 Level 2 on FCAT Mathematics, the student must receive
 359 remediation the following year. These courses may be taught
 360 through applied, integrated, or combined courses and are subject
 361 to approval by the department for inclusion in the Course Code
 362 Directory.

363 (4) Each district school board shall establish standards
 364 for graduation from its schools, which must include:

365 (a) Successful completion of the academic credit or
 366 curriculum requirements of subsections (1) and (2). For courses
 367 that require statewide, standardized end-of-course assessments
 368 under s. 1008.22(3)(c)2.c., a minimum of 30 percent of a
 369 student's course grade shall be comprised of performance on the
 370 statewide, standardized end-of-course assessment.

371
 372 Each district school board shall adopt policies designed to
 373 assist students in meeting the requirements of this subsection.
 374 These policies may include, but are not limited to: forgiveness
 375 policies, summer school or before or after school attendance,
 376 special counseling, volunteers or peer tutors, school-sponsored
 377 help sessions, homework hotlines, and study skills classes.
 378 Forgiveness policies for required courses shall be limited to
 379 replacing a grade of "D" or "F," or the equivalent of a grade of
 380 "D" or "F," with a grade of "C" or higher, or the equivalent of
 381 a grade of "C" or higher, earned subsequently in the same or
 382 comparable course. Forgiveness policies for elective courses
 383 shall be limited to replacing a grade of "D" or "F," or the
 384 equivalent of a grade of "D" or "F," with a grade of "C" or
 385 higher, or the equivalent of a grade of "C" or higher, earned
 386 subsequently in another course. The only exception to these
 387 forgiveness policies shall be made for a student in the middle
 388 grades who takes any high school course for high school credit
 389 and earns a grade of "C," "D," or "F" or the equivalent of a
 390 grade of "C," "D," or "F." In such case, the district
 391 forgiveness policy must allow the replacement of the grade with
 392 a grade of "C" or higher, or the equivalent of a grade of "C" or

393 higher, earned subsequently in the same or comparable course. In
 394 all cases of grade forgiveness, only the new grade shall be used
 395 in the calculation of the student's grade point average. Any
 396 course grade not replaced according to a district school board
 397 forgiveness policy shall be included in the calculation of the
 398 cumulative grade point average required for graduation.

399 (8)

400 (b)1. A student with a disability, as defined in s.
 401 1007.02(2), for whom the individual education plan (IEP)
 402 committee determines that the FCAT cannot accurately measure the
 403 student's abilities, taking into consideration all allowable
 404 accommodations, shall have the FCAT requirement of paragraph
 405 (4)(b) waived for the purpose of receiving a standard high
 406 school diploma, if the student:

407 a.1. Completes the minimum number of credits and other
 408 requirements prescribed by subsections (1), (2), and (3).

409 b.2. Does not meet the requirements of paragraph (4)(b)
 410 after one opportunity in 10th grade and one opportunity in 11th
 411 grade.

412 2. A student with a disability, as defined in s.
 413 1007.02(2), for whom the individual education plan (IEP)
 414 committee determines that an end-of-course assessment cannot
 415 accurately measure the student's abilities, taking into
 416 consideration all allowable accommodations, shall have the end-
 417 of-course assessment results waived for the purpose of
 418 determining the student's course grade and credit as required in
 419 paragraph (4)(a).

420 Section 5. Subsections (1) and (5), paragraph (c) of
 421 subsection (7), and subsection (8) of section 1003.429, Florida
 422 Statutes, are amended to read:

423 1003.429 Accelerated high school graduation options.—

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

428 (a) Completion of the general requirements for high school
 429 graduation pursuant to s. 1003.428 or s. 1003.43, as applicable;

430 (b) Completion of a 3-year standard college preparatory
 431 program requiring successful completion of a minimum of 18
 432 academic credits in grades 9 through 12. At least 6 of the 18
 433 credits required for completion of this program must be received
 434 in classes that are offered pursuant to the International
 435 Baccalaureate Program, the Advanced Placement Program, dual
 436 enrollment, Advanced International Certificate of Education, or
 437 specifically listed or identified by the Department of Education
 438 as rigorous pursuant to s. 1009.531(3). Beginning with students
 439 entering grade 9 in the 2013-2014 school year, one of the 18
 440 credits must contain online learning. This requirement shall be
 441 met through an online course offered by the Florida Virtual
 442 School, through a course offered by the high school that
 443 significantly integrates online content, or through an online
 444 dual enrollment course offered pursuant to a district
 445 interinstitutional articulation agreement under s. 1007.235. A
 446 student who is enrolled in a full-time virtual instruction
 447 program under s. 1002.45 meets this requirement. The 18 credits

448 | required for completion of this program shall be primary
 449 | requirements and shall be distributed as follows:

450 | 1. Four credits in English, with major concentration in
 451 | composition and literature;

452 | 2. Three credits and, beginning with students entering
 453 | grade 9 in the 2010-2011 school year, four credits in
 454 | mathematics at the Algebra I level or higher from the list of
 455 | courses that qualify for state university admission. Beginning
 456 | with students entering grade 9 in the 2010-2011 school year, in
 457 | addition to the Algebra I credit requirement, one of the four
 458 | credits in mathematics must be geometry or a series of courses
 459 | equivalent to geometry as approved by the State Board of
 460 | Education. Beginning with students entering grade 9 in the 2010-
 461 | 2011 school year, the end-of-course assessment requirements
 462 | under s. 1008.22(3)(c)2.a.(I) must be met in order for a student
 463 | to earn the required credits in Algebra I and geometry.
 464 | Beginning with students entering grade 9 in the 2012-2013 school
 465 | year, in addition to the Algebra I and geometry credit
 466 | requirements, one of the four credits in mathematics must be
 467 | Algebra II or a series of courses equivalent to Algebra II as
 468 | approved by the State Board of Education;

469 | 3. Three credits in ~~natural~~ science, two of which must
 470 | have a laboratory component. Beginning with students entering
 471 | grade 9 in the 2011-2012 school year, one of the three credits
 472 | in science must be Biology I or a series of courses equivalent
 473 | to Biology I as approved by the State Board of Education.
 474 | Beginning with students entering grade 9 in the 2011-2012 school
 475 | year, the end-of-course assessment requirements under s.

