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# Appropriations Committee

Wednesday, April 5, 2017  
9:00 AM – 2:00 PM  
212 Knott Building

## Meeting Packet

### Part II



# The Florida House of Representatives

## Appropriations Committee

**Richard Corcoran**  
Speaker

**Carlos Trujillo**  
Chair

### AGENDA

Wednesday, April 5, 2017

212 Knott Building


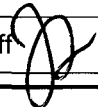
9:00 AM – 2:00 PM

- I. Call to Order/Roll Call
- II. Opening Remarks by Chair Trujillo
- III. Consideration of the following bills:
  - HB 5007** Florida Retirement System by Government Accountability Committee, Caldwell
  - HB 5101** Educational Funding by PreK-12 Appropriations Subcommittee, Diaz, M.
  - HB 5103** Capital Outlay Funding by PreK-12 Appropriations Subcommittee, Diaz, M.
  - HB 5105** School Improvement by Education Committee, Latvala, Bileca
  - HB 5201** Medicaid Services by Health Care Appropriations Subcommittee, Brodeur
  - HB 5203** Prescription Drug Monitoring Program by Health Care Appropriations Subcommittee, Brodeur
  - HB 5205** Department of Veterans' Affairs by Health Care Appropriations Subcommittee, Brodeur
  - HB 5301** State Agency Information Technology Reorganization by Government Operations & Technology Appropriations Subcommittee, Ingoglia
  - HB 5401** Pesticide Registration by Agriculture & Natural Resources Appropriations Subcommittee, Clemons
  - HB 5403** Trust Funds/Termination/Environmental Laboratory Trust Fund/DEP by Agriculture & Natural Resources Appropriations Subcommittee, Harrison
  - HB 5501** Displaced Homemakers by Transportation & Tourism Appropriations Subcommittee, Ingram
- IV. Consideration of the following proposed committee bills:
  - PCB APC 17-01** -- General Appropriations Act
  - PCB APC 17-02** -- Implementing the 2017-18 General Appropriations Act
  - PCB APC 17-04** -- Collective Bargaining
  - PCB APC 17-05** -- Higher Education
- V. Closing Remarks and Adjournment



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 5007      PCB GAC 17-04      Florida Retirement System  
**SPONSOR(S):** Government Accountability Committee, Caldwell  
**TIED BILLS:**                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Accountability Committee	14 Y, 8 N	Harrington	Williamson
1) Appropriations Committee		Delaney 	Leznoff 

### SUMMARY ANALYSIS

The Florida Retirement System (FRS) is a multiple-employer, contributory plan that provides retirement income benefits for employees of the state and county government agencies, district school boards, state colleges, and universities and it also serves as the retirement plan for participating employees of the cities and independent hospitals and special districts that have elected to join the system. Members of the FRS have two plan options available for participation: the pension plan, which is a defined benefit plan, and the investment plan, which is a defined contribution plan.

Current law requires an annual actuarial valuation of the FRS be provided by the administrator of the Department of Management Services and for the results to be reported to the Legislature by December 31 of each year. Thereafter, the Legislature uses the results of the actuarial valuation to establish uniform employer contribution rates during the next Legislative Session to ensure the FRS is funded in a sound actuarial manner.

Effective July 1, 2017, the bill:

- Authorizes renewed membership in the investment plan for retirees of the investment plan and certain optional retirement programs.
- Expands the survivor benefit for members of the Special Risk Class to provide that such benefits are retroactive to July 1, 2002. The bill also establishes a survivor benefit for all other membership classes of the investment plan who are killed in the line of duty and provides that the benefit is retroactive to July 1, 2002.
- Closes the Senior Management Service Optional Annuity Program to new participants.
- Revises the employer contribution rates for the FRS based on the 2016 Actuarial Valuation adjusted for the special studies related to the changes proposed in the bill.
- Reduces the annual service accrual rate for the Judicial Subclass from 3.33 to 3.0 percent.

Effective January 1, 2018, changes the default from the pension plan to the investment plan for members who do not affirmatively choose a plan.

Effective July 1, 2018, the bill prohibits members initially enrolled in a position covered by the Elected Officers' Class from participating in the pension plan and requires participation in the investment plan.

The bill conforms the law to the House proposed 2017-18 General Appropriations Act (GAA) as retirement contributions are included in the GAA.

Based on the results of special actuarial studies, the benefit changes proposed by the bill will have a significant impact to the state and local governments: \$5.5 million in General Revenue and \$2.5 million in trust funds; and \$9.3 million to local governments.

The application of the rates recommended in the 2016 Actuarial Valuation of the FRS, will have a significant negative fiscal impact to the state and local governments: \$85.5 million in General Revenue (state, district school boards, state colleges and universities) and \$11.4 million in trust funds; and \$44.3 million to local governments.

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

STORAGE NAME: h5007.APC.DOCX

DATE: 4/4/2017



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the FRS, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.<sup>1</sup>

The FRS is a multiple-employer, contributory plan<sup>2</sup> governed by the Florida Retirement System Act.<sup>3</sup> As of June 30, 2016, the FRS provides retirement income benefits to 630,350 active members,<sup>4</sup> 394,907 retired members and beneficiaries, and 29,602 members of the Deferred Retirement Option Program (DROP).<sup>5</sup> It is the primary retirement plan for employees of state and county government agencies, district school boards, state colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 173 cities and 261 independent hospitals and special districts that have elected to join the system.<sup>6</sup>

The membership of the FRS is divided into five membership classes:<sup>7</sup>

- Regular Class<sup>8</sup> consists of 549,389 members (87.16 percent of the membership);
- Special Risk Class<sup>9</sup> includes 70,695 members (11.21 percent);
- Special Risk Administrative Support Class<sup>10</sup> has 76 members (.01 percent);
- Elected Officers' Class<sup>11</sup> has 2,141 members (0.34 percent); and
- Senior Management Service Class<sup>12</sup> has 8,019 members (1.27 percent).

Each class is funded separately based upon the costs attributable to the members of that class.

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<sup>1</sup> *Florida Retirement System Pension Plan And Other State Administered Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2016*, at 29. A copy of the report can be found online at: [http://www.dms.myflorida.com/workforce\\_operations/retirement/publications/annual\\_reports](http://www.dms.myflorida.com/workforce_operations/retirement/publications/annual_reports) (last visited March 25, 2016) [hereinafter *Annual Report*].

<sup>2</sup> Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class members or 6 percent for Special Risk Class members. Members were again required to contribute to the system after June 30, 2011.

<sup>3</sup> Chapter 121, F.S.

<sup>4</sup> As of June 30, 2016, the FRS Pension Plan, which is a defined benefit plan, had 515,916 members, and the investment plan, which is a defined contribution plan, had 114,434 members. *Annual Report, supra* note 1, at 120.

<sup>5</sup> *Id.*

<sup>6</sup> Florida Retirement System Participating Employers for Plan Year 2016-17, prepared by the Department of Management Services, Division of Retirement, Revised February 2017, at 8. A copy of the document can be found online at: <https://www.rol.frs.state.fl.us/forms/part-emp.pdf> (last visited March 25, 2017).

<sup>7</sup> *Annual Report, supra* note 1, at 123.

<sup>8</sup> The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

<sup>9</sup> The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics, and emergency technicians, among others. Section 121.0515, F.S.

<sup>10</sup> The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the FRS. Section 121.0515(8), F.S.

<sup>11</sup> The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

<sup>12</sup> The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. Section 121.055, F.S.

Members of the FRS have two primary plan options available for participation:

- The pension plan, which is a defined benefit plan; and
- The investment plan, which is a defined contribution plan.

Certain members, as specified by law and position title, may, in lieu of FRS participation, participate in optional retirement plans.

#### FRS Investment Plan

In 2000, the Legislature created the Public Employee Optional Retirement Program (investment plan), a defined contribution plan offered to eligible employees as an alternative to the pension plan. The earliest that any member could participate in the investment plan was July 1, 2002.

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.<sup>13</sup> The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.<sup>14</sup>

A member vests immediately in all employee contributions paid to the investment plan.<sup>15</sup> With respect to the employer contributions, a member vests after completing one work year with an FRS employer.<sup>16</sup> Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.<sup>17</sup>

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and investment earnings. Benefits are provided through employee-directed investments offered by approved investment providers. The amount of money contributed to each member's account varies by class as follows:

<b>Membership Class</b>	<b>Percentage of Gross Compensation<sup>1</sup></b>
Regular Class	6.30%
Special Risk Class	14.00%
Special Risk Administrative Support Class	7.95%
Elected Officers' Class	
• Justices and Judges	13.23%
• County Elected Officers	11.34%
• Others	9.38%
Senior Management Service Class	7.67%

<sup>1</sup> Includes the three percent employee contribution.

#### FRS Pension Plan

The pension plan is a defined benefit plan that is administered by the secretary of the Department of Management Services (DMS) through the Division of Retirement (division).<sup>18</sup> Investment management is handled by the SBA.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.<sup>19</sup> For members initially enrolled on or after July

<sup>13</sup> Section 121.4501(8), F.S.

<sup>14</sup> Section 4(e), Art. IV, Fla. Const.

<sup>15</sup> Section 121.4501(6)(a), F.S.

<sup>16</sup> If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. Section 121.4501(6)(b) – (d), F.S.

<sup>17</sup> Section 121.591, F.S.

<sup>18</sup> Section 121.025, F.S.

1, 2011, the member vests in the pension plan after eight years of creditable service.<sup>20</sup> A member vests immediately in all employee contributions paid to the pension plan.

Benefits payable under the pension plan are calculated based on years of service x accrual rate x average final compensation.<sup>21</sup> The accrual rate varies by class as follows:

<b>Membership Class</b>	<b>Accrual Rate</b>
Regular Class	1.60%, 1.63%, 1.65%, 1.68% <sup>22</sup>
Special Risk Class	3.00%
Special Risk Administrative Support Class	1.60%, 1.63%, 1.65%, 1.68% <sup>23</sup>
Elected Officers' Class	
• Justices and Judges	3.33%
• Others	3.00%
Senior Management Service Class	2.00%

For most members of the pension plan, normal retirement occurs at the earliest attainment of 30 years of service or age 62.<sup>24</sup> For members in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earliest of 25 years of service or age 55.<sup>25</sup> Members initially enrolled in the pension plan on or after July 1, 2011, must complete 33 years of service or attain age 65, and members in the Special Risk and Special Risk Administrative Support Classes must complete 30 years of service or attain age 60.<sup>26</sup>

#### Default and Second Election

A new member has until the last business day of the fifth month following the member's month of hire to make a plan selection. If the member fails to make a selection, the member defaults to participation in the pension plan.<sup>27</sup>

After the initial election or default election to participate in either the pension plan or investment plan, a member has one opportunity, at the member's discretion and prior to termination or retirement, to choose to move from the pension plan to the investment plan or from the investment plan to the pension plan.<sup>28</sup>

#### Disability Benefits

Disability retirement benefits are provided for both in-line-of-duty disability and regular disability. Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability,<sup>29</sup> compensate a member who is disabled in the line of duty up to 65 percent of the average monthly compensation as of the disability retirement date for Special Risk Class members. Other members may receive up to 42 percent of the member's average monthly compensation for disability retirement benefits. If a disability occurs other than in the line of duty, the monthly benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date. A member who qualifies for disability while enrolled in the investment plan may apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.<sup>30</sup>

<sup>19</sup> Section 121.021(45)(a), F.S.

<sup>20</sup> Section 121.021(45)(b), F.S.

<sup>21</sup> Section 121.091, F.S.

<sup>22</sup> Section 121.091(1)(a)1., F.S.

<sup>23</sup> Section 121.0515(8)(a), F.S.

<sup>24</sup> Section 121.021(29)(a)1., F.S.

<sup>25</sup> Section 121.021(29)(b)1., F.S.

<sup>26</sup> Section 121.021(29)(a)2. and (b)2., F.S.

<sup>27</sup> Section 121.4501(4), F.S.

<sup>28</sup> Section 121.4501(4)(g), F.S.

<sup>29</sup> See s. 121.4501(16), F.S.

<sup>30</sup> Section 121.091(4)(f), F.S.

### Death or Survivor Benefits

If the member is terminated by reason of death prior to becoming vested in the FRS, the member's beneficiary is only entitled to the member's accumulated contributions.<sup>31</sup> Under the pension plan, if the member is vested at the time of his or her death, the member's joint annuitant<sup>32</sup> is entitled to receive the optional form<sup>33</sup> of payment for the annuitant's lifetime.<sup>34</sup> If the designated beneficiary does not qualify as a joint annuitant, the member's beneficiary is only entitled to the return of the member's personal contributions, if any.<sup>35</sup> If the member dies in the line of duty, the surviving spouse of the member is entitled to receive a monthly benefit equal to one-half of the monthly salary being received by the member at the time of death for the rest of the surviving spouse's lifetime.<sup>36</sup> If there is no surviving spouse or the surviving spouse dies, the member's children under 18 years of age and unmarried may receive the benefits until the youngest child's 18th birthday. In general, members in the investment plan are not entitled to these death benefits; instead, the member's beneficiary is entitled to the balance of the member's investment plan account, provided the member has met the one-year vesting requirement.<sup>37</sup>

In 2016, the Legislature increased survivor benefits for Special Risk Class members of the pension plan killed in the line of duty on or after July 1, 2013.<sup>38</sup> Rather than receiving a monthly benefit equal to one-half of the member's monthly salary at the time of death, the member's spouse and children are eligible to receive a monthly payment equal to the member's total monthly salary at the time of death. At the same time, the Legislature created a new survivor benefit for Special Risk Class members of the investment plan killed in the line of duty on or after July 1, 2013.<sup>39</sup> As a result, the spouses and children of such members receive the same survivor benefits provided to Special Risk Class members of the pension plan, including the new increased benefit. In addition, for Special Risk Class members of the investment plan or pension plan killed in the line of duty on or after July 1, 2013, survivor benefits may be extended to the 25th birthday of an unmarried child enrolled as a full time student if there is no surviving spouse or the surviving spouse dies.<sup>40</sup>

### DROP

All membership classes in the FRS Pension Plan may participate in DROP, which allows a member to retire without terminating employment; a member who enters DROP may extend employment for an additional five years.<sup>41</sup> While in DROP, the member's retirement benefits accumulate and earn interest compounded monthly.<sup>42</sup>

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<sup>31</sup> For purposes of disbursement of benefits, a member is considered retired as of the date of the death.

<sup>32</sup> A joint annuitant is considered to be the member's spouse, natural or legally adopted child who is either under age 25 or is physically or mentally disabled and incapable of self-support (regardless of age), or any person who is financially dependent upon the member for one-half or more of his or her support and is the member's parent, grandparent, or person for whom the member is the legal guardian. Section 121.021(28), F.S.

<sup>33</sup> Under the pension plan, a member has a choice of payment options. If the member dies prior to retirement, the member's joint annuitant is entitled to select either to receive the member's contributions or a reduced monthly benefit payment for life.

<sup>34</sup> Section 121.091(7)(b)1., F.S.

<sup>35</sup> Section 121.091(7)(b)2., F.S.

<sup>36</sup> Section 121.091(7)(d)1., F.S. If the surviving spouse dies, or if the member is not married, the monthly payment that would have otherwise gone to the surviving spouse must be paid for the use and benefit of the member's child or children who are under 18 years of age and unmarried until the 18th birthday of the member's youngest child. Section 121.091(7)(d)2. and 3., F.S.

<sup>37</sup> See s. 121.591(3)(b), F.S.

<sup>38</sup> Chapter 2016-213, L.O.F.; codified in ss. 121.091 and 121.591, F.S.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> Section 121.091(13)(a) and (b), F.S. Instructional personnel may extend employment for an additional eight years under certain circumstances.

<sup>42</sup> If DROP participation began prior to July 1, 2011, the effective annual interest rate was 6.5 percent. On or after July 1, 2011, the annual interest rate for DROP is 1.3 percent.

