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# 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**

**Larry Cretul  
Speaker**

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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.<sup>1</sup>

##### *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.<sup>2</sup> The Board of Regents (BOR) and USF created a not-for-profit corporation to operate the Cancer Center medical facility.<sup>3</sup> State corporate records show the H. Lee Moffitt Cancer Center and Research Institute, Inc., was incorporated as a not-for-profit corporation in 1984.<sup>4</sup> 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.<sup>5</sup>

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.

<sup>1</sup> Moffitt Cancer Center analysis of HB 341 (January 27, 2010).

<sup>2</sup> Ch. 82-240, L.O.F.

<sup>3</sup> Staff analysis of HB 790 (April 21, 1987).

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

<sup>5</sup> 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.<sup>6</sup>

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.<sup>7</sup> 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).<sup>8</sup>

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.<sup>9</sup>

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.<sup>10</sup>

*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.<sup>11</sup>

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.<sup>12</sup>

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.<sup>13</sup> In 2006, the center announced that it was forming M2GEN, a for-profit

<sup>6</sup> Ch. 90-56, L.O.F.

<sup>7</sup> Ch. 93-167, L. O. F.

<sup>8</sup> Ch. 2002-387, L.O.F.

<sup>9</sup> Ch. 2004-2, L.O.F.

<sup>10</sup> Ch. 2007-217, L.O.F.

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

<sup>12</sup> 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.

<sup>13</sup> 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.<sup>14</sup> The Moffitt Technologies Corporation is a for-profit corporation formed in 2005 to develop biotechnology.<sup>15</sup>

#### 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:<sup>16</sup>

- 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.<sup>17</sup>

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.<sup>18</sup>

#### 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.<sup>19</sup> 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.<sup>20</sup>

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.<sup>21</sup> 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.<sup>22</sup>

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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.

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

<sup>15</sup> 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).

<sup>16</sup> Section 1004.43(2), F.S.

<sup>17</sup> Section 1004.43(3), F.S.

<sup>18</sup> Section 1004.43(4), F.S.

<sup>19</sup> Section 1004.43(1), F.S.

<sup>20</sup> Section 1004.43(1), F.S.

<sup>21</sup> Section 1004.43(5), F.S.

<sup>22</sup> Section 1004.43(5)(b), F.S.

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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.<sup>23</sup>

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 state<sup>24</sup>, but where the subsidiary acts with significant autonomy, it is not.<sup>25</sup>

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."<sup>26</sup> 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.<sup>27</sup> 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,

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<sup>23</sup> Section 768.28(2), F.S.

<sup>24</sup> *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).

<sup>25</sup> 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."

<sup>26</sup> *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).

<sup>27</sup> 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.<sup>28</sup>

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.<sup>29</sup>

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 USF<sup>30</sup>

#### **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

<sup>28</sup> Moffitt Cancer Center analysis of HB 341 (January 27, 2010).

<sup>29</sup> *Id.*

<sup>30</sup> *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.<sup>31</sup>

## 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:

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<sup>31</sup> 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 conference 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.

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277

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







## HOUSE PRINCIPLES

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

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **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 statute<sup>1</sup>, 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”<sup>2</sup> 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.

<sup>1</sup> ss. 218.415(16)(a)-(g) and (17)(a)-(d)

<sup>2</sup> 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 law<sup>3</sup>, 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),

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<sup>3</sup> 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.





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	_____	

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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 343 and 344, insert:

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

9 420.507 Powers of the corporation.—The corporation shall  
10 have all the powers necessary or convenient to carry out and  
11 effectuate the purposes and provisions of this part, including  
12 the following powers which are in addition to all other powers  
13 granted by other provisions of this part:

14 (47) To provide by rule in connection with any corporation  
15 competitive program, criteria establishing a preference for  
16 developers and general contractors who are either domiciled in  
17 this state or who, ~~and for developers and general contractors,~~  
18 regardless of domicile, ~~who~~ have substantial experience in  
19 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

Amendment No. 01

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:

**Amendment (with title amendment)**

Remove lines 449 through 462, and insert:

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

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

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

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

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.