476 1008.22(3)(c)2.a.(II) must be met in order for a student to earn
 477 the required credit in Biology I. Beginning with students
 478 entering grade 9 in the 2013-2014 school year, in addition to
 479 the Biology I credit requirement, one of the three credits in
 480 science must be chemistry or physics or a series of courses
 481 equivalent to chemistry or physics as approved by the State
 482 Board of Education;

483 4. Three credits in social sciences, which must include
 484 one credit in United States ~~American~~ history, one credit in
 485 world history, one-half credit in United States ~~American~~
 486 government, and one-half credit in economics;

487 5. Two credits in the same second language unless the
 488 student is a native speaker of or can otherwise demonstrate
 489 competency in a language other than English. If the student
 490 demonstrates competency in another language, the student may
 491 replace the language requirement with two credits in other
 492 academic courses; and

493 6. Three credits and, beginning with students entering
 494 grade 9 in the 2010-2011 school year, two credits in electives;
 495 or

496 (c) Completion of a 3-year career preparatory program
 497 requiring successful completion of a minimum of 18 academic
 498 credits in grades 9 through 12. Beginning with students entering
 499 grade 9 in the 2013-2014 school year, one of the 18 credits must
 500 contain online learning. This requirement shall be met through
 501 an online course offered by the Florida Virtual School, through
 502 a course offered by the high school that significantly
 503 integrates online content, or through an online dual enrollment

504 course offered pursuant to a district interinstitutional
 505 articulation agreement under s. 1007.235. A student who is
 506 enrolled in a full-time virtual instruction program under s.
 507 1002.45 meets this requirement. The 18 credits shall be primary
 508 requirements and shall be distributed as follows:

509 1. Four credits in English, with major concentration in
 510 composition and literature;

511 2. Three credits and, beginning with students entering
 512 grade 9 in the 2010-2011 school year, four credits in
 513 mathematics, one of which must be Algebra I. Beginning with
 514 students entering grade 9 in the 2010-2011 school year, in
 515 addition to the Algebra I credit requirement, one of the four
 516 credits in mathematics must be geometry or a series of courses
 517 equivalent to geometry as approved by the State Board of
 518 Education. Beginning with students entering grade 9 in the 2010-
 519 2011 school year, the end-of-course assessment requirements
 520 under s. 1008.22(3)(c)2.a.(I) must be met in order for a student
 521 to earn the required credits in Algebra I and geometry.

522 Beginning with students entering grade 9 in the 2012-2013 school
 523 year, in addition to the Algebra I and geometry credit
 524 requirements, one of the four credits in mathematics must be
 525 Algebra II or a series of courses equivalent to Algebra II as
 526 approved by the State Board of Education;

527 3. Three credits in ~~natural~~ science, two of which must
 528 have a laboratory component. Beginning with students entering
 529 grade 9 in the 2011-2012 school year, one of the three credits
 530 in science must be Biology I or a series of courses equivalent
 531 to Biology I as approved by the State Board of Education.

532 Beginning with students entering grade 9 in the 2011-2012 school
 533 year, the end-of-course assessment requirements under s.
 534 1008.22(3)(c)2.a.(II) must be met in order for a student to earn
 535 the required credit in Biology I. Beginning with students
 536 entering grade 9 in the 2013-2014 school year, in addition to
 537 the Biology I credit requirement, one of the three credits in
 538 science must be chemistry or physics or a series of courses
 539 equivalent to chemistry or physics as approved by the State
 540 Board of Education;

541 4. Three credits in social sciences, which must include
 542 one credit in United States ~~American~~ history, one credit in
 543 world history, one-half credit in United States ~~American~~
 544 government, and one-half credit in economics;

545 5. Three credits in a single vocational or career
 546 education program, three credits in career and technical
 547 certificate dual enrollment courses, or five credits in
 548 vocational or career education courses; and

549 6. Two credits and, beginning with students entering grade
 550 9 in the 2010-2011 school year, one credit in electives unless
 551 five credits are earned pursuant to subparagraph 5.

552
 553 Any student who selected an accelerated graduation program
 554 before July 1, 2004, may continue that program, and all
 555 statutory program requirements that were applicable when the
 556 student made the program choice shall remain applicable to the
 557 student as long as the student continues that program.

558 (5) District school boards may not establish requirements
 559 for accelerated 3-year high school graduation options in excess

560 of the requirements in paragraphs (1)(b) and (c). For courses
 561 that require statewide, standardized end-of-course assessments
 562 under s. 1008.22(3)(c)2.c., a minimum of 30 percent of a
 563 student's course grade shall be comprised of performance on the
 564 statewide, standardized end-of-course assessment.

565 (7) If, at the end of grade 10, a student is not on track
 566 to meet the credit, assessment, or grade-point-average
 567 requirements of the accelerated graduation option selected, the
 568 school shall notify the student and parent of the following:

569 (c) The right of the student to change to the 4-year
 570 program set forth in s. 1003.428 or s. 1003.43, as applicable.

571 (8) A student who selected one of the accelerated 3-year
 572 graduation options shall automatically move to the 4-year
 573 program set forth in s. 1003.428 or s. 1003.43, as applicable,
 574 if the student:

575 (a) Exercises his or her right to change to the 4-year
 576 program;

577 (b) Fails to earn 5 credits by the end of grade 9 or fails
 578 to earn 11 credits by the end of grade 10;

579 (c) Does not achieve a score of 3 or higher on the grade
 580 10 FCAT Writing assessment; or

581 (d) By the end of grade 11 does not meet the requirements
 582 of subsections (1) and (6).

583 Section 6. Section 1003.4295, Florida Statutes, is created
 584 to read:

585 1003.4295 Acceleration opportunities for secondary
 586 students.-

587 (1) Each high school shall advise each student of

588 opportunities through which a high school student can earn
 589 college credit, including Advanced Placement, International
 590 Baccalaureate, Advanced International Certificate of Education,
 591 dual enrollment, career academy courses, and programs that lead
 592 to national industry certification, as well as the availability
 593 of course offerings through the Florida Virtual School.

594 (2) Beginning with the 2011-2012 school year, each high
 595 school shall offer an International Baccalaureate Program, an
 596 Advanced International Certificate of Education Program, or a
 597 combination of at least four courses in dual enrollment or
 598 Advanced Placement, including one course each in English,
 599 mathematics, science, and social studies. To meet this
 600 requirement, school districts may utilize the course offerings
 601 provided by the Florida Virtual School established under s.
 602 1002.37 or through virtual instruction programs authorized under
 603 s. 1002.45.

604 (3) The Credit Acceleration Program (CAP) is established
 605 to allow a secondary student to earn high school credit in a
 606 course that requires a statewide, standardized end-of-course
 607 assessment if the student attains a specified score on the
 608 assessment. Notwithstanding s. 1003.436, a school district shall
 609 award a course credit to a student who is not enrolled in the
 610 course or who has not completed the course if the student
 611 attains a score that indicates the student is high achieving,
 612 pursuant to s. 1008.22(3)(c)7., on the corresponding statewide,
 613 standardized end-of-course assessment. A student who is not
 614 enrolled in the course or who has not completed the course may
 615 take the statewide, standardized end-of-course assessment during

616 the regular administration of the assessment and may only take
 617 the end-of-course assessment once pursuant to this subsection.

618 Section 7. Subsection (6) of section 1003.437, Florida
 619 Statutes, is amended to read:

620 1003.437 Middle and high school grading system.—The
 621 grading system and interpretation of letter grades used for
 622 students in public schools in grades 6-12 shall be as follows:

623 (6) Grade "I" equals zero percent, has a grade point
 624 average value of zero, and is defined as "incomplete." A high
 625 school student who fails to pass an end-of-course assessment
 626 required under s. 1008.22(3)(c) may receive a grade "I" in the
 627 course until the next administration of the end-of-course
 628 assessment. If the student then passes the end-of-course
 629 assessment, the appropriate grade shall be substituted.

630
 631 For the purposes of class ranking, district school boards may
 632 exercise a weighted grading system pursuant to s. 1007.271.