Members in the FRS Investment Plan may not participate in DROP; investment plan members are considered retired from the FRS when the member takes a distribution from his or her account.<sup>43</sup>

### Employment after Retirement

Section 121.091, F.S., governs the payment of benefits under the FRS. It requires a member of the FRS to terminate employment to begin receiving benefits or begin participation in DROP to defer and accrue those benefits until termination from DROP. Termination occurs when a member ceases all employment relationships with her or his FRS employer.<sup>44</sup> Termination is void if any FRS-participating employer reemploys a member during a specified period of time.<sup>45</sup>

Subsection 121.091(9), F.S., governs employment after retirement. It allows reemployment of FRS retirees by a non-FRS employer and authorizes those retirees to continue receiving retirement benefits.<sup>46</sup>

Before July 1, 2010, an FRS retiree was allowed to be reemployed by an FRS employer provided certain requirements were met. A member was allowed to be reemployed by an FRS employer one calendar month after retiring or after the member's DROP termination date. If the retiree was reemployed during months two through 12 after retiring or terminating DROP, the retiree was not authorized to receive her or his pension benefit until month 13. However, a retiree was authorized to be reemployed as instructional personnel on an annual contractual basis after one calendar month without having her or his retirement benefits disrupted.<sup>47</sup>

A member who retires on or after July 1, 2010, may not be reemployed by an FRS employer until month seven after retiring or after the member's DROP termination date. If the retiree is reemployed during months seven through 12 after retiring or terminating DROP, the retiree may not receive her or his pension benefit until month 13.<sup>48</sup> The reemployment exception for retirees reemployed as instructional personnel no longer applies to members who retire and are reemployed on or after July 1, 2010.

### Renewed Membership

Retirees of the FRS Pension Plan or the FRS Investment Plan who were initially re-employed in covered employment by June 30, 2010, renewed their membership in the FRS (the member could choose to participate in either the pension plan or the investment plan) or other state-administered retirement system and earn service credit toward a subsequent retirement benefit. Renewed members are not eligible to participate in DROP or the Special Risk Class, and are not eligible for disability retirement. However, the surviving spouse and dependent child of a renewed member may qualify for survivor benefits.<sup>49</sup>

Currently, retirees initially reemployed in a regularly established position on or after July 1, 2010, are not eligible for renewed membership and do not earn creditable service toward a subsequent retirement benefit.<sup>50</sup> This restriction from renewed membership includes retirees of the FRS Pension Plan and the FRS Investment Plan, as well as members of an optional retirement program.

### Optional Retirement Programs

Eligible employees may choose to participate in one of three retirement programs instead of participating in the FRS:

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<sup>43</sup> See s. 121.4501(2)(k) and (4)(f), F.S.

<sup>44</sup> Section 121.021(39)(a), F.S.

<sup>45</sup> *Id.*

<sup>46</sup> Section 121.091(9)(a), F.S.

<sup>47</sup> Section 121.091(9)(b), F.S.

<sup>48</sup> Section 121.091(9)(c), F.S.

<sup>49</sup> Section 121.122(1), F.S.

<sup>50</sup> Section 121.122(2), F.S.

- Members of the Senior Management Service Class may elect to enroll in the Senior Management Service Optional Annuity Program;<sup>51</sup>
- Members in specified positions in the State University System may elect to enroll in the State University System Optional Retirement Program;<sup>52</sup> and
- Members of a Florida College System institution may elect to enroll in the State Community College System Optional Retirement Program.<sup>53</sup>

### Contribution Rates

FRS employers are responsible for contributing a set percentage of the member's monthly compensation to the division to be distributed into the FRS Contributions Clearing Trust Fund. The employer contribution rate is a blended contribution rate set by statute, which is the same percentage regardless of whether the member participates in the pension plan or the investment plan.<sup>54</sup> The rate is determined annually based on an actuarial study by DMS that calculates the necessary level of funding to support all of the benefit obligations under both FRS retirement plans.

The following are the current employer contribution rates for each class and subclass:<sup>55</sup>

<b>Membership Class</b>	<b>Normal Costs</b>	<b>Unfunded Actuarial Liability</b>
Regular Class	2.97%	2.83%
Special Risk Class	11.80%	8.92%
Special Risk Administrative Support Class	3.87%	22.47%
Elected Officers' Class		
• Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	6.63%	33.75%
• Justices and Judges	11.68%	23.30%
• County Officers	8.55%	32.20%
Senior Management Service Class	4.38%	15.67%
DROP	4.23%	7.10%

Regardless of employee class (excluding DROP), all employees contribute 3 percent of their compensation towards retirement.<sup>56</sup>

After employer and employee contributions are placed into the FRS Contributions Clearing Trust Fund, the allocations under the investment plan are transferred to third-party administrators to be placed in the employee's individual investment accounts, whereas contributions under the pension plan are transferred into the FRS Trust Fund.<sup>57</sup>

<sup>51</sup> The Senior Management Service Optional Annuity Program (SMSOAP) was established in 1986 for members of the Senior Management Service Class. Employees in eligible positions may irrevocably elect to participate in the SMSOAP rather than the FRS. Section 121.055(6), F.S.

<sup>52</sup> Eligible participants of the State University System Optional Retirement Program (SUSORP) are automatically enrolled in the SUSORP. However, the member must execute a contract with a SUSORP provider within the first 90 days of employment or the employee will default into the pension plan. If the employee decides to remain in the SUSORP, the decision is irrevocable and the member must remain in the SUSORP as long as the member remains in a SUSORP-eligible position. Section 121.35, F.S.

<sup>53</sup> If the member is eligible for participation in a State Community College System Optional Retirement Program, the member must elect to participate in the program within 90 days of employment. Unlike the other optional programs, an employee who elects to participate in this optional retirement program has one opportunity to transfer to the FRS. Section 1012.875, F.S.

<sup>54</sup> Section 121.70(1), F.S.

<sup>55</sup> Section 121.71(4), F.S.

<sup>56</sup> Section 121.71(3), F.S.

<sup>57</sup> See ss. 121.4503 and 121.72(1), F.S.

## **Effect of the Bill**

### Renewed Membership

Effective July 1, 2017, the bill allows for renewed membership for certain former participants of the investment plan, Senior Management Service Optional Annuity Program, State University System Optional Retirement Program (SUSORP), or State Community College System Optional Retirement Program (SCCSORP). Such renewed member will be a renewed member of the appropriate membership class in the investment plan, unless employed in a position eligible for participation in the SUSORP or the SCCSORP, in which case the retiree will become a renewed member of the SUSORP or the SCCSORP, as applicable. To be eligible for renewed membership, the member must have retired from one of the four specified plans and must be employed in a regularly established position with a covered employer on or after July 1, 2017.

Such renewed member may not qualify for disability retirement benefits and must satisfy the vesting requirements of the specific plan. The bill prohibits certain funds from being paid into the renewed member's account for any employment in a regularly established position with a covered employer from July 1, 2010, through June 30, 2017. A renewed member who is not receiving the maximum health insurance subsidy is entitled to earn additional credit toward the subsidy.

### Line-of-Duty Death Benefits

Effective July 1, 2017, the bill expands the survivor benefit for members of the Special Risk Class. Specifically, it provides that such survivor benefits are retroactive to July 1, 2002.

Effective July 1, 2017, the bill also establishes a survivor benefit for all other membership classes of the investment plan for members who are killed in the line of duty since 2002, which is when members were first allowed to participate in the investment plan. The survivor benefits are the same as those currently provided for other membership classes of the pension plan, which is a monthly payment equal to one-half of the member's salary at the time of death. To receive the benefit, the spouse and children must elect to transfer the balance of the member's investment plan account to the survivor benefit account of the FRS Trust Fund. The line-of-duty death benefits supersede any other distribution that may have been provided by the member's designation of beneficiary. For a member killed in the line of duty on or after July 1, 2002, but before July 1, 2017, the initial monthly benefit payable on or after July 1, 2017, will be equal to one-half the member's salary at the time of death, except that it will be:

- Actuarially reduced by the amount of the investment plan payout, if a payout was issued; and
- After the actuarial reduction, increased by the applicable cost-of-living adjustment that would have been payable if the survivor benefit payment had begun the month following the member's death. On each July 1 after the initial payment, the benefit will be increased by the applicable cost-of-living adjustment.

### Senior Management Service Optional Annuity Program

The bill closes the SMSOAP to new participants effective July 1, 2017. Currently, fewer than 30 members participate in this optional retirement program.

### Elected Officers' Class – Justices and Judges Subclass

Effective July 1, 2017, the bill reduces the accrual rate for purpose of determining a member's pension benefit for members in the Elected Officers' Class (EOC) – Justices and Judges Subclass from 3.3 percent to 3 percent, which is the same accrual rate for all other members of the EOC.

### Default

For members initially enrolled in the FRS on or after January 1, 2018, the bill changes the default from the pension plan to the investment plan. Thus, if the member does not make a selection, the member will default to the investment plan instead of the pension plan. The bill maintains the member's second election option.

### Elected Officers' Class

The bill provides that members initially enrolled in the FRS on or after July 1, 2018, in a position covered by the EOC may not participate in the pension plan. Instead of having a choice between two plans, such members must participate in the investment plan and may not utilize a second election option to become a member of the pension plan. Investment plan membership continues even if subsequent employment results in the member becoming covered by another membership class.

For a member initially enrolled in the FRS on or after July 1, 2018, in a position covered by another class, the member may choose to participate in the pension plan or the investment plan. If the member chooses to participate in the pension plan and subsequently participates in a position covered by the EOC, the member may continue to participate in the pension plan. Therefore, the prohibition against participation in the pension plan only affects members initially enrolling in the FRS on or after July 1, 2018, in positions covered by the EOC.

The bill prohibits elected officials from joining the Senior Management Service Class in lieu of participating in the EOC. Because the SMSOAP will not be offered to new members on or after July 1, 2017, elected officers will no longer be able to switch service classes for the purpose of participating in the optional annuity program. Instead, elected officials can participate in the FRS Investment Plan or withdraw from the system.<sup>58</sup>

### Uniform Rates

The bill adjusts the uniform rates for the required employer contribution for each membership class and subclass of the FRS for both retirement plans, effective July 1, 2017. It also adjusts the required employer contribution rates for each membership class and subclass of the FRS necessary to address the plan's unfunded actuarial liability.

### Important State Interest

The bill declares that it fulfills an important state interest. It provides that a proper and legitimate state purpose is served by the bill, which includes providing benefits that are managed, administered, and funded in an actuarially sound manner.

## B. SECTION DIRECTORY:

Section 1 amends s. 121.051, F.S., providing for compulsory membership in the investment plan for employees in the EOC initially enrolled on or after July 1, 2018.

Section 2 amends s. 121.052, F.S., prohibiting members of the EOC from joining the Senior Management Service Class; revising the accrual rate for certain members of the EOC.

Section 3 amends s. 121.053, F.S., relating to participation in the Elected Officers' Class for retired members.

Section 4 amends s. 121.055, F.S., relating to the Senior Management Service Class.

Section 5 amends s. 121.091, F.S., relating to benefits payable under the FRS.

Section 6 amends s. 121.122, F.S., relating to renewed membership in the FRS.

<sup>58</sup> Members of the Elected Officers' Class may withdraw from the FRS. Section 121.052(3), F.S.



Section 7 amends s. 121.4501, F.S., relating to the FRS Investment Plan.

Section 8 amends s. 121.591, F.S., relating to payment of benefits.

Section 9 amends s. 121.5912, F.S., relating to the survivor benefit retirement program.

Section 10 amends s. 121.71, F.S., relating to uniform rates.

Section 11 amends s. 238.072, F.S., conforming a cross-reference to changes made by the act.

Section 12 amends s. 413.051, F.S., conforming cross-references to changes made by the act.

Section 13 provides that the act fulfills an important state interest.

Section 14 provides an effective date of July 1, 2017.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

See Fiscal Comments.

#### 2. Expenditures:

See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

See Fiscal Comments.

#### 2. Expenditures:

See Fiscal Comments.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The Milliman actuarial and consulting firm conducted several studies at the request of the Speaker of the House of Representatives. The purpose of the studies was to determine the fiscal impact of requiring new enrollees who participate in the Elected Officers' Class to participate in the investment plan, changing the default for employees who fail to make a selection, establishing a new in-line-of-duty death benefit, authorizing renewed membership in the investment plan, and reducing the accrual rate for certain members who participate in the Elected Officers' Class.

Based on the results of the special studies, the benefit changes proposed by the bill are projected to have a total negative fiscal impact of \$17.3 million in fiscal year 2017-18. The results of the annual actuarial valuation are expected to have a total negative fiscal impact of \$141.2 million in fiscal year 2017-18. Further detail on the costs is provided in the following chart:

	Cost by Employer Group (\$ in millions)					
	Cost to Fully Fund the FRS - Annual Actuarial Valuation		Cost to Fund the FRS Changes in the bill		Total Fiscal Impact of The Bill	
	GR	TF	GR	TF	GR	TF
<b>Entities Funded by the State</b>						
State	15.4	11.4	1.3	2.5	16.7	2.5
County School Boards	54.1		3.3		57.4	
State Universities	11.1		0.5		11.6	
State Colleges	4.9		0.4		5.3	
<i>Total</i>	<b>85.5</b>	<b>11.4</b>	<b>5.5</b>	<b>2.5</b>	<b>91.0</b>	<b>13.9</b>

<b>Other Entities not Funded by the State</b>			
Counties	39.3	8.4	47.7
Municipalities/Special Districts/Other	5.0	0.9	5.9
<i>Total</i>	<b>44.3</b>	<b>9.3</b>	<b>53.6</b>
<i>Grand Total</i>	<b>141.2</b>	<b>17.3</b>	<b>158.5</b>

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

The mandates provision of Art. VII, s. 18 of the State Constitution may apply because this bill requires cities and counties to spend money or take an action that requires the expenditure of money; however, an exception may apply as the Legislature has determined that this bill satisfies an important state interest and similarly situated persons are all required to comply.

##### 2. Other:

###### Actuarial Requirements

Article X, s. 14 of the State Constitution requires that benefit improvements under public pension plans in the State of Florida be concurrently funded on a sound actuarial basis, as set forth below:

SECTION 14. State retirement systems benefit changes.--A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

Article X, s. 14 of the State Constitution is implemented by statute under part VII of ch. 112, F.S., the "Florida Protection of Public Employee Retirement Benefits Act" (Act). The Act establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. It prohibits the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers.

###### Contractual Obligations

Article I, s. 10 of the State Constitution prohibits any bill of attainder, ex post facto law, or law impairing the obligation of contracts from being passed by the Florida Legislature.

The Florida Statutes provides that the rights of members of the FRS are of a contractual nature, entered into between the member and the state, and such rights are legally enforceable as valid contractual rights and may not be abridged in any way.<sup>59</sup> This “preservation of rights” provision<sup>60</sup> was established by the Florida Legislature with an effective date of July 1, 1974.

The Florida Supreme Court has held that the Florida Legislature may only alter the benefits structure of the FRS prospectively.<sup>61</sup> The prospective application would only alter future benefits. Those benefits previously earned or accrued by the member under the previous benefit structure remain untouched, and the member continues to enjoy that level of benefit for the period of time up until the effective date of the proposed changes. Further, once the participating member reaches retirement status, the benefits under the terms of the FRS in effect at the time of the member’s retirement vest.<sup>62</sup>

The Florida Supreme Court further held that the “preservation of rights” provision was not intended to bind future legislatures from prospectively altering benefits that accrue for future state service.<sup>63</sup> More recently, the Florida Supreme Court reaffirmed the previous holding, finding that the Legislature can alter the terms of the FRS, so long as the changes to the FRS are prospective.<sup>64</sup>

This bill does not change any benefits that a member earned prior to July 1, 2017.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 29, 2017, the Government Accountability Committee heard PCB GAC 17-04 and adopted one amendment. The amendment corrected a drafting error. The PCB was reported favorably.

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<sup>59</sup> Section 121.011(3)(d), F.S.

<sup>60</sup> The “preservation of rights” provision vests all rights and benefits already earned under the present retirement plan so the legislature may now only alter the benefits prospectively. *Florida Sheriffs Association v. Department of Administration, Division of Retirement*, 408 So. 2d 1033, 1037 (Fla. 1981).

<sup>61</sup> *Id.* at 1035.

<sup>62</sup> *Id.* at 1036.

<sup>63</sup> *Id.* at 1037.

<sup>64</sup> *Rick Scott, et al. v. George Williams, et al.*, 107 So. 3d 379 (Fla. 2013).