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 665 (2010)

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.<sup>1</sup>

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.

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.*"<sup>2</sup>

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;

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<sup>2</sup> <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;<sup>3</sup>

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.

<sup>3</sup> 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	_____	

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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	_____	

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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








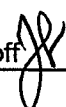


**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**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.<sup>1</sup>

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.<sup>2</sup>

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.<sup>3</sup>

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;<sup>4</sup> that if high

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<sup>1</sup> 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.

<sup>2</sup> *Id.*

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

<sup>4</sup> 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;<sup>5</sup> and that a majority of graduates would have taken harder courses.<sup>6</sup> Finally, research indicates that taking Algebra II is critical for both college and career.<sup>7</sup>

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.<sup>8</sup> 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.<sup>9</sup>

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.<sup>10</sup> The FCAT consists of criterion-referenced tests in reading, writing, mathematics, and science.<sup>11</sup>

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.<sup>12</sup> 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.<sup>13</sup>

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.<sup>14</sup>

#### ***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.<sup>15</sup> Beginning with the 2012-2013 school year, FCAT Writing

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<sup>5</sup> 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.

<sup>6</sup> *Id.*

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

<sup>8</sup> 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](http://www.sreb.org/page/1095/high_schools.html) (last visited January 20, 2010).

<sup>9</sup> 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).

<sup>10</sup> 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).

<sup>11</sup> s. 1008.22(3)(c), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> 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.

<sup>14</sup> s. 1003.428(4)(b) and s. 1003.429(5)(a), F.S.

<sup>15</sup> 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.<sup>16</sup>

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.<sup>17</sup> 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.<sup>18</sup>

### **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.<sup>19</sup>

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.<sup>20</sup> 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.<sup>21</sup>

The DOE is conducting field test<sup>22</sup> 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.<sup>23</sup>

### **Achievement Levels**

FCAT Achievement Levels are based on both scale scores and developmental scale scores<sup>24</sup> and

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<sup>16</sup> *Id.*

<sup>17</sup> 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/>.

<sup>18</sup> Florida Department of Education, Office of Assessment, *Writing Assessment in Florida*, February 2010.

<sup>19</sup> s. 1008.22(3)(c), F.S.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> 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).

<sup>23</sup> 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.

<sup>24</sup> 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.fcatt.fldoe.org/pdf/fcAchievementLevels.pdf>, Florida Department of Education. FCAT Achievement Levels, July 2008.

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

### **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.<sup>27</sup> 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.<sup>28</sup>

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.<sup>29</sup>

### **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.<sup>30</sup> 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 12<sup>th</sup> grade may use a concordant score without taking the FCAT.<sup>31</sup> 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.<sup>32</sup>

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.<sup>33</sup>

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

<sup>26</sup> Rule 6A-1.09422, F.A.C.

<sup>27</sup> s. 1008.22(9)(a), F.S.

<sup>28</sup> s. 1008.22(9)(b), F.S.

<sup>29</sup> s. 1008.22(9)(c), F.S.

<sup>30</sup> s. 1008.22(10), F.S.

<sup>31</sup> s. 1008.22(10), F.S.

<sup>32</sup> s. 1008.22(3)(c)12., F.S.

<sup>33</sup> 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.<sup>34</sup>

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

### ***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.<sup>36</sup>

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 10<sup>th</sup> grade and once in the 11<sup>th</sup> grade.<sup>37</sup>

### **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.<sup>38</sup> 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.<sup>39</sup> 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.<sup>40</sup>

#### ***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.

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<sup>34</sup> s. 1008.22(3)(c)12.b., F.S.

<sup>35</sup> s. 1008.22(3)(c)12.c., F.S.