633 Section 8. Paragraph (k) of subsection (4) of section
 634 1003.493, Florida Statutes, is amended to read:

635 1003.493 Career and professional academies.—

636 (4) Each career and professional academy must:

637 (k) Include an evaluation plan developed jointly with the
 638 Department of Education and the local workforce board. The
 639 evaluation plan must include an assessment tool based on
 640 national industry standards, such as the Career Academy National
 641 Standards of Practice, and outcome measures, including, but not
 642 limited to, achievement of national industry certifications
 643 identified in the Industry Certification Funding List, pursuant

644 to rules adopted by the State Board of Education, graduation
 645 rates, enrollment in postsecondary education, business and
 646 industry satisfaction, employment and earnings, awards of
 647 postsecondary credit and scholarships, and student FCAT
 648 achievement levels and learning gains on statewide assessments
 649 administered under s. 1008.22(3)(c). The Department of Education
 650 shall use Workforce Florida, Inc., and Enterprise Florida, Inc.,
 651 in identifying industry experts to participate in developing and
 652 implementing such assessments.

653 Section 9. Paragraph (c) of subsection (6) of section
 654 1007.35, Florida Statutes, is amended to read:

655 1007.35 Florida Partnership for Minority and
 656 Underrepresented Student Achievement.—

657 (6) The partnership shall:

658 (c) Provide teacher training and materials that are
 659 aligned with the Next Generation Sunshine State Standards and
 660 are consistent with best theory and practice regarding multiple
 661 learning styles and research on learning, instructional
 662 strategies, instructional design, and classroom assessment.
 663 Curriculum materials must be based on current, accepted, and
 664 essential academic knowledge. ~~Materials for prerequisite courses~~
 665 ~~should, at a minimum, address the skills assessed on the Florida~~
 666 ~~Comprehensive Assessment Test (FCAT).~~

667 Section 10. Paragraph (c) of subsection (3) and
 668 subsections (6), (9), and (10) of section 1008.22, Florida
 669 Statutes, are amended, present subsections (11) and (12) are
 670 renumbered as subsections (12) and (13), respectively, and a new
 671 subsection (11) is added to that section, to read:

672 1008.22 Student assessment program for public schools.—
 673 (3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner shall
 674 design and implement a statewide program of educational
 675 assessment that provides information for the improvement of the
 676 operation and management of the public schools, including
 677 schools operating for the purpose of providing educational
 678 services to youth in Department of Juvenile Justice programs.
 679 The commissioner may enter into contracts for the continued
 680 administration of the assessment, testing, and evaluation
 681 programs authorized and funded by the Legislature. Contracts may
 682 be initiated in 1 fiscal year and continue into the next and may
 683 be paid from the appropriations of either or both fiscal years.
 684 The commissioner is authorized to negotiate for the sale or
 685 lease of tests, scoring protocols, test scoring services, and
 686 related materials developed pursuant to law. Pursuant to the
 687 statewide assessment program, the commissioner shall:
 688 (c) Develop and implement a student achievement testing
 689 program as follows:
 690 1. ~~known as~~ The Florida Comprehensive Assessment Test
 691 (FCAT) measures ~~as part of the statewide assessment program to~~
 692 ~~measure~~ a student's content knowledge and skills in reading,
 693 writing, science, and mathematics. The content knowledge and
 694 skills assessed by the FCAT must be aligned to the core
 695 curricular content established in the Next Generation Sunshine
 696 State Standards. Other content areas may be included as directed
 697 by the commissioner. Comprehensive assessments of reading and
 698 mathematics shall be administered annually in grades 3 through
 699 10 except, beginning with students entering grade 9 in the 2010-

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700 2011 school year, the end-of-course assessments in Algebra I and
701 geometry required under sub-sub-subparagraph 2.a.(I) shall
702 replace grade 9 and grade 10 FCAT Mathematics. Comprehensive
703 assessments of writing and science shall be administered at
704 least once at the elementary, middle, and high school levels
705 except, beginning with students entering grade 9 in the 2011-
706 2012 school year, the end-of-course assessment in Biology I
707 required under sub-sub-subparagraph 2.a.(II) shall replace FCAT
708 Science at the high school level.

709 2.a. End-of-course assessments for a subject shall ~~may~~ be
710 administered in addition to the comprehensive assessments
711 ~~required for that subject under subparagraph 1. this paragraph.~~
712 An End-of-course assessments assessment must be rigorous,
713 statewide, standardized, and developed or approved by the
714 department. The content knowledge and skills assessed by
715 ~~comprehensive and~~ end-of-course assessments must be aligned to
716 the core curricular content established in the Next Generation
717 Sunshine State Standards.

718 (I) Statewide, standardized end-of-course assessments in
719 mathematics shall be administered according to this sub-sub-
720 subparagraph. Beginning with the 2010-2011 school year, all
721 students enrolled in Algebra I or an equivalent course must take
722 the Algebra I end-of-course assessment. For students entering
723 grade 9 during the 2010-2011 school year, each student's
724 performance on the end-of-course assessment in Algebra I shall
725 constitute 30 percent of the student's final course grade.
726 Beginning with students entering grade 9 in the 2011-2012 school
727 year, a student must earn a passing score on the end-of-course

728 assessment in Algebra I in order to pass the course and earn
 729 course credit. Beginning with the 2010-2011 school year, all
 730 students enrolled in geometry or an equivalent course must take
 731 the geometry end-of-course assessment. For students entering
 732 grade 9 during the 2010-2011 and 2011-2012 school years, each
 733 student's performance on the end-of-course assessment in
 734 geometry shall constitute 30 percent of the student's final
 735 course grade. Beginning with students entering grade 9 during
 736 the 2012-2013 school year, a student must earn a passing score
 737 on the end-of-course assessment in geometry in order to pass the
 738 course and earn course credit.

739 (II) A statewide, standardized end-of-course assessment in
 740 Biology I shall be administered according to this sub-sub-
 741 subparagraph. Beginning with the 2011-2012 school year, all
 742 students enrolled in Biology I or an equivalent course must take
 743 the Biology I end-of-course assessment. For students entering
 744 grade 9 during the 2011-2012 school year, each student's
 745 performance on the end-of-course assessment in Biology I shall
 746 constitute 30 percent of the student's final course grade.
 747 Beginning with students entering grade 9 during the 2012-2013
 748 school year, a student must earn a passing score on the end-of-
 749 course assessment in Biology I in order to pass the course and
 750 earn course credit.