1                                   A bill to be entitled  
 2           An act relating to the Florida Retirement System;  
 3           amending s. 121.051, F.S.; providing for compulsory  
 4           membership in the investment plan for employees in the  
 5           Elected Officers' Class initially enrolled after a  
 6           specified date; amending s. 121.052, F.S.; prohibiting  
 7           members of the Elected Officers' Class from joining  
 8           the Senior Management Service Class after a specified  
 9           date; revising the accrual rate for members of the  
 10          Elected Officers' Class; amending s. 121.053, F.S.;  
 11          authorizing renewed membership in the Florida  
 12          Retirement System for retirees who are reemployed in a  
 13          position eligible for the Elected Officers' Class  
 14          under certain circumstances; amending s. 121.055,  
 15          F.S.; prohibiting an elected official eligible for  
 16          membership in the Elected Officers' Class from  
 17          enrolling in the Senior Management Service Class or in  
 18          the Senior Management Service Optional Annuity  
 19          Program; providing for renewed membership in the  
 20          retirement system for retirees of the Senior  
 21          Management Service Optional Annuity Program who are  
 22          reemployed on or after a specified date; closing the  
 23          Senior Management Service Optional Annuity Program to  
 24          new members after a specified date; amending s.  
 25          121.091, F.S.; revising the accrual rate for members

26 | of the Elected Officers' Class; revising criteria for  
 27 | eligibility of payment of death benefits to the  
 28 | surviving children of a Special Risk Class member  
 29 | killed in the line of duty under specified  
 30 | circumstances; conforming a provision to changes made  
 31 | by the act; amending s. 121.122, F.S.; requiring that  
 32 | certain retirees who are reemployed on or after a  
 33 | specified date be renewed members in the investment  
 34 | plan; providing exceptions; specifying that creditable  
 35 | service does not accrue for employment during a  
 36 | specified period; prohibiting certain funds from being  
 37 | paid into a renewed member's investment plan account  
 38 | for a specified period of employment; requiring the  
 39 | renewed member to satisfy vesting requirements;  
 40 | prohibiting a renewed member from receiving specified  
 41 | disability benefits; specifying limitations and  
 42 | requirements; requiring the employer and the retiree  
 43 | to make applicable contributions to the renewed  
 44 | member's investment plan account; providing for the  
 45 | transfer of contributions; authorizing a renewed  
 46 | member to receive additional credit toward the health  
 47 | insurance subsidy under certain circumstances;  
 48 | prohibiting participation in the pension plan;  
 49 | providing that a retiree reemployed on or after a  
 50 | specified date in a regularly established position

51 eligible for the State University System Optional  
 52 Retirement Program or State Community College System  
 53 Optional Retirement Program is a renewed member of  
 54 that program; specifying limitations and requirements;  
 55 requiring the employer and the retiree to make  
 56 applicable contributions; amending s. 121.4501, F.S.;  
 57 requiring certain employees initially enrolled in the  
 58 Florida Retirement System on or after a specified date  
 59 to be compulsory members of the investment plan;  
 60 revising definitions; revising a provision relating to  
 61 acknowledgement of an employee's election to  
 62 participate in the investment plan; enrolling certain  
 63 employees in the pension plan from their date of hire  
 64 until they are automatically enrolled in the  
 65 investment plan or timely elect enrollment in the  
 66 pension plan; conforming provisions to changes made by  
 67 the act; revising requirements related to the  
 68 education component; amending s. 121.591, F.S.;  
 69 authorizing payment of death benefits to the surviving  
 70 spouse or surviving children of a member in the  
 71 investment plan; establishing qualifications and  
 72 eligibility requirements for receipt of such benefits;  
 73 prescribing the method of calculating the benefit;  
 74 specifying circumstances under which benefit payments  
 75 are terminated; amending s. 121.5912, F.S.; revising a

76 provision regarding program qualification under the  
 77 Internal Revenue Code and rulemaking authority, to  
 78 conform to changes made by the act; amending s.  
 79 121.71, F.S.; revising required employer retirement  
 80 contribution rates for each membership class and  
 81 subclass of the Florida Retirement System; amending  
 82 ss. 238.072 and 413.051, F.S.; conforming cross-  
 83 references to changes made by the act; declaring that  
 84 the act fulfills an important state interest;  
 85 providing an effective date.

86

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

88

89 Section 1. Subsections (3) through (9) of section 121.051,  
 90 Florida Statutes, are renumbered as subsections (4) through  
 91 (10), respectively, and a new subsection (3) is added to that  
 92 section, to read:

93 121.051 Participation in the system.-

94 (3) INVESTMENT PLAN MEMBERSHIP COMPULSORY.-

95 (a) An employee initially enrolled on or after July 1,  
 96 2018, in a position covered by the Elected Officers' Class is a  
 97 compulsory member of the investment plan, except an employee who  
 98 withdraws from the system under s. 121.052(3)(d). An employee  
 99 initially enrolled in the investment plan before July 1, 2018,  
 100 continues if there is subsequent employment in a position

101 covered by another membership class. Membership in the pension  
 102 plan for an employee initially enrolled on or after July 1,  
 103 2018, is not permitted except as provided in s. 121.591(2) and  
 104 (4). An employee initially enrolled in the Florida Retirement  
 105 System before July 1, 2018, may retain his or her membership in  
 106 the pension plan or investment plan and may use the election  
 107 opportunity specified in s. 121.4501(4)(f). An employee  
 108 initially enrolled on or after July 1, 2018, in a position  
 109 covered by the Elected Officers' Class may not use the election  
 110 opportunity specified in s. 121.4501(4)(f).

111 (b) An employee eligible to withdraw from the system under  
 112 s. 121.052(3)(d) may elect to withdraw from the system or  
 113 participate in the investment plan.

114 Section 2. Paragraph (c) of subsection (3) and subsection  
 115 (10) of section 121.052, Florida Statutes, are amended to read:

116 121.052 Membership class of elected officers.—

117 (3) PARTICIPATION AND WITHDRAWAL, GENERALLY.—Effective  
 118 July 1, 1990, participation in the Elected Officers' Class shall  
 119 be compulsory for elected officers listed in paragraphs (2)(a)-  
 120 (d) and (f) assuming office on or after said date, unless the  
 121 elected officer elects membership in another class or withdraws  
 122 from the Florida Retirement System as provided in paragraphs  
 123 (3)(a)-(d):

124 (c) Before July 1, 2018, any elected officer may, within 6  
 125 months after assuming office, or within 6 months after this act



126 becomes a law for serving elected officers, elect membership in  
 127 the Senior Management Service Class as provided in s. 121.055 in  
 128 lieu of membership in the Elected Officers' Class. Any such  
 129 election made by a county elected officer shall have no effect  
 130 upon the statutory limit on the number of nonelective full-time  
 131 positions that may be designated by a local agency employer for  
 132 inclusion in the Senior Management Service Class under s.  
 133 121.055(1)(b)1.

134 (10) ACCRUED SERVICE VALUE.—For creditable years of  
 135 service earned before July 1, 2017, a member of the Elected  
 136 Officers' Class who is a Supreme Court justice, district court  
 137 of appeal judge, circuit judge, or county court judge shall  
 138 receive judicial retirement credit of 3 1/3 percent of average  
 139 final compensation, and all other members shall receive elected  
 140 officer accrual value of 3 percent of average final  
 141 compensation, for each year of creditable service in such class.  
 142 For creditable years of service earned on or after July 1, 2017,  
 143 a member of the Elected Officers' Class shall receive elected  
 144 officer accrual value of 3 percent of the average final  
 145 compensation for each year of creditable service in such class.

146 Section 3. Paragraph (a) of subsection (3) and subsection  
 147 (5) of section 121.053, Florida Statutes, are amended to read:  
 148 121.053 Participation in the Elected Officers' Class for  
 149 retired members.—

150 (3) On or after July 1, 2010:

151 (a) A retiree of a state-administered retirement system  
 152 who is initially reemployed in ~~elected or appointed for the~~  
 153 ~~first time to~~ an elective office in a regularly established  
 154 position with a covered employer may not reenroll in the Florida  
 155 Retirement System, except as provided in s. 121.122.

156 (5) Any renewed member, as described in s. 121.122(1),  
 157 (3), (4), or (5) ~~subsection (1) or subsection (2)~~, who is not  
 158 receiving the maximum health insurance subsidy provided in s.  
 159 112.363 is entitled to earn additional credit toward the maximum  
 160 health insurance subsidy. Any additional subsidy due because of  
 161 such additional credit may be received only at the time of  
 162 payment of the second career retirement benefit. The total  
 163 health insurance subsidy received from initial and renewed  
 164 membership may not exceed the maximum allowed in s. 112.363.

165 Section 4. Paragraph (f) of subsection (1) and paragraph  
 166 (c) of subsection (6) of section 121.055, Florida Statutes, are  
 167 amended to read:

168 121.055 Senior Management Service Class.—There is hereby  
 169 established a separate class of membership within the Florida  
 170 Retirement System to be known as the "Senior Management Service  
 171 Class," which shall become effective February 1, 1987.

172 (1)

173 (f) Effective July 1, 1997:

174 1. Except as provided in subparagraph 3., an elected state  
 175 officer eligible for membership in the Elected Officers' Class

176 | under s. 121.052(2)(a), (b), or (c) who elects membership in the  
 177 | Senior Management Service Class under s. 121.052(3)(c) may,  
 178 | within 6 months after assuming office or within 6 months after  
 179 | this act becomes a law for serving elected state officers, elect  
 180 | to participate in the Senior Management Service Optional Annuity  
 181 | Program, as provided in subsection (6), in lieu of membership in  
 182 | the Senior Management Service Class.

183 |         2. Except as provided in subparagraph 3., an elected  
 184 | officer of a local agency employer eligible for membership in  
 185 | the Elected Officers' Class under s. 121.052(2)(d) who elects  
 186 | membership in the Senior Management Service Class under s.  
 187 | 121.052(3)(c) may, within 6 months after assuming office, or  
 188 | within 6 months after this act becomes a law for serving elected  
 189 | officers of a local agency employer, elect to withdraw from the  
 190 | Florida Retirement System, as provided in subparagraph (b)2., in  
 191 | lieu of membership in the Senior Management Service Class.

192 |         3. A retiree of a state-administered retirement system who  
 193 | is initially reemployed in a regularly established position on  
 194 | or after July 1, 2010, through June 30, 2017, as an elected  
 195 | official eligible for the Elected Officers' Class may not be  
 196 | enrolled in renewed membership in the Senior Management Service  
 197 | Class or in the Senior Management Service Optional Annuity  
 198 | Program as provided in subsection (6), and may not withdraw from  
 199 | the Florida Retirement System as a renewed member as provided in  
 200 | subparagraph (b)2., as applicable, in lieu of membership in the

201 Senior Management Service Class. Effective July 1, 2017, a  
 202 retiree of the Senior Management Service Optional Annuity  
 203 Program who is reemployed in a regularly established position  
 204 with a covered employer shall be enrolled as a renewed member as  
 205 provided in s. 121.122.

206 4. Effective July 1, 2017, an elected official eligible  
 207 for membership in the Elected Officers' Class may not enroll in  
 208 the Senior Management Service Class or in the Senior Management  
 209 Service Optional Annuity Program as provided in subsection (6).

210 (6)

211 (c) *Participation.*—

212 1. An eligible employee who is employed on or before  
 213 February 1, 1987, may elect to participate in the optional  
 214 annuity program in lieu of participating in the Senior  
 215 Management Service Class. Such election shall ~~must~~ be made in  
 216 writing and filed with the department and the personnel officer  
 217 of the employer on or before May 1, 1987. An eligible employee  
 218 who is employed on or before February 1, 1987, and who fails to  
 219 make an election to participate in the optional annuity program  
 220 by May 1, 1987, is ~~shall be~~ deemed to have elected membership in  
 221 the Senior Management Service Class.

222 2. Except as provided in subparagraph 6., an employee who  
 223 becomes eligible to participate in the optional annuity program  
 224 by reason of initial employment commencing after February 1,  
 225 1987, may, within 90 days after the date of commencing

226 employment, elect to participate in the optional annuity  
 227 program. Such election shall ~~must~~ be made in writing and filed  
 228 with the personnel officer of the employer. An eligible employee  
 229 who does not within 90 days after commencing employment elect to  
 230 participate in the optional annuity program is ~~shall be~~ deemed  
 231 to have elected membership in the Senior Management Service  
 232 Class.

233 3. A person who is appointed to a position in the Senior  
 234 Management Service Class and who is a member of an existing  
 235 retirement system or the Special Risk or Special Risk  
 236 Administrative Support Classes of the Florida Retirement System  
 237 may elect to remain in such system or class in lieu of  
 238 participating in the Senior Management Service Class or optional  
 239 annuity program. Such election shall ~~must~~ be made in writing and  
 240 filed with the department and the personnel officer of the  
 241 employer within 90 days after such appointment. An eligible  
 242 employee who fails to make an election to participate in the  
 243 existing system, the Special Risk Class of the Florida  
 244 Retirement System, the Special Risk Administrative Support Class  
 245 of the Florida Retirement System, or the optional annuity  
 246 program is ~~shall be~~ deemed to have elected membership in the  
 247 Senior Management Service Class.

248 4. Except as provided in subparagraph 5., an employee's  
 249 election to participate in the optional annuity program is  
 250 irrevocable if the employee continues to be employed in an

251 eligible position and continues to meet the eligibility  
 252 requirements set forth in this paragraph.

253 5. Effective from July 1, 2002, through September 30,  
 254 2002, an active employee in a regularly established position who  
 255 has elected to participate in the Senior Management Service  
 256 Optional Annuity Program has one opportunity to choose to move  
 257 from the Senior Management Service Optional Annuity Program to  
 258 the Florida Retirement System Pension Plan.

259 a. The election shall ~~must~~ be made in writing and ~~must be~~  
 260 filed with the department and the personnel officer of the  
 261 employer before October 1, 2002, or, in the case of an active  
 262 employee who is on a leave of absence on July 1, 2002, within 90  
 263 days after the conclusion of the leave of absence. This election  
 264 is irrevocable.

265 b. The employee shall receive service credit under the  
 266 pension plan equal to his or her years of service under the  
 267 Senior Management Service Optional Annuity Program. The cost for  
 268 such credit is the amount representing the present value of that  
 269 employee's accumulated benefit obligation for the affected  
 270 period of service.

271 c. The employee shall ~~must~~ transfer the total accumulated  
 272 employer contributions and earnings on deposit in his or her  
 273 Senior Management Service Optional Annuity Program account. If  
 274 the transferred amount is not sufficient to pay the amount due,  
 275 the employee shall ~~must~~ pay a sum representing the remainder of

276 the amount due. The employee may not retain any employer  
 277 contributions or earnings from the Senior Management Service  
 278 Optional Annuity Program account.

279 6. A retiree of a state-administered retirement system who  
 280 is initially reemployed on or after July 1, 2010, through June  
 281 30, 2017, may not renew membership in the Senior Management  
 282 Service Optional Annuity Program. Effective July 1, 2017, a  
 283 retiree of the Senior Management Service Optional Annuity  
 284 Program who is reemployed in a regularly established position  
 285 with a covered employer shall be enrolled as a renewed member as  
 286 provided in s. 121.122.

287 7. Effective July 1, 2017, the Senior Management Service  
 288 Optional Annuity Program is closed to new members. A member  
 289 enrolled in the Senior Management Service Optional Annuity  
 290 Program before July 1, 2017, may retain his or her membership in  
 291 the annuity program.

292 Section 5. Paragraph (a) of subsection (1), paragraphs (d)  
 293 and (i) of subsection (7), and paragraph (c) of subsection (9)  
 294 of section 121.091, Florida Statutes, are amended to read:

295 121.091 Benefits payable under the system.—Benefits may  
 296 not be paid under this section unless the member has terminated  
 297 employment as provided in s. 121.021(39)(a) or begun  
 298 participation in the Deferred Retirement Option Program as  
 299 provided in subsection (13), and a proper application has been  
 300 filed in the manner prescribed by the department. The department

301 | may cancel an application for retirement benefits when the  
 302 | member or beneficiary fails to timely provide the information  
 303 | and documents required by this chapter and the department's  
 304 | rules. The department shall adopt rules establishing procedures  
 305 | for application for retirement benefits and for the cancellation  
 306 | of such application when the required information or documents  
 307 | are not received.