<sup>36</sup> s. 1003.428(8)(a), F.S.

<sup>37</sup> s. 1003.428(8)(b), F.S.

<sup>38</sup> See *supra* text accompanying fn 16.

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

<sup>40</sup> 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.<sup>41</sup>

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.

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<sup>41</sup> 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.<sup>42</sup> 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.<sup>43</sup>
- 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.<sup>44</sup>

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

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<sup>42</sup> 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.

<sup>43</sup> 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.

<sup>44</sup> 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,<sup>45</sup> 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.<sup>46</sup> 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.<sup>47</sup>

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<sup>45</sup> See text accompanying *infra* notes 55, 56, and 57.

<sup>46</sup> s. 1003.428(4)(b), F.S., and s. 1008.22(3)(c), F.S.

<sup>47</sup> 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.<sup>48</sup>

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.<sup>49</sup>

## *Science Courses*

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

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.<sup>51</sup> 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.<sup>52</sup>

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.<sup>53</sup>

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.<sup>54</sup>

## ***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.<sup>55</sup>

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

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

<sup>49</sup> *Id.*

<sup>50</sup> s. 1003.428(2)(a), F.S.

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

<sup>52</sup> *Id.*

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

<sup>54</sup> *Id.*

<sup>55</sup> s. 1003.428, 1003.429 and s. 1003.43, F.S.

three credits in electives.<sup>56</sup>

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.<sup>57</sup>

### **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.”<sup>58</sup> 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.<sup>59</sup>

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*.”<sup>60</sup>

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.<sup>61</sup>

### **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.<sup>62</sup> 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.<sup>63</sup> 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.<sup>64</sup>

### **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.”<sup>65</sup> Policies for use of Grade “I” vary by school district.<sup>66</sup>

### **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.<sup>67</sup> In 2008-2009, 63,178 grade 8 students were enrolled in Algebra I or an

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<sup>56</sup> s. 1003.429(1)(b)2.& 6., F.S.

<sup>57</sup> s. 1003.429(1)(c)2.& 6., F.S.

<sup>58</sup> s. 1003.436(1)(a), F.S.

<sup>59</sup> s. 1003.436(1), F.S.

<sup>60</sup> s. 1003.436(2), F.S., emphasis added.

<sup>61</sup> *Id.*

<sup>62</sup> s. 1003.25(1), F.S.

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

<sup>64</sup> Rule 6A-1.09941(1), F.A.C. and Rule 6A-1.09942(1), F.A.C.

<sup>65</sup> s. 1003.437, F.S.

<sup>66</sup> Conversation with Florida Department of Education staff on November 24, 2009.

<sup>67</sup> s. 1003.4156(1)(a)2., F.S.

equivalent and 13,648 grade 7 students were enrolled in Algebra I or an equivalent.<sup>68</sup> 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.<sup>69</sup>

## **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.<sup>70</sup>

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.<sup>71</sup>

#### *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.<sup>72</sup>

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.<sup>73</sup>

### ***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

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

<sup>69</sup> *Id.*

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

<sup>71</sup> 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.

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

<sup>73</sup> 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.<sup>74</sup>

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.<sup>75</sup>

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.<sup>76</sup> 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.<sup>77</sup>

### **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.<sup>78</sup>

### **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

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<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> s. 1007.235, F.S., establishes district interinstitutional articulation agreements.

<sup>77</sup> s. 1002.45, F.S., establishes the school district virtual instruction programs.

<sup>78</sup> 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.<sup>79</sup> Student achievement data from the FCAT are used to establish both proficiency levels and annual progress for individual students, schools, districts, and the state.<sup>80</sup>

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 25<sup>th</sup> percentile of students in the school in reading, mathematics, or writing on the FCAT, unless these students are exhibiting satisfactory performance."<sup>81</sup> 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;

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

<sup>80</sup> s. 1008.34, F.S.