751 b. The commissioner may select one or more nationally
 752 developed comprehensive examinations, which may include, but
 753 need not be limited to, examinations for a College Board
 754 Advanced Placement course, International Baccalaureate course,
 755 or Advanced International Certificate of Education course or

756 industry-approved examinations to earn national industry
 757 certifications identified in the Industry Certification Funding
 758 List, pursuant to rules adopted by the State Board of Education
 759 ~~as defined in s. 1003.492~~, for use as end-of-course assessments
 760 under this paragraph, if the commissioner determines that the
 761 content knowledge and skills assessed by the examinations meet
 762 or exceed the grade level expectations for the core curricular
 763 content established for the course in the Next Generation
 764 Sunshine State Standards. The commissioner may collaborate with
 765 the American Diploma Project in the adoption or development of
 766 rigorous end-of-course assessments that are aligned to the Next
 767 Generation Sunshine State Standards. ~~The testing program must be~~
 768 ~~designed as follows:~~

769 c. Contingent upon funding provided in the General
 770 Appropriations Act, including appropriation of federal funds,
 771 the Commissioner of Education shall establish an implementation
 772 schedule for the development and administration of statewide,
 773 standardized end-of-course assessments in English/Language Arts
 774 II, Algebra II, chemistry, physics, earth/space science, United
 775 States history, and world history. Priority shall be given to
 776 the development of an end-of-course assessment in
 777 English/Language Arts II. The Commissioner of Education shall
 778 evaluate the feasibility and effect of transitioning from the
 779 grade 9 and grade 10 FCAT Reading and high school level FCAT
 780 Writing to an end-of-course assessment in English/Language Arts
 781 II. The commissioner shall report the results of the evaluation
 782 to the President of the Senate and the Speaker of the House of
 783 Representatives no later July 1, 2011.

784 3.1. The testing program tests shall measure student
 785 skills and competencies adopted by the State Board of Education
 786 as specified in paragraph (a) and. ~~The tests must~~ measure and
 787 report student performance ~~proficiency~~ levels of all students
 788 assessed in reading, writing, mathematics, and science. The
 789 commissioner shall provide for the tests to be developed or
 790 obtained, as appropriate, through contracts and project
 791 agreements with private vendors, public vendors, public
 792 agencies, postsecondary educational institutions, or school
 793 districts. The commissioner shall obtain input with respect to
 794 the design and implementation of the testing program from state
 795 educators, assistive technology experts, and the public.

796 4.2. The testing program shall be composed of criterion-
 797 referenced tests that shall, to the extent determined by the
 798 commissioner, include test items that require the student to
 799 produce information or perform tasks in such a way that the core
 800 content knowledge and skills he or she uses can be measured.

801 ~~3. Beginning with the 2008-2009 school year, the~~
 802 ~~commissioner shall discontinue administration of the selected-~~
 803 ~~response test items on the comprehensive assessments of writing.~~
 804 ~~Beginning with the 2012-2013 school year, the comprehensive~~
 805 ~~assessments of writing shall be composed of a combination of~~
 806 ~~selected response test items, short response performance tasks,~~
 807 ~~and extended response performance tasks, which shall measure a~~
 808 ~~student's content knowledge of writing, including, but not~~
 809 ~~limited to, paragraph and sentence structure, sentence~~
 810 ~~construction, grammar and usage, punctuation, capitalization,~~
 811 ~~spelling, parts of speech, verb tense, irregular verbs, subject~~

812 ~~verb agreement, and noun-pronoun agreement.~~

813 5.4. FCAT Reading, Mathematics, and Science and all
 814 statewide, standardized end-of-course assessments shall measure,
 815 by use of scaled scores and achievement levels, the content
 816 knowledge and skills a student has attained. Achievement levels
 817 shall range from 1 through 5, with level 1 being the lowest
 818 achievement level, level 5 being the highest achievement level,
 819 and level 3 indicating satisfactory performance on an
 820 assessment. For FCAT Writing, student achievement shall be
 821 scored using the rubric scale of 1 through 6 and the score
 822 earned shall be used in calculating school grades. A score shall
 823 be designated for each subject area tested, below which score a
 824 student's performance is deemed inadequate. The school districts
 825 shall provide appropriate remedial instruction to students who
 826 score below these levels.

827 ~~6.5. Except as provided in s. 1003.428(8)(b) or s.~~
 828 ~~1003.43(11)(b), students must earn a passing score on the grade~~
 829 ~~10 assessment test described in this paragraph or attain~~
 830 ~~concordant scores as described in subsection (10) in reading,~~
 831 ~~writing, and mathematics to qualify for a standard high school~~
 832 ~~diploma. The State Board of Education shall, by rule, designate~~
 833 ~~a passing score for each part of the grade 10 assessment test~~
 834 ~~and end-of-course assessments. In establishing passing scores,~~
 835 ~~the state board shall consider any possible negative impact of~~
 836 ~~the test on minority students. The State Board of Education~~
 837 ~~shall adopt rules which specify the passing scores for the grade~~
 838 ~~10 FCAT. Any such rules that, which have the effect of raising~~
 839 ~~the required passing scores, shall apply only to students taking~~

840 the assessment ~~grade 10 FCAT~~ for the first time after such rules
 841 are adopted by the State Board of Education. Except as otherwise
 842 provided in this paragraph and as provided in s. 1003.428(8)(b)
 843 or s. 1003.43(11)(b), students must earn a passing score on
 844 grade 10 FCAT Reading and grade 10 FCAT Mathematics or attain
 845 concordant scores as described in subsection (10) to qualify for
 846 a standard high school diploma.

847 7. In addition to designating a passing score under
 848 subparagraph 6., the State Board of Education shall also
 849 designate, by rule, a score for each statewide, standardized
 850 end-of-course assessment which indicates that a student is high
 851 achieving and is likely to meet college-readiness standards by
 852 the time the student graduates from high school.

853 8.6. Participation in the testing program is mandatory for
 854 all students attending public school, including students served
 855 in Department of Juvenile Justice programs, except as otherwise
 856 prescribed by the commissioner. A student who has not earned
 857 passing scores on the grade 10 FCAT as provided in subparagraph
 858 6. must participate in each retake of the assessment until the
 859 student earns passing scores or achieves scores on a
 860 standardized assessment that are concordant with passing scores
 861 pursuant to subsection (10). If a student does not participate
 862 in the statewide assessment, the district must notify the
 863 student's parent and provide the parent with information
 864 regarding the implications of such nonparticipation. A parent
 865 must provide signed consent for a student to receive classroom
 866 instructional accommodations that would not be available or
 867 permitted on the statewide assessments and must acknowledge in

868 writing that he or she understands the implications of such
 869 instructional accommodations. The State Board of Education shall
 870 adopt rules, based upon recommendations of the commissioner, for
 871 the provision of test accommodations for students in exceptional
 872 education programs and for students who have limited English
 873 proficiency. Accommodations that negate the validity of a
 874 statewide assessment are not allowable in the administration of
 875 the FCAT or an end-of-course assessment. However, instructional
 876 accommodations are allowable in the classroom if included in a
 877 student's individual education plan. Students using
 878 instructional accommodations in the classroom that are not
 879 allowable as accommodations on the FCAT or an end-of-course
 880 assessment may have the FCAT or end-of-course assessment
 881 requirement waived pursuant to the requirements of s.
 882 1003.428(8)(b) or s. 1003.43(11)(b).

883 9.7. A student seeking an adult high school diploma must
 884 meet the same testing requirements that a regular high school
 885 student must meet.