308 |       (1) NORMAL RETIREMENT BENEFIT.—Upon attaining his or her  
 309 | normal retirement date, the member, upon application to the  
 310 | administrator, shall receive a monthly benefit which shall begin  
 311 | to accrue on the first day of the month of retirement and be  
 312 | payable on the last day of that month and each month thereafter  
 313 | during his or her lifetime. The normal retirement benefit,  
 314 | including any past or additional retirement credit, may not  
 315 | exceed 100 percent of the average final compensation. The amount  
 316 | of monthly benefit shall be calculated as the product of A and  
 317 | B, subject to the adjustment of C, if applicable, as set forth  
 318 | below:

319 |       (a)1. For creditable years of Regular Class service, A is  
 320 | 1.60 percent of the member's average final compensation, up to  
 321 | the member's normal retirement date. Upon completion of the  
 322 | first year after the normal retirement date, A is 1.63 percent  
 323 | of the member's average final compensation. Following the second  
 324 | year after the normal retirement date, A is 1.65 percent of the  
 325 | member's average final compensation. Following the third year



326 after the normal retirement date, and for subsequent years, A is  
 327 1.68 percent of the member's average final compensation.

328 2. For creditable years of special risk service, A is:

329 a. Two percent of the member's average final compensation  
 330 for all creditable years prior to October 1, 1974;

331 b. Three percent of the member's average final  
 332 compensation for all creditable years after September 30, 1974,  
 333 and before October 1, 1978;

334 c. Two percent of the member's average final compensation  
 335 for all creditable years after September 30, 1978, and before  
 336 January 1, 1989;

337 d. Two and two-tenths percent of the member's final  
 338 monthly compensation for all creditable years after December 31,  
 339 1988, and before January 1, 1990;

340 e. Two and four-tenths percent of the member's average  
 341 final compensation for all creditable years after December 31,  
 342 1989, and before January 1, 1991;

343 f. Two and six-tenths percent of the member's average  
 344 final compensation for all creditable years after December 31,  
 345 1990, and before January 1, 1992;

346 g. Two and eight-tenths percent of the member's average  
 347 final compensation for all creditable years after December 31,  
 348 1991, and before January 1, 1993;

349 h. Three percent of the member's average final  
 350 compensation for all creditable years after December 31, 1992;

351 | and

352 |       i. Three percent of the member's average final  
 353 | compensation for all creditable years of service after September  
 354 | 30, 1978, and before January 1, 1993, for any special risk  
 355 | member who retires after July 1, 2000, or any member of the  
 356 | Special Risk Administrative Support Class entitled to retain the  
 357 | special risk normal retirement date who was a member of the  
 358 | Special Risk Class during the time period and who retires after  
 359 | July 1, 2000.

360 |       3. For creditable years of Senior Management Service Class  
 361 | service after January 31, 1987, A is 2 percent;

362 |       4.a. For creditable years of service before July 1, 2017,  
 363 | A is 3 1/3 percent of the member's average final compensation  
 364 | for creditable years of Elected Officers' Class service as a  
 365 | Supreme Court Justice, district court of appeal judge, circuit  
 366 | judge, or county court judge, A is 3 1/3 percent of the member's  
 367 | average final compensation, and for all other creditable service  
 368 | in such class, A is 3 percent of average final compensation;

369 |       b. For creditable years of service on or after July 1,  
 370 | 2017, A is 3 percent of the member's average final compensation  
 371 | for Elected Officers' Class service.

372 |       (7) DEATH BENEFITS.—

373 |       (d) Notwithstanding any other provision in this chapter to  
 374 | the contrary, with the exception of the Deferred Retirement  
 375 | Option Program, as provided in subsection (13):

376 | 1. The surviving spouse of any member killed in the line  
 377 | of duty may receive a monthly pension equal to one-half of the  
 378 | monthly salary being received by the member at the time of death  
 379 | for the rest of the surviving spouse's lifetime or, if the  
 380 | member was vested, such surviving spouse may elect to receive a  
 381 | benefit as provided in paragraph (b). Benefits provided by this  
 382 | paragraph shall supersede any other distribution that may have  
 383 | been provided by the member's designation of beneficiary.

384 | 2. If the surviving spouse of a member killed in the line  
 385 | of duty dies, the monthly payments that would have been payable  
 386 | to such surviving spouse had such surviving spouse lived shall  
 387 | be paid for the use and benefit of such member's child or  
 388 | children under 18 years of age and unmarried until the 18th  
 389 | birthday of the member's youngest child. Beginning July 1, 2016,  
 390 | such payments may be extended, for the surviving child of a  
 391 | member in the Special Risk Class at the time he or she was  
 392 | killed in the line of duty on or after July 1, 2013, until the  
 393 | 25th birthday of any child of the member if the child is  
 394 | unmarried and enrolled as a full-time student. Beginning July 1,  
 395 | 2017, such payments may be extended, for the surviving child of  
 396 | a member in the Special Risk Class at the time he or she was  
 397 | killed in the line of duty on or after July 1, 2002, until the  
 398 | 25th birthday of any child of the member if the child is  
 399 | unmarried and enrolled as a full-time student.

400 | 3. If a member killed in the line of duty leaves no

401 surviving spouse but is survived by a child or children under 18  
 402 years of age, the benefits provided by subparagraph 1., normally  
 403 payable to a surviving spouse, shall be paid for the use and  
 404 benefit of such member's child or children under 18 years of age  
 405 and unmarried until the 18th birthday of the member's youngest  
 406 child. Beginning July 1, 2016, such monthly payments may be  
 407 extended, for the surviving child of a member in the Special  
 408 Risk Class at the time he or she was killed in the line of duty  
 409 on or after July 1, 2013, until the 25th birthday of any child  
 410 of the member if the child is unmarried and enrolled as a full-  
 411 time student. Beginning July 1, 2017, such monthly payments may  
 412 be extended, for the surviving child of a member in the Special  
 413 Risk Class at the time he or she was killed in the line of duty  
 414 on or after July 1, 2002, until the 25th birthday of any child  
 415 of the member if the child is unmarried and enrolled as a full-  
 416 time student.

417 4. The surviving spouse of a member whose benefit  
 418 terminated because of remarriage shall have the benefit  
 419 reinstated beginning July 1, 1993, at an amount that would have  
 420 been payable had the benefit not been terminated.

421 (i) ~~Effective July 1, 2016, and~~ Notwithstanding any  
 422 provision in this chapter to the contrary, if a member in the  
 423 Special Risk Class, other than a participant in the Deferred  
 424 Retirement Option Program under subsection (13), is killed in  
 425 the line of duty on or after July 1, 2002 ~~2013~~, the following

426 | benefits are payable in addition to the benefits provided in  
 427 | paragraph (d):

428 |       1. The surviving spouse may receive a monthly pension  
 429 | equal to one-half of the monthly salary being received by the  
 430 | member at the time of the member's death for the rest of the  
 431 | surviving spouse's lifetime or, if the member was vested, such  
 432 | surviving spouse may elect to receive a benefit as provided in  
 433 | paragraph (b). Benefits provided by this paragraph supersede any  
 434 | other distribution that may have been provided by the member's  
 435 | designation of beneficiary.

436 |       2. If the surviving spouse dies, the monthly payments that  
 437 | otherwise would have been payable to such surviving spouse shall  
 438 | be paid for the use and benefit of the member's child or  
 439 | children under 18 years of age and unmarried until the 18th  
 440 | birthday of the member's youngest child. Such monthly payments  
 441 | may be extended until the 25th birthday of the member's child if  
 442 | the child is unmarried and enrolled as a full-time student.

443 |       3. If the member leaves no surviving spouse but is  
 444 | survived by a child or children under 18 years of age, the  
 445 | benefits provided by subparagraph 1., normally payable to a  
 446 | surviving spouse, shall be paid for the use and benefit of such  
 447 | member's child or children under 18 years of age and unmarried  
 448 | until the 18th birthday of the member's youngest child. Such  
 449 | monthly payments may be extended until the 25th birthday of any  
 450 | of the member's children if the child is unmarried and enrolled

451 as a full-time student.

452 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

453 (c) Any person whose retirement is effective on or after  
 454 July 1, 2010, or whose participation in the Deferred Retirement  
 455 Option Program terminates on or after July 1, 2010, who is  
 456 retired under this chapter, except under the disability  
 457 retirement provisions of subsection (4) or as provided in s.  
 458 121.053, may be reemployed by an employer that participates in a  
 459 state-administered retirement system and receive retirement  
 460 benefits and compensation from that employer. However, a person  
 461 may not be reemployed by an employer participating in the  
 462 Florida Retirement System before meeting the definition of  
 463 termination in s. 121.021 and may not receive both a salary from  
 464 the employer and retirement benefits for 6 calendar months after  
 465 meeting the definition of termination. However, a DROP  
 466 participant shall continue employment and receive a salary  
 467 during the period of participation in the Deferred Retirement  
 468 Option Program, as provided in subsection (13).

469 1. The reemployed retiree may not renew membership in the  
 470 Florida Retirement System, except as provided in s. 121.122.

471 2. The employer shall pay retirement contributions in an  
 472 amount equal to the unfunded actuarial liability portion of the  
 473 employer contribution that would be required for active members  
 474 of the Florida Retirement System in addition to the  
 475 contributions required by s. 121.76.

476           3. A retiree initially reemployed in violation of this  
 477 paragraph and an employer that employs or appoints such person  
 478 are jointly and severally liable for reimbursement of any  
 479 retirement benefits paid to the retirement trust fund from which  
 480 the benefits were paid, including the Florida Retirement System  
 481 Trust Fund and the Public Employee Optional Retirement Program  
 482 Trust Fund, as appropriate. The employer must have a written  
 483 statement from the employee that he or she is not retired from a  
 484 state-administered retirement system. Retirement benefits shall  
 485 remain suspended until repayment is made. Benefits suspended  
 486 beyond the end of the retiree's 6-month reemployment limitation  
 487 period shall apply toward the repayment of benefits received in  
 488 violation of this paragraph.

489           Section 6. Subsection (2) of section 121.122, Florida  
 490 Statutes, is amended, and subsections (3), (4), and (5) are  
 491 added to that section, to read:

492           121.122 Renewed membership in system.—

493           (2) Except as otherwise provided in subsections (3), (4),  
 494 and (5), a retiree of a state-administered retirement system who  
 495 is initially reemployed in a regularly established position on  
 496 or after July 1, 2010, may not be enrolled as a renewed member.

497           (3) A retiree of the investment plan, the State University  
 498 System Optional Retirement Program, the Senior Management  
 499 Service Optional Annuity Program, or the State Community College  
 500 System Optional Retirement Program who is reemployed with a

501 covered employer in a regularly established position on or after  
 502 July 1, 2017, shall be enrolled as a renewed member of the  
 503 investment plan unless employed in a position eligible for  
 504 participation in the State University System Optional Retirement  
 505 Program as provided in subsection (4) or the State Community  
 506 College System Optional Retirement Program as provided in  
 507 subsection (5). The renewed member must satisfy the vesting  
 508 requirements and other provisions of this chapter.

509 (a) A renewed member of the investment plan shall be  
 510 enrolled in one of the following membership classes:

511 1. In the Regular Class, if the position does not meet the  
 512 requirements for membership under s. 121.0515, s. 121.053, or s.  
 513 121.055.

514 2. In the Special Risk Class, if the position meets the  
 515 requirements of s. 121.0515.

516 3. In the Elected Officers' Class, if the position meets  
 517 the requirements of s. 121.053.

518 4. In the Senior Management Service Class, if the position  
 519 meets the requirements of s. 121.055.

520 (b) Creditable service, including credit toward the  
 521 retiree health insurance subsidy provided in s. 112.363, does  
 522 not accrue for a renewed member's employment in a regularly  
 523 established position with a covered employer from July 1, 2010,  
 524 through June 30, 2017.

525 (c) Employer and employee contributions, interest,



526 earnings, or any other funds may not be paid into a renewed  
527 member's investment plan account for any employment in a  
528 regularly established position with a covered employer on or  
529 after July 1, 2010, through June 30, 2017, by the renewed member  
530 or the employer on behalf of the renewed member.

531 (d) To be eligible to receive a retirement benefit, the  
532 renewed member must satisfy the vesting requirements in s.  
533 121.4501(6).

534 (e) The renewed member is ineligible to receive disability  
535 benefits as provided in s. 121.091(4) or s. 121.591(2).

536 (f) The renewed member is subject to the limitations on  
537 reemployment after retirement provided in s. 121.091(9), as  
538 applicable.

539 (g) The renewed member must satisfy the requirements for  
540 termination from employment provided in s. 121.021(39).

541 (h) Upon renewed membership or reemployment of a retiree,  
542 the employer and the renewed member shall pay the applicable  
543 employer and employee contributions required under ss. 112.363,  
544 121.71, 121.74, and 121.76. The contributions are payable only  
545 for employment and salary earned in a regularly established  
546 position with a covered employer on or after July 1, 2017. The  
547 employer and employee contributions shall be transferred to the  
548 investment plan and placed in a default fund as designated by  
549 the state board. The renewed member may move the contributions  
550 once an account is activated in the investment plan.

551 (i) A renewed member who earns creditable service under  
552 the investment plan and who is not receiving the maximum health  
553 insurance subsidy provided in s. 112.363 is entitled to earn  
554 additional credit toward the subsidy. Such credit may be earned  
555 only for employment in a regularly established position with a  
556 covered employer on or after July 1, 2017. Any additional  
557 subsidy due because of additional credit may be received only at  
558 the time of paying the second career retirement benefit. The  
559 total health insurance subsidy received by a retiree receiving  
560 benefits from initial and renewed membership may not exceed the  
561 maximum allowed under s. 112.363.

562 (j) Notwithstanding s. 121.4501(4)(f), the renewed member  
563 is not eligible to elect membership in the pension plan.

564 (4) A retiree of the investment plan, the State University  
565 System Optional Retirement Program, the Senior Management  
566 Service Optional Annuity Program, or the State Community College  
567 System Optional Retirement Program who is reemployed on or after  
568 July 1, 2017, in a regularly established position eligible for  
569 participation in the State University System Optional Retirement  
570 Program shall become a renewed member of the optional retirement  
571 program. The renewed member must satisfy the vesting  
572 requirements and other provisions of this chapter. Once  
573 enrolled, a renewed member remains enrolled in the optional  
574 retirement program while employed in an eligible position for  
575 the optional retirement program. If employment in a different

576 covered position results in the renewed member's enrollment in  
 577 the investment plan, the renewed member is no longer eligible to  
 578 participate in the optional retirement program unless employed  
 579 in a mandatory position under s. 121.35.

580 (a) The renewed member is subject to the limitations on  
 581 reemployment after retirement provided in s. 121.091(9), as  
 582 applicable.

583 (b) The renewed member must satisfy the requirements for  
 584 termination from employment provided in s. 121.021(39).

585 (c) Upon renewed membership or reemployment of a retiree,  
 586 the employer and the renewed member shall pay the applicable  
 587 employer and employee contributions required under s. 121.35.

588 (d) Employer and employee contributions, interest,  
 589 earnings, or any other funds may not be paid into a renewed  
 590 member's optional retirement program account for any employment  
 591 in a regularly established position with a covered employer on  
 592 or after July 1, 2010, through June 30, 2017, by the renewed  
 593 member or the employer on behalf of the renewed member.

594 (e) Notwithstanding s. 121.4501(4)(f), the renewed member  
 595 is not eligible to elect membership in the pension plan.

596 (5) A retiree of the investment plan, the State University  
 597 System Optional Retirement Program, the Senior Management  
 598 Service Optional Annuity Program, or the State Community College  
 599 System Optional Retirement Program who is reemployed on or after  
 600 July 1, 2017, in a regularly established position eligible for

601 participation in the State Community College System Optional  
 602 Retirement Program shall become a renewed member of the optional  
 603 retirement program. The renewed member must satisfy the  
 604 eligibility requirements of this chapter and s. 1012.875 for the  
 605 optional retirement program. Once enrolled, a renewed member  
 606 remains enrolled in the optional retirement program while  
 607 employed in an eligible position for the optional retirement  
 608 program. If employment in a different covered position results  
 609 in the renewed member's enrollment in the investment plan, the  
 610 renewed member is no longer eligible to participate in the  
 611 optional retirement program.