<sup>81</sup> 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);<sup>82</sup>
- Achievement by the school's students of industry certification in a career and professional academy;<sup>83</sup>
- Postsecondary readiness of the school's students, as measured by the SAT, ACT, or the Common Placement Test;<sup>84</sup>
- 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.<sup>85</sup>

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.<sup>86</sup>

### 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.<sup>87</sup>
- Student learning gains as measured by FCAT Reading *and* adds performance on Algebra I and geometry EOC assessments.
- Improvement of the lowest 25<sup>th</sup> 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.<sup>88</sup>

An integral component of Florida's school accountability system, student learning gains, including improvement of a school's lowest 25<sup>th</sup> 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

<sup>82</sup> 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).

<sup>83</sup> See s. 1003.493, F.S.

<sup>84</sup> 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).

<sup>85</sup> s. 1008.34(3)(b)2. & (c)4., F.S.

<sup>86</sup> s. 1008.34(3), F.S.

<sup>87</sup> 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.

<sup>88</sup> 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 25<sup>th</sup> 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 25<sup>th</sup> percentile of students in the state on FCAT Reading.<sup>90</sup>

### **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 secondary<sup>91</sup> 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.<sup>92</sup>

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

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.<sup>95</sup>

### **Effect of Proposed Changes**

Students choosing the 24-credit or the accelerated 18-credit college or career preparatory graduation options<sup>96</sup> 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.<sup>97</sup> 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

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<sup>89</sup> 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.

<sup>90</sup> s. 1008.341, (2) and (3), F.S.

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

<sup>92</sup> s. 1007.27(1), F.S.

<sup>93</sup> *See supra* note 82.

<sup>94</sup> s. 1007.27(1), F.S.

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

<sup>96</sup> s. 1003.429(1)(b) and (c), F.S.

<sup>97</sup> 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.<sup>98</sup>

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 achieving<sup>99</sup> 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 7<sup>th</sup> or 8<sup>th</sup> 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.<sup>100</sup>

#### **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,<sup>101</sup> 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.<sup>102</sup> 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.<sup>103</sup>

#### **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

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<sup>98</sup> See supra note 77.

<sup>99</sup> 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.

<sup>100</sup> s. 1003.4156(1)(a)5., F.S.

<sup>101</sup> 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.

<sup>102</sup> s. 1008.36(2), F.S.

<sup>103</sup> s. 1008.36(4), F.S.

an additional three months to determine how to distribute award funds.<sup>104</sup>

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.<sup>105</sup>

## 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.

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

<sup>105</sup> 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-

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.~~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

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.

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.

1259

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

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2010

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

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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.

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	_____	

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

**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).

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 7053 (2010)

Amendment No. 01

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



Amendment No. 01

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

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 7053 (2010)

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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

COUNCIL/COMMITTEE AMENDMENT

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:

**Amendment**

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.



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# 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

Revised

**Addendum A – 03/18/2010, 10:00 a.m.**

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 7053 (2010)

Amendment No. 04

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  
6  
7  
8  
9  
10  
11

**Amendment**

Remove line 627 and insert:  
course until being offered remediation and a retake of the end-  
of-course assessment the following summer or during the next  
administration of the end-of-course

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 7053 (2010)

Amendment No. 05

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Full Appropriations Council on  
2 Education & Economic Development  
3 Representative(s) Thompson offered the following:  
4

**Amendment**

Between lines 800 and 801, 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.



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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

Revised

**Addendum B – 03/18/2010, 12:45 a.m.**

Larry Cretul  
Speaker

David Rivera  
Chair



COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 665 (2010)

Amendment No. 01a

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	_____	

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

4  
5 **Amendment to Amendment (01) by Representative Aubuchon**

6 Remove line 28 and insert:

7 interest in a project reside in Florida. In the event a  
8 developer entity is an affiliate of a parent entity, the  
9 ultimate parent entity and its guarantors must reside in  
10 Florida.