886 10.8. District school boards must provide instruction to
 887 prepare students ~~to demonstrate proficiency~~ in the core
 888 curricular content established in the Next Generation Sunshine
 889 State Standards adopted under s. 1003.41, including the core
 890 content knowledge and skills necessary for successful grade-to-
 891 grade progression and high school graduation. If a student is
 892 provided with instructional accommodations in the classroom that
 893 are not allowable as accommodations in the statewide assessment
 894 program, as described in the test manuals, the district must
 895 inform the parent in writing and must provide the parent with

896 information regarding the impact on the student's ability to
 897 meet expected performance ~~proficiency~~ levels in reading,
 898 writing, ~~and~~ mathematics, and science. The commissioner shall
 899 conduct studies as necessary to verify that the required core
 900 curricular content is part of the district instructional
 901 programs.

902 ~~11.9.~~ District school boards must provide opportunities
 903 for students to demonstrate an acceptable level of performance
 904 on an alternative standardized assessment approved by the State
 905 Board of Education following enrollment in summer academies.

906 ~~12.10.~~ The Department of Education must develop, or
 907 select, and implement a common battery of assessment tools that
 908 will be used in all juvenile justice programs in the state.
 909 These tools must accurately measure the core curricular content
 910 established in the Next Generation Sunshine State Standards.

911 ~~13.11.~~ For students seeking a special diploma pursuant to
 912 s. 1003.438, the Department of Education must develop or select
 913 and implement an alternate assessment tool that accurately
 914 measures the core curricular content established in the Next
 915 Generation Sunshine State Standards for students with
 916 disabilities under s. 1003.438.

917 ~~14.12.~~ The Commissioner of Education shall establish
 918 schedules for the administration of statewide assessments and
 919 the reporting of student test results. When establishing the
 920 schedules for the administration of statewide assessments, the
 921 commissioner shall consider the observance of religious and
 922 school holidays. The commissioner shall, by August 1 of each
 923 year, notify each school district in writing and publish on the

924 department's Internet website the testing and reporting
 925 schedules for, at a minimum, the school year following the
 926 upcoming school year. The testing and reporting schedules shall
 927 require that:

928 a. There is the latest possible administration of
 929 statewide assessments and the earliest possible reporting to the
 930 school districts of student test results which is feasible
 931 within available technology and specific appropriations;
 932 however, test results for the FCAT must be made available no
 933 later than the week of June 8. Student results for end-of-course
 934 assessments must be provided no later than 1 week after the
 935 school district completes testing for each course ~~final day of~~
 936 ~~the regular school year for students.~~

937 b. Beginning with the 2010-2011 school year, FCAT a
 938 ~~comprehensive statewide assessment of~~ Writing is not
 939 administered earlier than the week of March 1 and a
 940 comprehensive statewide assessment of any other subject is not
 941 administered earlier than the week of April 15.

942 c. A statewide, standardized end-of-course assessment is
 943 administered during a 3-week period at the end of a year-long
 944 course. The commissioner shall select a 3-week administration
 945 period for assessments that meets the intent of end-of-course
 946 assessments and provides student results prior to the end of the
 947 course. School districts shall select one testing week within
 948 the 3-week administration period for each end-of-course
 949 assessment. For an end-of-course assessment administered at the
 950 end of a semester-long course, the commissioner shall determine
 951 the most appropriate testing dates based on a school district's

952 academic calendar ~~within the last 2 weeks of the course.~~

953

954 The commissioner may, based on collaboration and input from
 955 school districts, design and implement student testing programs,
 956 for any grade level and subject area, necessary to effectively
 957 monitor educational achievement in the state, including the
 958 measurement of educational achievement of the Next Generation
 959 Sunshine State Standards for students with disabilities.

960 Development and refinement of assessments shall include
 961 universal design principles and accessibility standards that
 962 will prevent any unintended obstacles for students with
 963 disabilities while ensuring the validity and reliability of the
 964 test. These principles should be applicable to all technology
 965 platforms and assistive devices available for the assessments.
 966 The field testing process and psychometric analyses for the
 967 statewide assessment program must include an appropriate
 968 percentage of students with disabilities and an evaluation or
 969 determination of the effect of test items on such students.

970 (6) SCHOOL TESTING PROGRAMS.—Each public school shall
 971 participate in the statewide assessment program in accordance
 972 with the testing and reporting schedules published by the
 973 Commissioner of Education under subparagraph (3)(c)~~14.12~~, unless
 974 specifically exempted by state board rule based on serving a
 975 specialized population for which standardized testing is not
 976 appropriate. Student performance data shall be analyzed and
 977 reported to parents, the community, and the state. Student
 978 performance data shall be used in developing objectives of the
 979 school improvement plan, evaluation of instructional personnel,

980 evaluation of administrative personnel, assignment of staff,
 981 allocation of resources, acquisition of instructional materials
 982 and technology, performance-based budgeting, and promotion and
 983 assignment of students into educational programs. The analysis
 984 of student performance data also must identify strengths and
 985 needs in the educational program and trends over time. The
 986 analysis must be used in conjunction with the budgetary planning
 987 processes developed pursuant to s. 1008.385 and the development
 988 of the programs of remediation.

989 (9) APPLICABILITY OF TESTING STANDARDS.—

990 (a) If the Commissioner of Education revises a statewide
 991 assessment and the revisions require the State Board of
 992 Education to modify the assessment's performance proficiency
 993 levels or modify the passing scores ~~required for a standard high~~
 994 ~~school diploma~~, until the state board adopts the modifications
 995 by rule, the commissioner shall use calculations for scoring the
 996 assessment which adjust student scores on the revised assessment
 997 for statistical equivalence to student scores on the former
 998 assessment.

999 (b) A student must attain the passing scores on the
 1000 statewide assessment required for a standard high school diploma
 1001 or for high school course credits under sub-sub-subparagraphs
 1002 (3)(c)2.a.(I) and (II) which are in effect at the time the
 1003 student enters grade 9 if the student's enrollment is
 1004 continuous.

1005 (c) If the commissioner revises a statewide assessment and
 1006 the revisions require the State Board of Education to modify the
 1007 passing scores required for a standard high school diploma or

1008 for high school course credits under sub-sub-subparagraphs
 1009 (3)(c)2.a (I) and (II), the commissioner may, with approval of
 1010 the state board, discontinue administration of the former
 1011 assessment upon the graduation, based on normal student
 1012 progression, of students participating in the final regular
 1013 administration of the former assessment. The state board shall
 1014 adopt by rule passing scores for the revised assessment which
 1015 are statistically equivalent to passing scores on the
 1016 discontinued assessment for a student required under paragraph
 1017 (b) to attain passing scores on the discontinued assessment.

1018 (10) CONCORDANT SCORES FOR THE FCAT.—

1019 (a) The Commissioner ~~State Board~~ of Education shall
 1020 analyze the content and concordant data sets for ~~widely used~~
 1021 high school achievement tests, including, but not limited to,
 1022 the PSAT, PLAN, SAT, ACT, and College Placement Test, to assess
 1023 if concordant scores for FCAT scores can be determined for high
 1024 school graduation, ~~college placement, and scholarship awards.~~
 1025 When ~~In cases where~~ content alignment and concordant scores can
 1026 be determined, the Commissioner of Education shall adopt those
 1027 scores as meeting the graduation requirement in lieu of
 1028 achieving the FCAT passing score and may adopt those scores as
 1029 being sufficient to achieve additional purposes as determined by
 1030 rule. Each time that test content or scoring procedures change
 1031 for the FCAT or for a high school achievement test for which a
 1032 concordant score is determined, new concordant scores must be
 1033 determined. Concordant scores earned before taking the grade 10
 1034 FCAT for the first time in grade 10 may not be used to satisfy
 1035 the requirement in this paragraph.