612 (a) The renewed member is subject to the limitations on  
 613 reemployment after retirement provided in s. 121.091(9), as  
 614 applicable.

615 (b) The renewed member must satisfy the requirements for  
 616 termination from employment provided in s. 121.021(39).

617 (c) Upon renewed membership or reemployment of a retiree,  
 618 the employer and the renewed member shall pay the applicable  
 619 employer and employee contributions required under ss.  
 620 121.051(2)(c) and 1012.875.

621 (d) Employer and employee contributions, interest,  
 622 earnings, or any other funds may not be paid into a renewed  
 623 member's optional retirement program account for any employment  
 624 in a regularly established position with a covered employer on  
 625 or after July 1, 2010, through June 30, 2017, by the renewed

626 member or the employer on behalf of the renewed member.

627 (e) Notwithstanding s. 121.4501(4)(f), the renewed member  
 628 is not eligible to elect membership in the pension plan.

629 Section 7. Subsection (1), paragraphs (e) and (i) of  
 630 subsection (2), paragraph (b) of subsection (3), subsection (4),  
 631 paragraph (c) of subsection (5), and paragraphs (a), (b), (c),  
 632 and (h) of subsection (10) of section 121.4501, Florida  
 633 Statutes, are amended to read:

634 121.4501 Florida Retirement System Investment Plan.—

635 (1) The Trustees of the State Board of Administration  
 636 shall establish a defined contribution program called the  
 637 "Florida Retirement System Investment Plan" or "investment plan"  
 638 for members of the Florida Retirement System under which  
 639 retirement benefits will be provided for eligible employees who  
 640 elect to participate in the program and for employees initially  
 641 enrolled on or after July 1, 2018, in positions covered by the  
 642 Elected Officers' Class who are compulsory members of the  
 643 investment plan unless the member withdraws from the system  
 644 under s. 121.052(3)(d). Investment plan membership continues if  
 645 there is subsequent employment in a position covered by another  
 646 membership class. The retirement benefits shall be provided  
 647 through member-directed investments, in accordance with s.  
 648 401(a) of the Internal Revenue Code and related regulations. The  
 649 employer and employee shall make contributions, as provided in  
 650 this section and ss. 121.571 and 121.71, to the Florida

651 Retirement System Investment Plan Trust Fund toward the funding  
 652 of benefits.

653 (2) DEFINITIONS.—As used in this part, the term:

654 (e) "Eligible employee" means an officer or employee, as  
 655 defined in s. 121.021, who:

656 1. Is a member of, or is eligible for membership in, the  
 657 Florida Retirement System, including any renewed member of the  
 658 Florida Retirement System initially enrolled before July 1,  
 659 2010; ~~or~~

660 2. Participates in, or is eligible to participate in, the  
 661 Senior Management Service Optional Annuity Program as  
 662 established under s. 121.055(6), the State Community College  
 663 System Optional Retirement Program as established under s.  
 664 121.051(2)(c), or the State University System Optional  
 665 Retirement Program established under s. 121.35; or

666 3. Is a retired member of the investment plan, the State  
 667 University System Optional Retirement Program, the Senior  
 668 Management Service Optional Annuity Program, or the State  
 669 Community College System Optional Retirement Program who is  
 670 reemployed in a regularly established position on or after July  
 671 1, 2017, and enrolled as a renewed member as provided in s.  
 672 121.122.

673

674 The term does not include any member participating in the  
 675 Deferred Retirement Option Program established under s.

676 | 121.091(13), a retiree of the pension plan who is reemployed in  
 677 | a regularly established position on or after July 1, 2010, a  
 678 | retiree of a state-administered retirement system initially  
 679 | reemployed in a regularly established position on or after July  
 680 | 1, 2010, through June 30, 2017, or a mandatory participant of  
 681 | the State University System Optional Retirement Program  
 682 | established under s. 121.35.

683 | (i) "Member" or "employee" means an eligible employee who  
 684 | enrolls in, or who defaults into, the investment plan as  
 685 | provided in subsection (4), a terminated Deferred Retirement  
 686 | Option Program member as described in subsection (21), or a  
 687 | beneficiary or alternate payee of a member or employee.

688 | (3) RETIREMENT SERVICE CREDIT; TRANSFER OF BENEFITS.—

689 | (b) Notwithstanding paragraph (a), an eligible employee  
 690 | who elects to participate in, or who defaults into, the  
 691 | investment plan and establishes one or more individual member  
 692 | accounts may elect to transfer to the investment plan a sum  
 693 | representing the present value of the employee's accumulated  
 694 | benefit obligation under the pension plan, except as provided in  
 695 | paragraph (4)(b). Upon transfer, all service credit earned under  
 696 | the pension plan is nullified for purposes of entitlement to a  
 697 | future benefit under the pension plan. A member may not transfer  
 698 | the accumulated benefit obligation balance from the pension plan  
 699 | after the time period for enrolling in the investment plan has  
 700 | expired.

701 1. For purposes of this subsection, the present value of  
 702 the member's accumulated benefit obligation is based upon the  
 703 member's estimated creditable service and estimated average  
 704 final compensation under the pension plan, subject to  
 705 recomputation under subparagraph 2. For state employees, initial  
 706 estimates shall be based upon creditable service and average  
 707 final compensation as of midnight on June 30, 2002; for district  
 708 school board employees, initial estimates shall be based upon  
 709 creditable service and average final compensation as of midnight  
 710 on September 30, 2002; and for local government employees,  
 711 initial estimates shall be based upon creditable service and  
 712 average final compensation as of midnight on December 31, 2002.  
 713 The dates specified are the "estimate date" for these employees.  
 714 The actuarial present value of the employee's accumulated  
 715 benefit obligation shall be based on the following:

716 a. The discount rate and other relevant actuarial  
 717 assumptions used to value the Florida Retirement System Trust  
 718 Fund at the time the amount to be transferred is determined,  
 719 consistent with the factors provided in sub-subparagraphs b. and  
 720 c.

721 b. A benefit commencement age, based on the member's  
 722 estimated creditable service as of the estimate date.

723 c. Except as provided under sub-subparagraph d., for a  
 724 member initially enrolled:

725 (I) Before July 1, 2011, the benefit commencement age is



726 | the younger of the following, but may not be younger than the  
 727 | member's age as of the estimate date:

728 |       (A) Age 62; or

729 |       (B) The age the member would attain if the member  
 730 | completed 30 years of service with an employer, assuming the  
 731 | member worked continuously from the estimate date, and  
 732 | disregarding any vesting requirement that would otherwise apply  
 733 | under the pension plan.

734 |       (II) On or after July 1, 2011, the benefit commencement  
 735 | age is the younger of the following, but may not be younger than  
 736 | the member's age as of the estimate date:

737 |       (A) Age 65; or

738 |       (B) The age the member would attain if the member  
 739 | completed 33 years of service with an employer, assuming the  
 740 | member worked continuously from the estimate date, and  
 741 | disregarding any vesting requirement that would otherwise apply  
 742 | under the pension plan.

743 |       d. For members of the Special Risk Class and for members  
 744 | of the Special Risk Administrative Support Class entitled to  
 745 | retain the special risk normal retirement date:

746 |       (I) Initially enrolled before July 1, 2011, the benefit  
 747 | commencement age is the younger of the following, but may not be  
 748 | younger than the member's age as of the estimate date:

749 |       (A) Age 55; or

750 |       (B) The age the member would attain if the member

751 completed 25 years of service with an employer, assuming the  
 752 member worked continuously from the estimate date, and  
 753 disregarding any vesting requirement that would otherwise apply  
 754 under the pension plan.

755 (II) Initially enrolled on or after July 1, 2011, the  
 756 benefit commencement age is the younger of the following, but  
 757 may not be younger than the member's age as of the estimate  
 758 date:

759 (A) Age 60; or

760 (B) The age the member would attain if the member  
 761 completed 30 years of service with an employer, assuming the  
 762 member worked continuously from the estimate date, and  
 763 disregarding any vesting requirement that would otherwise apply  
 764 under the pension plan.

765 e. The calculation must disregard vesting requirements and  
 766 early retirement reduction factors that would otherwise apply  
 767 under the pension plan.

768 2. For each member who elects to transfer moneys from the  
 769 pension plan to his or her account in the investment plan, the  
 770 division shall recompute the amount transferred under  
 771 subparagraph 1. within 60 days after the actual transfer of  
 772 funds based upon the member's actual creditable service and  
 773 actual final average compensation as of the initial date of  
 774 participation in the investment plan. If the recomputed amount  
 775 differs from the amount transferred by \$10 or more, the division

776 shall:

777       a. Transfer, or cause to be transferred, from the Florida  
 778 Retirement System Trust Fund to the member's account the excess,  
 779 if any, of the recomputed amount over the previously transferred  
 780 amount together with interest from the initial date of transfer  
 781 to the date of transfer under this subparagraph, based upon the  
 782 effective annual interest equal to the assumed return on the  
 783 actuarial investment which was used in the most recent actuarial  
 784 valuation of the system, compounded annually.

785       b. Transfer, or cause to be transferred, from the member's  
 786 account to the Florida Retirement System Trust Fund the excess,  
 787 if any, of the previously transferred amount over the recomputed  
 788 amount, together with interest from the initial date of transfer  
 789 to the date of transfer under this subparagraph, based upon 6  
 790 percent effective annual interest, compounded annually, pro rata  
 791 based on the member's allocation plan.

792       3. If contribution adjustments are made as a result of  
 793 employer errors or corrections, including plan corrections,  
 794 following recomputation of the amount transferred under  
 795 subparagraph 1., the member is entitled to the additional  
 796 contributions or is responsible for returning any excess  
 797 contributions resulting from the correction. However, a ~~any~~  
 798 return of such erroneous excess pretax contribution by the plan  
 799 must be made within the period allowed by the Internal Revenue  
 800 Service. The present value of the member's accumulated benefit

801 obligation may ~~shall~~ not be recalculated.

802 4. As directed by the member, the state board shall  
 803 transfer or cause to be transferred the appropriate amounts to  
 804 the designated accounts within 30 days after the effective date  
 805 of the member's participation in the investment plan unless the  
 806 major financial markets for securities available for a transfer  
 807 are seriously disrupted by an unforeseen event that causes the  
 808 suspension of trading on a ~~any~~ national securities exchange in  
 809 the country where the securities were issued. In that event, the  
 810 30-day period may be extended by a resolution of the state  
 811 board. Transfers are not commissionable or subject to other fees  
 812 and may be in the form of securities or cash, as determined by  
 813 the state board. Such securities are valued as of the date of  
 814 receipt in the member's account.

815 5. If the state board or the division receives  
 816 notification from the United States Internal Revenue Service  
 817 that this paragraph or any portion of this paragraph will cause  
 818 the retirement system, or a portion thereof, to be disqualified  
 819 for tax purposes under the Internal Revenue Code, the portion  
 820 that will cause the disqualification does not apply. Upon such  
 821 notice, the state board and the division shall notify the  
 822 presiding officers of the Legislature.

823 (4) PARTICIPATION; ENROLLMENT.—

824 (a)1. Effective June 1, 2002, through February 28, 2003, a  
 825 90-day election period was provided to each eligible employee

826 participating in the Florida Retirement System, preceded by a  
 827 90-day education period, permitting each eligible employee to  
 828 elect membership in the investment plan. An employee who failed  
 829 to elect the investment plan during the election period remained  
 830 in the pension plan. An eligible employee who was employed in a  
 831 regularly established position during the election period was  
 832 granted the option to make one subsequent election, as provided  
 833 in paragraph (f). With respect to an eligible employee who did  
 834 not participate in the initial election period or who is  
 835 initially employed in a regularly established position after the  
 836 close of the initial election period but before January 1, 2018,  
 837 ~~on June 1, 2002, by a state employer.~~

838 ~~a. Any such employee may elect to participate in the~~  
 839 ~~investment plan in lieu of retaining his or her membership in~~  
 840 ~~the pension plan. The election must be made in writing or by~~  
 841 ~~electronic means and must be filed with the third-party~~  
 842 ~~administrator by August 31, 2002, or, in the case of an active~~  
 843 ~~employee who is on a leave of absence on April 1, 2002, by the~~  
 844 ~~last business day of the 5th month following the month the leave~~  
 845 ~~of absence concludes. This election is irrevocable, except as~~  
 846 ~~provided in paragraph (g). Upon making such election, the~~  
 847 ~~employee shall be enrolled as a member of the investment plan,~~  
 848 ~~the employee's membership in the Florida Retirement System is~~  
 849 ~~governed by the provisions of this part, and the employee's~~  
 850 ~~membership in the pension plan terminates. The employee's~~

851 ~~enrollment in the investment plan is effective the first day of~~  
 852 ~~the month for which a full month's employer contribution is made~~  
 853 ~~to the investment plan.~~

854 ~~b. Any such employee who fails to elect to participate in~~  
 855 ~~the investment plan within the prescribed time period is deemed~~  
 856 ~~to have elected to retain membership in the pension plan, and~~  
 857 ~~the employee's option to elect to participate in the investment~~  
 858 ~~plan is forfeited.~~

859 ~~2. With respect to employees who become eligible to~~  
 860 ~~participate in the investment plan by reason of employment in a~~  
 861 ~~regularly established position with a state employer commencing~~  
 862 ~~after April 1, 2002:~~

863 ~~a. Any such employee shall, by default, be enrolled in the~~  
 864 ~~pension plan at the commencement of employment, and may, by the~~  
 865 ~~last business day of the 5th month following the employee's~~  
 866 ~~month of hire, elect to participate in the investment plan. The~~  
 867 ~~employee's election must be made in writing or by electronic~~  
 868 ~~means and must be filed with the third-party administrator. The~~  
 869 ~~election to participate in the investment plan is irrevocable,~~  
 870 ~~except as provided in paragraph (f) ~~(g)~~.~~

871 ~~a.b.~~ If the employee files such election within the  
 872 prescribed time period, enrollment in the investment plan is  
 873 effective on the first day of employment. The retirement  
 874 contributions paid through the month of the employee plan change  
 875 shall be transferred to the investment program, and, effective

876 | the first day of the next month, the employer and employee must  
 877 | pay the applicable contributions based on the employee  
 878 | membership class in the program.

879 |       **b.e.** An employee who fails to elect to participate in the  
 880 | investment plan within the prescribed time period is deemed to  
 881 | have elected to retain membership in the pension plan, and the  
 882 | employee's option to elect to participate in the investment plan  
 883 | is forfeited.

884 |       **2.3.** With respect to employees who become eligible to  
 885 | participate in the investment plan pursuant to s.  
 886 | 121.051(2)(c)3. or s. 121.35(3)(i), the employee may elect to  
 887 | participate in the investment plan in lieu of retaining his or  
 888 | her membership in the State Community College System Optional  
 889 | Retirement Program or the State University System Optional  
 890 | Retirement Program. The election must be made in writing or by  
 891 | electronic means and must be filed with the third-party  
 892 | administrator. This election is irrevocable, except as provided  
 893 | in paragraph **(f)** ~~(g)~~. Upon making such election, the employee  
 894 | shall be enrolled as a member in the investment plan, the  
 895 | employee's membership in the Florida Retirement System is  
 896 | governed by the provisions of this part, and the employee's  
 897 | participation in the State Community College System Optional  
 898 | Retirement Program or the State University System Optional  
 899 | Retirement Program terminates. The employee's enrollment in the  
 900 | investment plan is effective on the first day of the month for

901 | which a full month's employer and employee contribution is made  
902 | to the investment plan.

903 |       (b)1. With respect to employees who become eligible to  
904 | participate in the investment plan by reason of employment in a  
905 | regularly established position commencing on or after January 1,  
906 | 2018, or who did not complete an election window before January  
907 | 1, 2018, any such employee shall be enrolled in the pension plan  
908 | at the commencement of employment and may, by the last business  
909 | day of the fifth month following the employee's month of hire,  
910 | elect to participate in the pension plan or the investment plan.  
911 | Eligible employees may make a plan election only if they are  
912 | earning service credit in an employer-employee relationship  
913 | consistent with s. 121.021(17) (b), excluding leaves of absence  
914 | without pay.

915 |       2. The employee's election must be made in writing or by  
916 | electronic means and must be filed with the third-party  
917 | administrator. The election to participate in the pension plan  
918 | or investment plan is irrevocable, except as provided in  
919 | paragraph (f).

920 |       3. If the employee fails to make an election of the  
921 | pension plan or investment plan within 5 months following the  
922 | month of hire, the employee is deemed to have elected the  
923 | investment plan and shall default into the investment plan  
924 | retroactively to the employee's date of employment. The  
925 | employee's option to participate in the pension plan is



926 forfeited, except as provided in paragraph (f).

927 4. The amount of the employee and employer contributions  
 928 paid through the date of default to the investment plan shall be  
 929 transferred to the investment plan and shall be placed in a  
 930 default fund as designated by the State Board of Administration.  
 931 The employee may move the contributions once an account is  
 932 activated in the investment plan.

933 5. Effective the first day of the month after an eligible  
 934 employee makes a plan election of the pension plan or investment  
 935 plan, or the first day of the month after default to the  
 936 investment plan, the employee and employer shall pay the  
 937 applicable contributions based on the employee membership class  
 938 in the program.

939 ~~4. For purposes of this paragraph, "state employer" means~~  
 940 ~~any agency, board, branch, commission, community college,~~  
 941 ~~department, institution, institution of higher education, or~~  
 942 ~~water management district of the state, which participates in~~  
 943 ~~the Florida Retirement System for the benefit of certain~~  
 944 ~~employees.~~

945 ~~(b)1. With respect to an eligible employee who is employed~~  
 946 ~~in a regularly established position on September 1, 2002, by a~~  
 947 ~~district school board employer:~~

948 ~~a. Any such employee may elect to participate in the~~  
 949 ~~investment plan in lieu of retaining his or her membership in~~  
 950 ~~the pension plan. The election must be made in writing or by~~

951 ~~electronic means and must be filed with the third-party~~  
 952 ~~administrator by November 30, or, in the case of an active~~  
 953 ~~employee who is on a leave of absence on July 1, 2002, by the~~  
 954 ~~last business day of the 5th month following the month the leave~~  
 955 ~~of absence concludes. This election is irrevocable, except as~~  
 956 ~~provided in paragraph (g). Upon making such election, the~~  
 957 ~~employee shall be enrolled as a member of the investment plan,~~  
 958 ~~the employee's membership in the Florida Retirement System is~~  
 959 ~~governed by the provisions of this part, and the employee's~~  
 960 ~~membership in the pension plan terminates. The employee's~~  
 961 ~~enrollment in the investment plan is effective the first day of~~  
 962 ~~the month for which a full month's employer contribution is made~~  
 963 ~~to the investment program.~~

964 ~~b. Any such employee who fails to elect to participate in~~  
 965 ~~the investment plan within the prescribed time period is deemed~~  
 966 ~~to have elected to retain membership in the pension plan, and~~  
 967 ~~the employee's option to elect to participate in the investment~~  
 968 ~~plan is forfeited.~~

969 ~~2. With respect to employees who become eligible to~~  
 970 ~~participate in the investment plan by reason of employment in a~~  
 971 ~~regularly established position with a district school board~~  
 972 ~~employer commencing after July 1, 2002:~~

973 ~~a. Any such employee shall, by default, be enrolled in the~~  
 974 ~~pension plan at the commencement of employment, and may, by the~~  
 975 ~~last business day of the 5th month following the employee's~~

976 ~~month of hire, elect to participate in the investment plan. The~~  
 977 ~~employee's election must be made in writing or by electronic~~  
 978 ~~means and must be filed with the third party administrator. The~~  
 979 ~~election to participate in the investment plan is irrevocable,~~  
 980 ~~except as provided in paragraph (g).~~

981 ~~b. If the employee files such election within the~~  
 982 ~~prescribed time period, enrollment in the investment plan is~~  
 983 ~~effective on the first day of employment. The employer~~  
 984 ~~retirement contributions paid through the month of the employee~~  
 985 ~~plan change shall be transferred to the investment plan, and,~~  
 986 ~~effective the first day of the next month, the employer shall~~  
 987 ~~pay the applicable contributions based on the employee~~  
 988 ~~membership class in the investment plan.~~

989 ~~e. Any such employee who fails to elect to participate in~~  
 990 ~~the investment plan within the prescribed time period is deemed~~  
 991 ~~to have elected to retain membership in the pension plan, and~~  
 992 ~~the employee's option to elect to participate in the investment~~  
 993 ~~plan is forfeited.~~

994 ~~3. For purposes of this paragraph, "district school board~~  
 995 ~~employer" means any district school board that participates in~~  
 996 ~~the Florida Retirement System for the benefit of certain~~  
 997 ~~employees, or a charter school or charter technical career~~  
 998 ~~center that participates in the Florida Retirement System as~~  
 999 ~~provided in s. 121.051(2)(d).~~

1000 ~~(c)1. With respect to an eligible employee who is employed~~

1001 ~~in a regularly established position on December 1, 2002, by a~~  
 1002 ~~local employer.~~

1003 ~~a. Any such employee may elect to participate in the~~  
 1004 ~~investment plan in lieu of retaining his or her membership in~~  
 1005 ~~the pension plan. The election must be made in writing or by~~  
 1006 ~~electronic means and must be filed with the third party~~  
 1007 ~~administrator by February 28, 2003, or, in the case of an active~~  
 1008 ~~employee who is on a leave of absence on October 1, 2002, by the~~  
 1009 ~~last business day of the 5th month following the month the leave~~  
 1010 ~~of absence concludes. This election is irrevocable, except as~~  
 1011 ~~provided in paragraph (g). Upon making such election, the~~  
 1012 ~~employee shall be enrolled as a participant of the investment~~  
 1013 ~~plan, the employee's membership in the Florida Retirement System~~  
 1014 ~~is governed by the provisions of this part, and the employee's~~  
 1015 ~~membership in the pension plan terminates. The employee's~~  
 1016 ~~enrollment in the investment plan is effective the first day of~~  
 1017 ~~the month for which a full month's employer contribution is made~~  
 1018 ~~to the investment plan.~~

1019 ~~b. Any such employee who fails to elect to participate in~~  
 1020 ~~the investment plan within the prescribed time period is deemed~~  
 1021 ~~to have elected to retain membership in the pension plan, and~~  
 1022 ~~the employee's option to elect to participate in the investment~~  
 1023 ~~plan is forfeited.~~

1024 ~~2. With respect to employees who become eligible to~~  
 1025 ~~participate in the investment plan by reason of employment in a~~

1026 ~~regularly established position with a local employer commencing~~  
 1027 ~~after October 1, 2002.~~

1028 ~~a. Any such employee shall, by default, be enrolled in the~~  
 1029 ~~pension plan at the commencement of employment, and may, by the~~  
 1030 ~~last business day of the 5th month following the employee's~~  
 1031 ~~month of hire, elect to participate in the investment plan. The~~  
 1032 ~~employee's election must be made in writing or by electronic~~  
 1033 ~~means and must be filed with the third party administrator. The~~  
 1034 ~~election to participate in the investment plan is irrevocable,~~  
 1035 ~~except as provided in paragraph (g).~~

1036 ~~b. If the employee files such election within the~~  
 1037 ~~prescribed time period, enrollment in the investment plan is~~  
 1038 ~~effective on the first day of employment. The employer~~  
 1039 ~~retirement contributions paid through the month of the employee~~  
 1040 ~~plan change shall be transferred to the investment plan, and,~~  
 1041 ~~effective the first day of the next month, the employer shall~~  
 1042 ~~pay the applicable contributions based on the employee~~  
 1043 ~~membership class in the investment plan.~~

1044 ~~c. Any such employee who fails to elect to participate in~~  
 1045 ~~the investment plan within the prescribed time period is deemed~~  
 1046 ~~to have elected to retain membership in the pension plan, and~~  
 1047 ~~the employee's option to elect to participate in the investment~~  
 1048 ~~plan is forfeited.~~

1049 ~~3. For purposes of this paragraph, "local employer" means~~  
 1050 ~~any employer not included in paragraph (a) or paragraph (b).~~

1051        (c) ~~(d)~~ Contributions available for self-direction by a  
 1052 member who has not selected one or more specific investment  
 1053 products shall be allocated as prescribed by the state board.  
 1054 The third-party administrator shall notify the member at least  
 1055 quarterly that the member should take an affirmative action to  
 1056 make an asset allocation among the investment products.

1057        (d) ~~(e)~~ On or after July 1, 2011, a member of the pension  
 1058 plan who obtains a refund of employee contributions retains his  
 1059 or her prior plan choice upon return to employment in a  
 1060 regularly established position with a participating employer.

1061        (e)1. ~~(f)~~ A member of the investment plan who takes a  
 1062 distribution of any contributions from his or her investment  
 1063 plan account is considered a retiree. A retiree who is initially  
 1064 reemployed in a regularly established position on or after July  
 1065 1, 2010, through June 30, 2017, is not eligible for ~~to be~~  
 1066 ~~enrolled in~~ renewed membership, except as provided in s.  
 1067 121.122.

1068        2. A retiree who is reemployed on or after July 1, 2017,  
 1069 shall be enrolled as a renewed member as provided in s. 121.122.

1070        (f) ~~(g)~~ After the period during which an eligible employee  
 1071 had the choice to elect the pension plan or the investment plan,  
 1072 or the month following the receipt of the eligible employee's  
 1073 plan election, if sooner, the employee shall have one  
 1074 opportunity, at the employee's discretion, to choose to move  
 1075 from the pension plan to the investment plan or from the

1076 investment plan to the pension plan. Eligible employees may  
 1077 elect to move between plans only if they are earning service  
 1078 credit in an employer-employee relationship consistent with s.  
 1079 121.021(17)(b), excluding leaves of absence without pay.  
 1080 Effective July 1, 2005, such elections are effective on the  
 1081 first day of the month following the receipt of the election by  
 1082 the third-party administrator and are not subject to the  
 1083 requirements regarding an employer-employee relationship or  
 1084 receipt of contributions for the eligible employee in the  
 1085 effective month, except when the election is received by the  
 1086 third-party administrator. This paragraph is contingent upon  
 1087 approval by the Internal Revenue Service. This paragraph does  
 1088 not apply to compulsory investment plan members under paragraph  
 1089 (g).

1090 1. If the employee chooses to move to the investment plan,  
 1091 the provisions of subsection (3) govern the transfer.

1092 2. If the employee chooses to move to the pension plan,  
 1093 the employee must transfer from his or her investment plan  
 1094 account, and from other employee moneys as necessary, a sum  
 1095 representing the present value of that employee's accumulated  
 1096 benefit obligation immediately following the time of such  
 1097 movement, determined assuming that attained service equals the  
 1098 sum of service in the pension plan and service in the investment  
 1099 plan. Benefit commencement occurs on the first date the employee  
 1100 is eligible for unreduced benefits, using the discount rate and

1101 other relevant actuarial assumptions that were used to value the  
 1102 pension plan liabilities in the most recent actuarial valuation.  
 1103 For any employee who, at the time of the second election,  
 1104 already maintains an accrued benefit amount in the pension plan,  
 1105 the then-present value of the accrued benefit is deemed part of  
 1106 the required transfer amount. The division must ensure that the  
 1107 transfer sum is prepared using a formula and methodology  
 1108 certified by an enrolled actuary. A refund of any employee  
 1109 contributions or additional member payments made which exceed  
 1110 the employee contributions that would have accrued had the  
 1111 member remained in the pension plan and not transferred to the  
 1112 investment plan is not permitted.

1113 3. Notwithstanding subparagraph 2., an employee who  
 1114 chooses to move to the pension plan and who became eligible to  
 1115 participate in the investment plan by reason of employment in a  
 1116 regularly established position with a state employer after June  
 1117 1, 2002; a district school board employer after September 1,  
 1118 2002; or a local employer after December 1, 2002, must transfer  
 1119 from his or her investment plan account, and from other employee  
 1120 moneys as necessary, a sum representing the employee's actuarial  
 1121 accrued liability. A refund of any employee contributions or  
 1122 additional member ~~participant~~ payments made which exceed the  
 1123 employee contributions that would have accrued had the member  
 1124 remained in the pension plan and not transferred to the  
 1125 investment plan is not permitted.



1126 4. An employee's ability to transfer from the pension plan  
 1127 to the investment plan pursuant to paragraphs (a) and (b) ~~(a)~~  
 1128 ~~(d)~~, and the ability of a current employee to have an option to  
 1129 later transfer back into the pension plan under subparagraph 2.,  
 1130 shall be deemed a significant system amendment. Pursuant to s.  
 1131 121.031(4), any resulting unfunded liability arising from actual  
 1132 original transfers from the pension plan to the investment plan  
 1133 must be amortized within 30 plan years as a separate unfunded  
 1134 actuarial base independent of the reserve stabilization  
 1135 mechanism defined in s. 121.031(3)(f). For the first 25 years, a  
 1136 direct amortization payment may not be calculated for this base.  
 1137 During this 25-year period, the separate base shall be used to  
 1138 offset the impact of employees exercising their second program  
 1139 election under this paragraph. The actuarial funded status of  
 1140 the pension plan will not be affected by such second program  
 1141 elections in any significant manner, after due recognition of  
 1142 the separate unfunded actuarial base. Following the initial 25-  
 1143 year period, any remaining balance of the original separate base  
 1144 shall be amortized over the remaining 5 years of the required  
 1145 30-year amortization period.

1146 5. If the employee chooses to transfer from the investment  
 1147 plan to the pension plan and retains an excess account balance  
 1148 in the investment plan after satisfying the buy-in requirements  
 1149 under this paragraph, the excess may not be distributed until  
 1150 the member retires from the pension plan. The excess account

1151 balance may be rolled over to the pension plan and used to  
 1152 purchase service credit or upgrade creditable service in the  
 1153 pension plan.

1154 (g)1. A member initially enrolled on or after July 1,  
 1155 2018, in a position covered by the Elected Officers' Class is a  
 1156 compulsory member of the investment plan, except an employee who  
 1157 withdraws from the system under s. 121.052(3)(d). A member  
 1158 initially enrolled in the investment plan before July 1, 2018,  
 1159 who is eligible to withdraw from the system under s.  
 1160 121.052(3)(d) may elect to withdraw from the system or  
 1161 participate in the investment plan as provided in s. 121.052.  
 1162 Investment plan membership continues if there is subsequent  
 1163 employment in a position covered by another membership class.  
 1164 Membership in the pension plan for an employee initially  
 1165 enrolled on or after July 1, 2018, is not permitted except as  
 1166 provided in s. 121.591(2) and (4). A member initially enrolled  
 1167 in the Florida Retirement System before July 1, 2018, may retain  
 1168 his or her membership in the pension plan or investment plan and  
 1169 may use the election opportunity specified in paragraph (f).

1170 2. A member initially enrolled on or after July 1, 2018,  
 1171 in a position covered by the Elected Officers' Class may not use  
 1172 the election opportunity specified in paragraph (f).

1173 3. The amount of retirement contributions paid by the  
 1174 employee and employer, as required under s. 121.72, shall be  
 1175 placed in a default fund as designated by the state board, until

1176 | an account is activated in the investment plan, at which time  
 1177 | the member may move the contribution from the default fund to  
 1178 | other funds provided in the investment plan.

1179 | (5) CONTRIBUTIONS.—

1180 | (c) The state board, acting as plan fiduciary, must ensure  
 1181 | that all plan assets are held in a trust, pursuant to s. 401 of  
 1182 | the Internal Revenue Code. The fiduciary must ensure that such  
 1183 | contributions are allocated as follows:

1184 | 1. The employer and employee contribution portion  
 1185 | earmarked for member accounts shall be used to purchase  
 1186 | interests in the appropriate investment vehicles as specified by  
 1187 | the member, or in accordance with paragraph (4) (c) ~~(4) (d)~~.

1188 | 2. The employer contribution portion earmarked for  
 1189 | administrative and educational expenses shall be transferred to  
 1190 | the state board's Administrative Trust Fund.

1191 | 3. The employer contribution portion earmarked for  
 1192 | disability benefits and line-of-duty death benefits shall be  
 1193 | transferred to the Florida Retirement System Trust Fund.