1036 ~~(b) In order to use a concordant subject area score~~
 1037 ~~pursuant to this subsection to satisfy the assessment~~
 1038 ~~requirement for a standard high school diploma as provided in s.~~
 1039 ~~1003.429(6)(a), s. 1003.43(5)(a), or s. 1003.428, a student must~~
 1040 ~~take each subject area of the grade 10 FCAT a total of three~~
 1041 ~~times without earning a passing score. The requirements of this~~
 1042 ~~paragraph shall not apply to a new student who enters the~~
 1043 ~~Florida public school system in grade 12, who may either achieve~~
 1044 ~~a passing score on the FCAT or use an approved subject area~~
 1045 ~~concordant score to fulfill the graduation requirement.~~

1046 (b)-(e) The State Board of Education may define by rule the
 1047 allowable uses, other than to satisfy the high school graduation
 1048 requirement, for concordant scores as described in this
 1049 subsection. Such uses may include, but need not be limited to,
 1050 achieving appropriate standardized test scores required for the
 1051 awarding of Florida Bright Futures Scholarships and college
 1052 placement.

1053 (11) EQUIVALENT SCORES FOR END-OF-COURSE ASSESSMENTS.-

1054 (a) The Commissioner of Education shall analyze the
 1055 content and equivalent data sets for high school achievement
 1056 tests, including, but not limited to, grade 10 FCAT Mathematics
 1057 retakes until such retakes are discontinued pursuant to
 1058 subsection (9), the PSAT, the PLAN, the SAT, the ACT, and the
 1059 College Placement Test, to assess if equivalent scores for end-
 1060 of-course assessment scores can be determined for passage of an
 1061 end-of-course assessment. When content alignment and equivalent
 1062 scores can be determined, the Commissioner of Education shall
 1063 adopt those scores as meeting the requirement to pass the end-

1064 of-course assessment and as being sufficient to achieve
 1065 additional purposes as determined by rule. Each time that
 1066 assessment content or scoring procedures change for an end-of-
 1067 course assessment or for a high school achievement test for
 1068 which an equivalent score is determined, new equivalent scores
 1069 must be determined. Equivalent scores earned before taking an
 1070 end-of-course assessment for the first time may not be used to
 1071 satisfy the requirement in this subsection.

1072 (b) In order to use an equivalent score pursuant to this
 1073 subsection to satisfy the end-of-course assessment requirements
 1074 under sub-subparagraph (3)(c)2.a., a student must have received
 1075 a grade "F" in a course solely because the student failed to
 1076 pass the end-of-course assessment. Use of an equivalent score
 1077 adopted by the Commissioner of Education under paragraph (a) for
 1078 purposes of grade adjustment, grade forgiveness, or course
 1079 credit recovery is contingent upon and subject to district
 1080 school board rules.

1081 Section 11. Paragraph (a) of subsection (4) of section
 1082 1008.25, Florida Statutes, is amended to read:

1083 1008.25 Public school student progression; remedial
 1084 instruction; reporting requirements.—

1085 (4) ASSESSMENT AND REMEDIATION.—

1086 (a) Each student must participate in the statewide
 1087 assessment tests required by s. 1008.22. Each student who does
 1088 not meet specific levels of performance as determined by the
 1089 district school board in FCAT Reading, Writing, Science, and
 1090 Mathematics for each grade level, or who scores below Level 3 in
 1091 FCAT Reading or FCAT Mathematics ~~math~~, must be provided with

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1092 additional diagnostic assessments to determine the nature of the
 1093 student's difficulty, the areas of academic need, and strategies
 1094 for appropriate intervention and instruction as described in
 1095 paragraph (b).

1096 Section 12. Subsection (3) of section 1008.30, Florida
 1097 Statutes, is amended to read:

1098 1008.30 Common placement testing for public postsecondary
 1099 education.—

1100 (3) The State Board of Education shall adopt rules that
 1101 require high schools to evaluate before the beginning of grade
 1102 12 the college readiness of each student who indicates an
 1103 interest in postsecondary education and scores at Level 2 or
 1104 Level 3 on the reading portion of the grade 10 FCAT or Level 2,
 1105 Level 3, or Level 4 on the mathematics assessments under s.
 1106 1008.22(3)(c) ~~portion of the grade 10 FCAT~~. High schools shall
 1107 perform this evaluation using results from the corresponding
 1108 component of the common placement test prescribed in this
 1109 section, or an equivalent test identified by the State Board of
 1110 Education. The Department of Education shall purchase or develop
 1111 the assessments necessary to perform the evaluations required by
 1112 this subsection and shall work with the school districts to
 1113 administer the assessments. The State Board of Education shall
 1114 establish by rule the minimum test scores a student must achieve
 1115 to demonstrate readiness. Students who demonstrate readiness by
 1116 achieving the minimum test scores established by the state board
 1117 and enroll in a community college within 2 years of achieving
 1118 such scores shall not be required to enroll in remediation
 1119 courses as a condition of acceptance to any community college.

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1120 The high school shall use the results of the test to advise the
 1121 students of any identified deficiencies and to the maximum
 1122 extent practicable provide 12th grade students access to
 1123 appropriate remedial instruction prior to high school
 1124 graduation. The remedial instruction provided under this
 1125 subsection shall be a collaborative effort between secondary and
 1126 postsecondary educational institutions. To the extent courses
 1127 are available, the Florida Virtual School may be used to provide
 1128 the remedial instruction required by this subsection.

1129 Section 13. Paragraphs (b) and (c) of subsection (3) of
 1130 section 1008.34, Florida Statutes, are amended to read:

1131 1008.34 School grading system; school report cards;
 1132 district grade.—

1133 (3) DESIGNATION OF SCHOOL GRADES.—

1134 (b)1. A school's grade shall be based on a combination of:

1135 a. Student achievement scores, including performance on
 1136 all FCAT assessments administered under s. 1008.22(3)(c)1. and
 1137 end-of-course assessments administered under s.

1138 1008.22(3)(c)2.a., and achievement scores for students seeking a
 1139 special diploma.

1140 b. Student learning gains in reading and mathematics as
 1141 measured by ~~annual~~ FCAT and end-of-course assessments ~~in grades~~
 1142 ~~3 through 10~~; learning gains for students seeking a special
 1143 diploma, as measured by an alternate assessment tool, shall be
 1144 included not later than the 2009-2010 school year.

1145 c. Improvement of the lowest 25th percentile of students
 1146 in the school in reading and, ~~mathematics, or writing~~ on the
 1147 FCAT and end-of-course assessments, unless these students are

1148 exhibiting satisfactory performance.

1149 2. Beginning with the 2009-2010 school year for schools

1150 comprised of high school grades 9, 10, 11, and 12, or grades 10,

1151 11, and 12, 50 percent of the school grade shall be based on a

1152 combination of the factors listed in sub-subparagraphs 1.a.-c.

1153 and the remaining 50 percent on the following factors:

1154 a. The high school graduation rate of the school;

1155 b. As valid data becomes available, the performance and

1156 participation of the school's students in College Board Advanced

1157 Placement courses, International Baccalaureate courses, dual

1158 enrollment courses, and Advanced International Certificate of

1159 Education courses; and the students' achievement of national

1160 industry certifications identified in the Industry Certification

1161 Funding List, pursuant to rules adopted by the State Board of

1162 Education certification, as determined by the Agency for

1163 Workforce Innovation under s. 1003.492(2) in a career and

1164 professional academy, as described in s. 1003.493;

1165 c. Postsecondary readiness of the school's students as

1166 measured by the SAT, ACT, or the common placement test;

1167 d. The high school graduation rate of at-risk students who

1168 scored at Level 2 or lower on the grade 8 FCAT Reading and

1169 Mathematics examinations;

1170 e. As valid data becomes available, the performance of the

1171 school's students on statewide, standardized end-of-course

1172 assessments administered under s. 1008.22(3)(c)2.b. and c.; and

1173 f. The growth or decline in the components listed in sub-

1174 subparagraphs a.-e. from year to year.

1175 (c) Student assessment data used in determining school

1176 grades shall include:

1177 1. The aggregate scores of all eligible students enrolled
 1178 in the school who have been assessed on the FCAT assessments
 1179 administered under s. 1008.22(3)(c)1. and end-of-course
 1180 assessments administered under s. 1008.22(3)(c)2.a.

1181 2. The aggregate scores of all eligible students enrolled
 1182 in the school who have been assessed on the FCAT and end-of-
 1183 course assessments and who have scored at or in the lowest 25th
 1184 percentile of students in the school in reading and
 1185 mathematics, ~~or writing~~, unless these students are exhibiting
 1186 satisfactory performance.

1187 3. Effective with the 2005-2006 school year, the
 1188 achievement scores and learning gains of eligible students
 1189 attending alternative schools that provide dropout prevention
 1190 and academic intervention services pursuant to s. 1003.53. The
 1191 term "eligible students" in this subparagraph does not include
 1192 students attending an alternative school who are subject to
 1193 district school board policies for expulsion for repeated or
 1194 serious offenses, who are in dropout retrieval programs serving
 1195 students who have officially been designated as dropouts, or who
 1196 are in programs operated or contracted by the Department of
 1197 Juvenile Justice. The student performance data for eligible
 1198 students identified in this subparagraph shall be included in
 1199 the calculation of the home school's grade. As used in this
 1200 section and s. 1008.341, the term "home school" means the school
 1201 to which the student would be assigned if the student were not
 1202 assigned to an alternative school. If an alternative school
 1203 chooses to be graded under this section, student performance

1204 data for eligible students identified in this subparagraph shall
 1205 not be included in the home school's grade but shall be included
 1206 only in the calculation of the alternative school's grade. A
 1207 school district that fails to assign the FCAT and end-of-course
 1208 assessment scores of each of its students to his or her home
 1209 school or to the alternative school that receives a grade shall
 1210 forfeit Florida School Recognition Program funds for 1 fiscal
 1211 year. School districts must require collaboration between the
 1212 home school and the alternative school in order to promote
 1213 student success. This collaboration must include an annual
 1214 discussion between the principal of the alternative school and
 1215 the principal of each student's home school concerning the most
 1216 appropriate school assignment of the student.

1217 4. Beginning with the 2009-2010 school year for schools
 1218 comprised of high school grades 9, 10, 11, and 12, or grades 10,
 1219 11, and 12, the data listed in subparagraphs 1.-3. and the
 1220 following data as the Department of Education determines such
 1221 data are valid and available:

- 1222 a. The high school graduation rate of the school as
- 1223 calculated by the Department of Education;
- 1224 b. The participation rate of all eligible students
- 1225 enrolled in the school and enrolled in College Board Advanced
- 1226 Placement courses; International Baccalaureate courses; dual
- 1227 enrollment courses; Advanced International Certificate of
- 1228 Education courses; and courses or sequence of courses leading to
- 1229 national industry certifications identified in the Industry
- 1230 Certification Funding List, pursuant to rules adopted by the
- 1231 State Board of Education certification, as determined by the

1232 ~~Agency for Workforce Innovation under s. 1003.492(2) in a career~~
 1233 ~~and professional academy, as described in s. 1003.493;~~

1234 c. The aggregate scores of all eligible students enrolled
 1235 in the school in College Board Advanced Placement courses,
 1236 International Baccalaureate courses, and Advanced International
 1237 Certificate of Education courses;

1238 d. Earning of college credit by all eligible students
 1239 enrolled in the school in dual enrollment programs under s.
 1240 1007.271;

1241 e. Earning of national an industry certifications
 1242 identified in the Industry Certification Funding List, pursuant
 1243 to rules adopted by the State Board of Education certification,
 1244 ~~as determined by the Agency for Workforce Innovation under s.~~
 1245 ~~1003.492(2) in a career and professional academy, as described~~
 1246 ~~in s. 1003.493;~~

1247 f. The aggregate scores of all eligible students enrolled
 1248 in the school in reading, mathematics, and other subjects as
 1249 measured by the SAT, the ACT, and the common placement test for
 1250 postsecondary readiness;

1251 g. The high school graduation rate of all eligible at-risk
 1252 students enrolled in the school who scored at Level 2 or lower
 1253 on the grade 8 FCAT Reading and Mathematics examinations;

1254 h. The performance of the school's students on statewide,
 1255 standardized end-of-course assessments administered under s.
 1256 1008.22(3)(c)2.b. and c.; and

1257 i. The growth or decline in the data components listed in
 1258 sub-subparagraphs a.-h. from year to year.

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1260 The State Board of Education shall adopt appropriate criteria
 1261 for each school grade. The criteria must also give added weight
 1262 to student achievement in reading. Schools designated with a
 1263 grade of "C," making satisfactory progress, shall be required to
 1264 demonstrate that adequate progress has been made by students in
 1265 the school who are in the lowest 25th percentile in reading and,
 1266 ~~mathematics, or writing~~ on the FCAT and end-of-course
 1267 assessments, unless these students are exhibiting satisfactory
 1268 performance. Beginning with the 2009-2010 school year for
 1269 schools comprised of high school grades 9, 10, 11, and 12, or
 1270 grades 10, 11, and 12, the criteria for school grades must also
 1271 give added weight to the graduation rate of all eligible at-risk
 1272 students, as defined in this paragraph. Beginning in the 2009-
 1273 2010 school year, in order for a high school to be designated as
 1274 having a grade of "A," making excellent progress, the school
 1275 must demonstrate that at-risk students, as defined in this
 1276 paragraph, in the school are making adequate progress.

1277 Section 14. Subsection (3) of section 1008.341, Florida
 1278 Statutes, is amended to read:

1279 1008.341 School improvement rating for alternative
 1280 schools.—

1281 (3) DESIGNATION OF SCHOOL IMPROVEMENT RATING.—Student data
 1282 used in determining an alternative school's school improvement
 1283 rating shall include:

1284 (a) The aggregate scores on statewide assessments
 1285 administered under s. 1008.22 for ~~of~~ all eligible students who
 1286 were assigned to and enrolled in the school during the October
 1287 or February FTE count, ~~who have been assessed on the FCAT, and~~

1288 who have ~~FCAT~~ or comparable scores for the preceding school
 1289 year.