1194 | (10) EDUCATION COMPONENT.—

1195 | (a) The state board, in coordination with the department,  
 1196 | shall provide for an education component for eligible employees  
 1197 | ~~system members~~ in a manner consistent with ~~the provisions of~~  
 1198 | this subsection ~~section~~. ~~The education component must be~~  
 1199 | ~~available to eligible employees at least 90 days prior to the~~  
 1200 | ~~beginning date of the election period for the employees of the~~

1201 ~~respective types of employers.~~

1202 (b) The education component must provide system members  
 1203 with impartial and balanced information about plan choices  
 1204 except for members initially enrolled on or after July 1, 2018,  
 1205 as provided in paragraph (4)(g). The education component must  
 1206 involve multimedia formats. Program comparisons must, to the  
 1207 greatest extent possible, be based upon the retirement income  
 1208 that different retirement programs may provide to the member.  
 1209 The state board shall monitor the performance of the contract to  
 1210 ensure that the program is conducted in accordance with the  
 1211 contract, applicable law, and the rules of the state board.

1212 (c) The state board, in coordination with the department,  
 1213 shall provide for an initial and ongoing transfer education  
 1214 component to provide system members except for members initially  
 1215 enrolled on or after July 1, 2018, as provided in paragraph  
 1216 (4)(g), with information necessary to make informed plan choice  
 1217 decisions. The transfer education component must include, but is  
 1218 not limited to, information on:

1219 1. The amount of money available to a member to transfer  
 1220 to the defined contribution program.

1221 2. The features of and differences between the pension  
 1222 plan and the defined contribution program, both generally and  
 1223 specifically, as those differences may affect the member.

1224 3. The expected benefit available if the member were to  
 1225 retire under each of the retirement programs, based on

1226 appropriate alternative sets of assumptions.

1227 4. The rate of return from investments in the defined  
 1228 contribution program and the period of time over which such rate  
 1229 of return must be achieved to equal or exceed the expected  
 1230 monthly benefit payable to the member under the pension plan.

1231 5. The historical rates of return for the investment  
 1232 alternatives available in the defined contribution programs.

1233 6. The benefits and historical rates of return on  
 1234 investments available in a typical deferred compensation plan or  
 1235 a typical plan under s. 403(b) of the Internal Revenue Code for  
 1236 which the employee may be eligible.

1237 7. The program choices available to employees of the State  
 1238 University System and the comparative benefits of each available  
 1239 program, if applicable.

1240 8. Payout options available in each of the retirement  
 1241 programs.

1242 ~~(h) Pursuant to subsection (8), all Florida Retirement~~  
 1243 ~~System employers have an obligation to regularly communicate the~~  
 1244 ~~existence of the two Florida Retirement System plans and the~~  
 1245 ~~plan choice in the natural course of administering their~~  
 1246 ~~personnel functions, using the educational materials supplied by~~  
 1247 ~~the state board and the Department of Management Services.~~

1248 Section 8. Subsection (4) of section 121.591, Florida  
 1249 Statutes, is amended to read:

1250 121.591 Payment of benefits.—Benefits may not be paid

1251 | under the Florida Retirement System Investment Plan unless the  
 1252 | member has terminated employment as provided in s.  
 1253 | 121.021(39)(a) or is deceased and a proper application has been  
 1254 | filed as prescribed by the state board or the department.  
 1255 | Benefits, including employee contributions, are not payable  
 1256 | under the investment plan for employee hardships, unforeseeable  
 1257 | emergencies, loans, medical expenses, educational expenses,  
 1258 | purchase of a principal residence, payments necessary to prevent  
 1259 | eviction or foreclosure on an employee's principal residence, or  
 1260 | any other reason except a requested distribution for retirement,  
 1261 | a mandatory de minimis distribution authorized by the  
 1262 | administrator, or a required minimum distribution provided  
 1263 | pursuant to the Internal Revenue Code. The state board or  
 1264 | department, as appropriate, may cancel an application for  
 1265 | retirement benefits if the member or beneficiary fails to timely  
 1266 | provide the information and documents required by this chapter  
 1267 | and the rules of the state board and department. In accordance  
 1268 | with their respective responsibilities, the state board and the  
 1269 | department shall adopt rules establishing procedures for  
 1270 | application for retirement benefits and for the cancellation of  
 1271 | such application if the required information or documents are  
 1272 | not received. The state board and the department, as  
 1273 | appropriate, are authorized to cash out a de minimis account of  
 1274 | a member who has been terminated from Florida Retirement System  
 1275 | covered employment for a minimum of 6 calendar months. A de

1276 | minimis account is an account containing employer and employee  
 1277 | contributions and accumulated earnings of not more than \$5,000  
 1278 | made under the provisions of this chapter. Such cash-out must be  
 1279 | a complete lump-sum liquidation of the account balance, subject  
 1280 | to the provisions of the Internal Revenue Code, or a lump-sum  
 1281 | direct rollover distribution paid directly to the custodian of  
 1282 | an eligible retirement plan, as defined by the Internal Revenue  
 1283 | Code, on behalf of the member. Any nonvested accumulations and  
 1284 | associated service credit, including amounts transferred to the  
 1285 | suspense account of the Florida Retirement System Investment  
 1286 | Plan Trust Fund authorized under s. 121.4501(6), shall be  
 1287 | forfeited upon payment of any vested benefit to a member or  
 1288 | beneficiary, except for de minimis distributions or minimum  
 1289 | required distributions as provided under this section. If any  
 1290 | financial instrument issued for the payment of retirement  
 1291 | benefits under this section is not presented for payment within  
 1292 | 180 days after the last day of the month in which it was  
 1293 | originally issued, the third-party administrator or other duly  
 1294 | authorized agent of the state board shall cancel the instrument  
 1295 | and credit the amount of the instrument to the suspense account  
 1296 | of the Florida Retirement System Investment Plan Trust Fund  
 1297 | authorized under s. 121.4501(6). Any amounts transferred to the  
 1298 | suspense account are payable upon a proper application, not to  
 1299 | include earnings thereon, as provided in this section, within 10  
 1300 | years after the last day of the month in which the instrument

1301 was originally issued, after which time such amounts and any  
 1302 earnings attributable to employer contributions shall be  
 1303 forfeited. Any forfeited amounts are assets of the trust fund  
 1304 and are not subject to chapter 717.

1305 (4) LINE-OF-DUTY DEATH BENEFITS FOR INVESTMENT PLAN  
 1306 ~~SPECIAL RISK CLASS~~ MEMBERS.—Benefits are provided under this  
 1307 subsection to the spouse and child or children of members in the  
 1308 investment plan ~~Special Risk Class~~ when such members are killed  
 1309 in the line of duty and are payable in lieu of the benefits that  
 1310 would otherwise be payable under subsection (1) or subsection  
 1311 (3). Benefits provided by this subsection supersede any other  
 1312 distribution that may have been provided by the member's  
 1313 designation of beneficiary. Such benefits must be funded from  
 1314 employer contributions made under s. 121.571, transferred  
 1315 employee contributions and funds accumulated pursuant to  
 1316 paragraph (a), and interest and earnings thereon.

1317 (a) *Transfer of funds.*—To qualify to receive monthly  
 1318 benefits under this subsection:

1319 1. All moneys accumulated in the member's account,  
 1320 including vested and nonvested accumulations as described in s.  
 1321 121.4501(6), must be transferred from such individual accounts  
 1322 to the division for deposit in the survivor benefit account of  
 1323 the Florida Retirement System Trust Fund. Moneys in the survivor  
 1324 benefit account must be accounted for separately. Earnings must  
 1325 be credited on an annual basis for amounts held in the survivor



1326 benefit account of the Florida Retirement System Trust Fund  
 1327 based on actual earnings of the trust fund.

1328 2. If the member has retained retirement credit earned  
 1329 under the pension plan as provided in s. 121.4501(3), a sum  
 1330 representing the actuarial present value of such credit within  
 1331 the Florida Retirement System Trust Fund shall be transferred by  
 1332 the division from the pension plan to the survivor benefit  
 1333 retirement program as implemented under this subsection and  
 1334 shall be deposited in the survivor benefit account of the trust  
 1335 fund.

1336 (b) *Survivor retirement; entitlement.*—An investment plan  
 1337 member who is ~~in the Special Risk Class at the time the member~~  
 1338 ~~is~~ killed in the line of duty on or after July 1, 2002 ~~2013~~,  
 1339 regardless of length of creditable service, may have survivor  
 1340 benefits paid as provided in s. 121.091(7)(d) and (i) to:

- 1341 1. The surviving spouse for the spouse's lifetime; or
- 1342 2. If there is no surviving spouse or the surviving spouse  
 1343 dies, the member's child or children under 18 years of age and  
 1344 unmarried until the 18th birthday of the member's youngest  
 1345 child. Such payments may be extended until the 25th birthday of  
 1346 any child of the member if the child is unmarried and enrolled  
 1347 as a full-time student as provided in s. 121.091(7)(d) and (i).

1348 (c) *Survivor benefit retirement effective date.*—

- 1349 1. The effective retirement date for the surviving spouse  
 1350 or eligible child of a Special Risk Class member who is killed

1351 in the line of duty is:

1352 ~~a.1.~~ The first day of the month following the member's  
1353 death if the member dies on or after July 1, 2016.

1354 ~~b.2.~~ July 1, 2016, for a member of the Special Risk Class  
1355 when killed in the line of duty on or after July 1, 2013, but  
1356 before July 1, 2016, if the application is received before July  
1357 1, 2016; or the first day of the month following the receipt of  
1358 such application.

1359 2. Except as provided in subparagraph 1., the effective  
1360 retirement date for the surviving spouse or eligible child of an  
1361 investment plan member who is killed in the line of duty is:

1362 a. The first day of the month following the member's death  
1363 if the member dies on or after July 1, 2017.

1364 b. July 1, 2017, if the member is killed in the line of  
1365 duty on or after July 1, 2002, but before July 1, 2017, if the  
1366 application is received before July 1, 2017; or the first day of  
1367 the month following the receipt of such application.

1368  
1369 If the investment plan account balance has already been paid out  
1370 to the surviving spouse or the eligible unmarried dependent  
1371 child or children, the benefit payable shall be actuarially  
1372 reduced by the amount of the payout.

1373 (d) *Line-of-duty death benefit.*-

1374 1. The following individuals are eligible to receive a  
1375 retirement benefit under s. 121.091(7)(d) and (i) if the

1376 member's account balance is surrendered and an application is  
 1377 received and approved:

1378 a. The surviving spouse.

1379 b. If there is no surviving spouse or the surviving spouse  
 1380 dies, the member's child or children under 18 years of age and  
 1381 unmarried until the 18th birthday of the member's youngest  
 1382 child, or until the 25th birthday of the member's child if the  
 1383 child is unmarried and enrolled as a full-time student.

1384 2. Such surviving spouse or such child or children shall  
 1385 receive a monthly survivor benefit that begins accruing on the  
 1386 first day of the month of survivor benefit retirement, as  
 1387 approved by the division, and is payable on the last day of that  
 1388 month and each month thereafter during the surviving spouse's  
 1389 lifetime or on behalf of the unmarried children of the member  
 1390 until the 18th birthday of the youngest child, or until the 25th  
 1391 birthday of any of the member's unmarried children who are  
 1392 enrolled as full-time students. Survivor benefits must be paid  
 1393 out of the survivor benefit account of the Florida Retirement  
 1394 System Trust Fund established under this subsection.

1395  
 1396 If the investment plan account balance has already been paid out  
 1397 to the surviving spouse or the eligible unmarried dependent  
 1398 child or children, the benefit payable shall be actuarially  
 1399 reduced by the amount of the payout.

1400 (e) *Computation of survivor benefit retirement benefit.*—

1401 The amount of each monthly payment must be calculated as  
 1402 provided under s. 121.091(7)(d) and (i).

1403 (f) *Death of the surviving spouse or children.*—

1404 1. Upon the death of a surviving spouse, the monthly  
 1405 benefits shall be paid through the last day of the month of  
 1406 death and shall terminate or be paid on behalf of the unmarried  
 1407 child or children until the 18th birthday of the youngest child,  
 1408 or the 25th birthday of any of the member's unmarried children  
 1409 who are enrolled as full-time students.

1410 2. If the surviving spouse dies and the benefits are being  
 1411 paid on behalf of the member's unmarried children as provided in  
 1412 subparagraph 1., benefits shall be paid through the last day of  
 1413 the month until the later of the month the youngest child  
 1414 reaches his or her 18th birthday, the month of the 25th birthday  
 1415 of any of the member's unmarried children enrolled as full-time  
 1416 students, or the month of the death of the youngest child.

1417 Section 9. Section 121.5912, Florida Statutes, is amended  
 1418 to read:

1419 121.5912 Survivor benefit retirement program; qualified  
 1420 status; rulemaking authority.—It is the intent of the  
 1421 Legislature that the survivor benefit retirement program for  
 1422 ~~Special Risk Class~~ members of the Florida Retirement System  
 1423 Investment Plan meet all applicable requirements for a qualified  
 1424 plan. If the state board or the division receives notification  
 1425 from the Internal Revenue Service that this program or any

1426 portion of this program will cause the retirement system, or any  
 1427 portion thereof, to be disqualified for tax purposes under the  
 1428 Internal Revenue Code, the portion that will cause the  
 1429 disqualification does not apply. Upon such notice, the state  
 1430 board or the division shall notify the presiding officers of the  
 1431 Legislature. The state board and the department may adopt any  
 1432 rules necessary to maintain the qualified status of the survivor  
 1433 benefit retirement program.

1434 Section 10. Subsections (4) and (5) of section 121.71,  
 1435 Florida Statutes, are amended to read:

1436 121.71 Uniform rates; process; calculations; levy.-

1437 (4) Required employer retirement contribution rates for  
 1438 each membership class and subclass of the Florida Retirement  
 1439 System for both retirement plans are as follows:

1440

Membership Class	Percentage of Gross Compensation, Effective July 1, <u>2017</u> <del>2016</del>
Regular Class	<u>2.90</u> <del>2.97%</del>

1441

1442

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1444	Special Risk Class	<u>11.86</u> <del>11.80</del> %
	Special Risk	
	Administrative	
1445	Support Class	<u>3.83</u> <del>3.87</del> %
	Elected Officers' Class-	
	Legislators, Governor,	
	Lt. Governor,	
	Cabinet Officers,	
	State Attorneys,	
1446	Public Defenders	<u>6.47</u> <del>6.63</del> %
	Elected Officers' Class-	
	Justices, Judges	<u>10.66</u> <del>11.68</del> %
1447	Elected Officers' Class-	
	County Elected Officers	<u>8.56</u> <del>8.55</del> %
1448	Senior Management Class	<u>4.29</u> <del>4.38</del> %
1449	DROP	<u>4.17</u> <del>4.23</del> %
1450		
1451	(5) In order to address unfunded actuarial liabilities of	
1452	the system, the required employer retirement contribution rates	

1453 for each membership class and subclass of the Florida Retirement  
 1454 System for both retirement plans are as follows:

1455	Percentage of Gross Compensation, Effective
Membership Class	July 1, <u>2017</u> <del>2016</del>
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1462	Public Defenders	
	Elected Officers' Class-	
	Justices, Judges	<u>25.83</u> <del>23.30%</del>
1463	Elected Officers' Class-	
	County Elected Officers	<u>35.24</u> <del>32.20%</del>
1464	Senior Management Service Class	<u>16.70</u> <del>15.67%</del>
1465	DROP	<u>7.43</u> <del>7.10%</del>
1466		
1467	Section 11. Section 238.072, Florida Statutes, is amended	
1468	to read:	
1469	238.072 Special service provisions for extension	
1470	personnel.—All state and county cooperative extension personnel	
1471	holding appointments by the United States Department of	
1472	Agriculture for extension work in agriculture and home economics	
1473	in this state who are joint representatives of the University of	
1474	Florida and the United States Department of Agriculture, as	
1475	provided in s. <u>121.051(8)</u> <del>121.051(7)</del> , who are members of the	
1476	Teachers' Retirement System, chapter 238, and who are prohibited	
1477	from transferring to and participating in the Florida Retirement	
1478	System, chapter 121, may retire with full benefits upon	
1479	completion of 30 years of creditable service and shall be	



1480 considered to have attained normal retirement age under this  
 1481 chapter, any law to the contrary notwithstanding. In order to  
 1482 comply with the provisions of s. 14, Art. X of the State  
 1483 Constitution, any liability accruing to the Florida Retirement  
 1484 System Trust Fund as a result of the provisions of this section  
 1485 shall be paid on an annual basis from the General Revenue Fund.