1290 (b) The aggregate scores on statewide assessments
 1291 administered under s. 1008.22 for ~~of~~ all eligible students who
 1292 were assigned to and enrolled in the school during the October
 1293 or February FTE count, ~~who have been assessed on the FCAT and~~
 1294 who have scored in the lowest 25th percentile of students in the
 1295 state on FCAT Reading.

1296
 1297 The assessment scores of students who are subject to district
 1298 school board policies for expulsion for repeated or serious
 1299 offenses, who are in dropout retrieval programs serving students
 1300 who have officially been designated as dropouts, or who are in
 1301 programs operated or contracted by the Department of Juvenile
 1302 Justice may not be included in an alternative school's school
 1303 improvement rating.

1304 Section 15. Subsection (4) of section 1008.36, Florida
 1305 Statutes, is amended to read:

1306 1008.36 Florida School Recognition Program.—

1307 (4) All selected schools shall receive financial awards
 1308 depending on the availability of funds appropriated and the
 1309 number and size of schools selected to receive an award. Funds
 1310 must be distributed to the school's fiscal agent and placed in
 1311 the school's account and must be used for purposes listed in
 1312 subsection (5) as determined jointly by the school's staff and
 1313 school advisory council. If school staff and the school advisory
 1314 council cannot reach agreement by February ~~November~~ 1, the
 1315 awards must be equally distributed to all classroom teachers

HB 7053

2010

1316 | currently teaching in the school. Beginning with the 2009-2010
 1317 | school year, if a school selected to receive a school
 1318 | recognition award is no longer in existence at the time the
 1319 | award is paid, the district school superintendent shall
 1320 | determine how the school recognition funds shall be used to
 1321 | support the district in accordance with subsection (5).

1322

1323 | Notwithstanding statutory provisions to the contrary, incentive
 1324 | awards are not subject to collective bargaining.

1325 | Section 16. This act shall take effect July 1, 2010.

COUNCIL/COMMITTEE AMENDMENT

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Amendment No. 01

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) Legg offered the following:
4

5 **Amendment**

6 Remove lines 172-191 and insert:

7 1008.22(3)(c)2.a.(I). However, beginning with the 2011-2012
8 school year, to earn high school credit for an Algebra I course,
9 a middle school student must pass the Algebra I end-of-course
10 assessment, and beginning with the 2012-2013 school year, to
11 earn high school credit for a geometry course, a middle school
12 student must pass the geometry end-of-course assessment.

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

16 4. Three middle school or higher courses in science.
17 Successful completion of a high school level Biology I course is
18 not contingent upon the student's performance on the end-of-
19 course assessment required under s. 1008.22(3)(c)2.a.(II).

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20 However, beginning with the 2012-2013 school year, to earn high
21 school credit for a Biology I course, a middle school student
22 must pass the Biology I end-of-course assessment.

23 Remove line 263 and insert:

24 the required credit in Algebra I. Beginning with students
25 entering grade 9 in the 2011-2012 school year, the end-of-course
26 assessment requirements under s. 1008.22(3)(c)2.a.(I) must be
27 met in order for a student to earn the required credit in
28 geometry. Beginning with

29 Remove line 463 and insert:

30 to earn the required credit in Algebra I. Beginning with
31 students entering grade 9 in the 2011-2012 school year, the end-
32 of-course assessment requirements under s. 1008.22(3)(c)2.a.(I)
33 must be met in order for a student to earn the required credit
34 in geometry.

35 Remove line 521 and insert:

36 to earn the required credit in Algebra I. Beginning with
37 students entering grade 9 in the 2011-2012 school year, the end-
38 of-course assessment requirements under s. 1008.22(3)(c)2.a.(I)
39 must be met in order for a student to earn the required credit
40 in geometry.

41 Remove lines 699-736 and insert:

42 10 except, beginning with the 2010-2011 school year, the
43 administration of grade 9 FCAT Mathematics shall be
44 discontinued, and beginning with the 2011-2012 school year, the
45 administration of grade 10 FCAT Mathematics shall be
46 discontinued, except as required for those who have not attained
47 minimum performance expectations for graduation as provided in

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48 subsection (9) (c). FCAT Comprehensive assessments of Writing and
49 FCAT Science shall be administered at least once at the
50 elementary, middle, and high school levels except, beginning
51 with the 2011-2012 school year, the administration of FCAT
52 Science at the high school level shall be discontinued.

53 2.a. End-of-course assessments for a subject shall may be
54 administered in addition to the comprehensive assessments
55 required for that subject under subparagraph 1. this paragraph-
56 An End-of-course assessments assessment must be rigorous,
57 statewide, standardized, and developed or approved by the
58 department. The content knowledge and skills assessed by
59 comprehensive and end-of-course assessments must be aligned to
60 the core curricular content established in the Next Generation
61 Sunshine State Standards.

62 (I) Statewide, standardized end-of-course assessments in
63 mathematics shall be administered according to this sub-sub-
64 subparagraph. Beginning with the 2010-2011 school year, all
65 students enrolled in Algebra I or an equivalent course must take
66 the Algebra I end-of-course assessment. Students who earned
67 credit in Algebra I while in grades 6 through 8 during the 2007-
68 2008 through 2009-2010 school years and who have not taken Grade
69 10 FCAT Mathematics must take the Algebra I end-of-course
70 assessment during the 2010-2011 school year. For students
71 entering grade 9 during the 2010-2011 school year and who are
72 enrolled in Algebra I or an equivalent, each student's
73 performance on the end-of-course assessment in Algebra I shall
74 constitute 30 percent of the student's final course grade.
75 Beginning with students entering grade 9 in the 2011-2012 school

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76 year, a student who is enrolled in Algebra I or an equivalent
77 must earn a passing score on the end-of-course assessment in
78 Algebra I in order to earn course credit. Beginning with the
79 2011-2012 school year, all students enrolled in geometry or an
80 equivalent course must take the geometry end-of-course
81 assessment. For students entering grade 9 during the 2011-2012
82 school year, each

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Bill No. HB 7053 (2010)

Amendment No. 02

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) Brise offered the following:

4
5 **Amendment**

6 Remove line 604 and insert:
7 course until being offered remediation and a retake of the end-
8 of-course assessment the following summer or during the next
9 administration of the end-of-course

10
11

Amendment No. 03

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) Thompson offered the following:
4

5 **Amendment**

6 Between lines 775 and 776, insert:

7 a. Diagnostic assessments shall be given to students in
8 grades 6, 8, and 10 in mathematics and science content knowledge
9 and skills and shall be used to keep students on track to
10 graduate from high school. The diagnostic assessments shall be
11 designed to identify specific academic weaknesses in individual
12 students and to provide specific diagnostic information to help
13 focus instruction and remediation most effectively to meet the
14 needs of individual students.

15 b. The Department of Education shall develop criteria to
16 allow school districts to offer students identified as
17 struggling to meet the graduation standards but do not have an
18 individual education plan an academic path to receive a standard
19 diploma.