1486 Section 12. Subsection (11) of section 413.051, Florida  
 1487 Statutes, is amended to read:

1488 413.051 Eligible blind persons; operation of vending  
 1489 stands.—

1490 (11) Effective July 1, 1996, blind licensees who remain  
 1491 members of the Florida Retirement System pursuant to s.  
 1492 121.051(7)(b)1. ~~121.051(6)(b)1.~~ shall pay any unappropriated  
 1493 retirement costs from their net profits or from program income.  
 1494 Within 30 days after the effective date of this act, each blind  
 1495 licensee who is eligible to maintain membership in the Florida  
 1496 Retirement System under s. 121.051(7)(b)1. ~~121.051(6)(b)1.~~, but  
 1497 who elects to withdraw from the system as provided in s.  
 1498 121.051(7)(b)3. ~~121.051(6)(b)3.~~, must, on or before July 31,  
 1499 1996, notify the Division of Blind Services and the Department  
 1500 of Management Services in writing of his or her election to  
 1501 withdraw. Failure to timely notify the divisions shall be deemed  
 1502 a decision to remain a compulsory member of the Florida  
 1503 Retirement System. However, if, at any time after July 1, 1996,  
 1504 sufficient funds are not paid by a blind licensee to cover the

1505 required contribution to the Florida Retirement System, that  
 1506 blind licensee shall become ineligible to participate in the  
 1507 Florida Retirement System on the last day of the first month for  
 1508 which no contribution is made or the amount contributed is  
 1509 insufficient to cover the required contribution. For any blind  
 1510 licensee who becomes ineligible to participate in the Florida  
 1511 Retirement System as described in this subsection, no creditable  
 1512 service shall be earned under the Florida Retirement System for  
 1513 any period following the month that retirement contributions  
 1514 ceased to be reported. However, any such person may participate  
 1515 in the Florida Retirement System in the future if employed by a  
 1516 participating employer in a covered position.



1517       Section 13. The Legislature finds that a proper and  
 1518 legitimate state purpose is served when employees and retirees  
 1519 of the state and its political subdivisions, and the dependents,  
 1520 survivors, and beneficiaries of such employees and retirees, are  
 1521 extended the basic protections afforded by governmental  
 1522 retirement systems. These persons must be provided benefits that  
 1523 are fair and adequate and that are managed, administered, and  
 1524 funded in an actuarially sound manner, as required by s. 14,  
 1525 Article X of the State Constitution and part VII of chapter 112,  
 1526 Florida Statutes. Therefore, the Legislature determines and  
 1527 declares that this act fulfills an important state interest.

1528       Section 14. This act shall take effect July 1, 2017.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 5101      PCB PKA 17-02      Educational Funding  
**SPONSOR(S):** PreK-12 Appropriations Subcommittee, Diaz, M.  
**TIED BILLS:**                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: PreK-12 Appropriations Subcommittee	13 Y, 0 N	Seifert	Potvin
1) Appropriations Committee		Seifert 	Leznoff 

**SUMMARY ANALYSIS**

The bill conforms applicable statutes to the appropriations provided in the House proposed General Appropriations Act for Prekindergarten through grade 12 education for Fiscal Year 2017-2018.

The bill:

- Repeals the requirement for the Just Read, Florida! Office to review the K-12 comprehensive reading plan.
- Limits the amendatory period for the reporting of FTE for payment to providers and schools by early learning coalitions for the voluntary prekindergarten program.
- Removes obsolete language referencing the Florida School for Boys in Okeechobee.
- Modifies the Florida Education Finance Program (FEFP) by:
  - Requiring that the Supplemental Academic Instruction allocation for schools that earned a grade of "D" or "F" be used to implement the required intervention and support strategies.
  - Codifying the Sparsity Supplement current calculation methodology.
  - Requiring that the K-12 comprehensive reading plans in the Research-Based Reading Instruction allocation only be submitted by a school that earned a grade of "D" or "F" and prioritizing the use of funds for the 300 lowest performing elementary schools.
  - Repealing the requirement that a school district submit a digital classrooms plan to receive funding from the Digital Classrooms Allocation and aligning the use of the allocation to the eligible services list authorized by the federal Schools and Libraries Program, commonly referred to as the federal E-rate program.
  - Codifying the Safe Schools categorical.
  - Providing clarification of FEFP reporting requirements and audit adjustments.
- Amends the required components of a school district's standard student attire policy for purposes of school district receiving incentive payment.

The bill takes effect July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Just Read, Florida! Office**

Florida's history of reading instruction reform dates back to the early 1970s.<sup>1</sup> Since then, the state has implemented a number of initiatives to improve the reading performance of Florida's students. By 2001, Florida established statewide, standardized assessments to measure how well students in grades 3 through 10 had learned the state's reading standards<sup>2</sup> and the Just Read, Florida! Initiative which was aimed at helping students become successful, independent readers.<sup>3</sup> In 2006, the Legislature formally created the Just Read, Florida! Office within the Department of Education.<sup>4</sup>

One of the office's many duties is to review, evaluate, and provide technical assistance to school districts' implementation of their required K-12 comprehensive reading plans.

##### **Effect of the Bill**

The bill amends s. 1001.215, Florida Statutes, to repeal the requirement for the Just Read, Florida! Office to review and approve K-12 comprehensive reading plans. Such plans will instead be done as part of the monitoring, intervention, and support strategies required as part of school improvement pursuant to s. 1008.33, Florida Statute.

##### **Voluntary Prekindergarten (VPK)**

In November 2002 Florida voters passed a constitutional amendment to establish the Voluntary Prekindergarten (VPK) program; statutes implementing the amendment were enacted January 2, 2005. The VPK program is designed to prepare every four-year-old in Florida for kindergarten and build the foundation for their educational success.

The VPK program employs a decentralized approach in which early learning coalitions throughout the state administer the program through providers from both the private and public sectors. The early learning coalitions have authority to administer the VPK program to meet the needs of their local community. The Office of Early Learning (OEL) is responsible for managing the VPK program at the state level.

The Legislature allocates a fixed dollar amount per VPK child that will be paid to providers delivering the VPK program. VPK providers are paid in advance with a reconciliation of attendance conducted at the end of each month. The current reporting process allows VPK providers to amend prior fiscal year student enrollments no later than December 31 of the subsequent fiscal year.

##### **Effect of the Bill**

The bill amends s. 1002.71, Florida Statutes, to limit the time frame for VPK providers to amend prior fiscal year student enrollments no later than September 1 of the subsequent fiscal year.

##### **Washington Special School District**

The Florida School for Boys was a school operated by the state of Florida in Marianna from January 1, 1900, to June 30, 2011. A second campus was opened in Okeechobee in 1955.

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<sup>1</sup> Florida Department of Education, *History of Reading Policy in Florida: hearing before the House K-12 Education Subcommittee* (Sept. 17, 2015).

<sup>2</sup> Florida Department of Education, *A Chronology of Events: 2001*, <http://www.fldoe.org/accountability/assessments/k-12-student-assessment/history-of-fls-statewide-assessment/assessment-chronology/hsap01.stml> (last visited on March 18, 2017).

<sup>3</sup> Exec. Order No. 01-260 (2001).

<sup>4</sup> Section 8, ch. 2006-74, L.O.F.

In 1981, legislation was passed that required the Department of Education (DOE), either directly or through grants or contractual agreements with other public educational agencies, to provide educational services to these two schools.<sup>5</sup> After a competitive bid process, the DOE awarded a contract to Washington school district to provide such educational services. To differentiate Washington school district's Florida Education Finance Program (FEFP) funds appropriated in the General Appropriations Act, Washington Special school district was created in the FEFP to fund Washington school district's FEFP funds to provide educational services to the Florida School for Boys. The Florida School for Boys in Marianna and Okeechobee no longer exists.

#### Effect of the Bill

The bill repeals section 1003.52(21), Florida Statutes, requiring the DOE to provide or contract for services to the Florida School for Boys in Okeechobee.

#### Supplemental Academic Instruction Allocation

In 1999, the Legislature created the Supplemental Academic Instruction (SAI) Categorical Fund as part of the A+ Education Plan<sup>6</sup> for the purpose of assisting school districts in providing supplemental instruction to students in kindergarten through grade 12.<sup>7</sup>

The SAI categorical funds are allocated annually to each school district in the amount provided in the General Appropriations Act. These funds are provided in addition to the funds appropriated on the basis of full-time equivalent (FTE) student membership in the FEFP and are included in the total funds for each district. For Fiscal Year 2016-2017, each school district that has one or more of the 300 lowest-performing elementary schools based on the state reading assessment must use these funds, together with the funds provided in the district's research-based reading instruction allocation, to provide an additional hour of instruction for intensive reading instruction<sup>8</sup>. After this requirement has been met, school districts may use these funds for: modified curriculum, reading instruction, after-school instruction, tutoring, mentoring, class size reduction, extended school year, intensive skills development in summer school, and other methods for improving student achievement.

#### Effect of the Bill

The bill modifies the FEFP SAI allocation by requiring each school district that has a school earning a grade of "D" or "F" pursuant to s. 1008.34, Florida Statutes, to use that school's portion of the SAI to implement the intervention and support strategies required under s. 1008.33, Florida Statutes. For all other schools, the school district may use the SAI for eligible purposes currently described in law. The bill also codifies in law the SAI allocation funding formula.

#### Sparsity Supplement Allocation

The FEFP recognizes the relatively higher operating cost of smaller districts due to sparse student populations through a statutory formula in which the variable factor is a sparsity index. This index is computed by dividing the FTE of the district by the number of permanent senior high school centers. For districts with FTE student memberships between 20,000 and 24,000, the number of high school centers is reduced to four. The number of high school centers is reduced to three for districts with fewer than 20,000 FTE students. By General Appropriations Act proviso, participation is limited to districts of 24,000 or fewer FTE students.

#### Effect of the Bill

The bill codifies in law the current calculation methodology.

#### Researched-Based Reading Instruction Allocation

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<sup>5</sup> Chapter 81-272, L.O.F.

<sup>6</sup> Section 23, ch. 99-398, L.O.F.

<sup>7</sup> Florida House of Representatives, Council for Lifelong Learning, Supplemental Academic Instruction Fact Sheet (Sept. 2001) available at

<http://archive.flsenate.gov/data/publications/2002/house/reports/EdFactSheets/fact%20sheets/supplementalacademicinstruction.pdf>.

<sup>8</sup> Section 1011.62(1)(f), F.S.

Funds for comprehensive, research-based reading instruction are allocated annually to each school district in the amount provided in the General Appropriations Act. Each eligible school district receives the same minimum amount as specified in the General Appropriations Act, and any remaining funds are distributed to eligible school districts based on each school district's proportionate share of K-12 base funding. These funds must be used to provide a system of comprehensive reading instruction to students enrolled in K-12 programs.

Currently priority of the funds is to provide an additional hour of intensive reading instruction beyond the normal school day for each day of the entire school year for the students in the 300 lowest performing elementary schools based on the state reading assessment pursuant to sections 1008.22(3) and 1011.62(9), Florida Statutes. This additional hour of instruction must be provided by teachers or reading specialists who are effective in teaching reading. Students enrolled in these schools that have level 5 reading assessment scores may choose to participate in the additional hour of instruction on an optional basis.

Annually school districts must submit a K-12 comprehensive reading plan that outlines their specific use of the research-based reading instruction allocation for review and approval by the Department of Education's Just Read, Florida! Office. On or before June 1 of each year, the office must approve or reject a district's plan. If a school district and the office cannot reach agreement on the plan's contents, the school district may appeal to the State Board of Education for resolution. No later than July 1 annually, the department shall release the school district's allocation of appropriated funds to those districts having approved plans. The department may withhold funds upon a determination that reading instruction allocation funds are not being used to implement the approved plan.<sup>9</sup>

#### Effect of the Bill

The bill:

- Modifies the Research-Based Reading Instruction Allocation to prioritize, but not require, use of the funds for the extra hour of intensive reading instruction for the 300 lowest performing elementary schools based on a three year average of the state reading assessment data.
- Allows the extra hour to be optional for students scoring level 4 or level 5 on reading assessments.  
Requires summer reading camps to be taught by someone certified or endorsed in reading.
- Requires reading plans to only be submitted by school districts that have a school earning a grade of "D" or "F". The review and approval process will now be done as part of the monitoring, intervention, and support strategies required as part of school improvement under s. 1008.33, Florida Statutes.
- Eliminates the department's ability to withhold funds.

#### Digital Classroom Allocation

Currently funds are provided to school districts to support school and district efforts and strategies to improve outcomes related to student performance by integrating technology in classroom teaching and learning. Each district school board must adopt a district digital classrooms plan that meets the unique needs of students, schools and personnel, and submit the plan for approval by the Department of Education. Each plan must be within the general parameters established in the Florida digital classrooms plan pursuant to section 1001.20, Florida Statutes, and the funds must be used to support the implementation of these plans. Plans must be submitted to the department annually by October 1.

#### Effect of the Bill

The bill repeals the requirement of submitting a digital classrooms plan. The bill aligns the use of these funds to items on the eligible services list authorized by the Universal Service Administration Company E-rate program.<sup>10</sup> Allowable uses of the funds will also include computer and device hardware and associated operating system software.

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<sup>9</sup> s. 1011.62(9), F.S.

<sup>10</sup> <http://www.usac.org/sl/applicants/beforeyoubegin/eligible-services-list.aspx>

### **Safe Schools Allocation**

In 1994 the Legislature funded safe schools activities through proviso language in the General Appropriations Act. This funding has continued each year into the present year. The purpose of the funding is to provide resources for safe schools activities. Presently, each school district receives a minimum amount towards safe schools activities. The balance of the Safe Schools Allocation is distributed based upon the following formula: two-thirds based on the latest official Florida Department of Law Enforcement Crime Index and one-third on each district's share of the state's total unweighted student enrollment. The Safe Schools Allocation has continued to be a major source of funding for school districts toward developing, implementing and enforcing school safety and security programs and activities. The Safe Schools Appropriation allows districts to use their allocation in a manner that best fits their individual school needs.

### **Effect of the Bill**

The bill codifies the safe schools allocation funding formula and the use of the safe schools allocation.

### **FTE Reporting**

The bill removes the requirement for an adjustment to be made to a district's funding in the FEFP based on an FTE reporting error that is not corrected by the district within the FTE reporting amendment periods.

### **Standard Student Attire**

The Standard Student Attire Incentive Program provides funding for school districts that implement a districtwide, standard student attire policy for all students in kindergarten through grade 8. To qualify a district for the incentive payment, the district's school superintendent had to certify to the Commissioner of Education that the district school board implemented a policy meeting the requirements. Qualifying districts receive a payment of \$10 per each student in kindergarten through grade 8.<sup>11</sup>

A qualifying standard student attire policy must:

- Apply to all students in kindergarten through grade 8 in the school district or charter school.<sup>12</sup>
- Prohibit certain types of clothing and require solid-colored clothing and fabrics for pants, skirts, shorts, or similar clothing and short- or long-sleeved shirts with collars.
- Allow reasonable accommodations based on a student's religion, disability, or medical condition.

School districts and charter schools received incentive funds of \$4,199,295 for the 2016-2017 school year for implementing qualifying policies.<sup>13</sup>

### **Effect of Proposed Changes**

The bill removes the specific requirement of solid-colored clothing and fabrics for pants, skirts, shorts, or similar clothing and short- or long-sleeved shirts with collars. The removal of this requirement allows plaids, stripes, or other multi-color options to be available as standard attire options.

## **B. SECTION DIRECTORY:**

Section 1. Amends s. 1001.215, F.S. revising the duties of the Just Read, Florida! Office to conform to changes made by the act.

Section 2. Amends s. 1002.71, F.S. revising the deadline for the amendment of a student enrollment count for specified purposes.

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<sup>11</sup> s. 1011.78, F.S.

<sup>12</sup> Any students in kindergarten through grade 8 served by a school are included, regardless of the school's grade configuration (e.g., kindergarten through grade 2 or grades 6 through 12).

<sup>13</sup> Email, Florida Department of Education, Office of Governmental Relations (Dec. 15, 2016).



Section 3. Amends s. 1003.52, F.S. deleting provisions relating to the Florida Schools for Boys in Okeechobee

Section 4. Amends s. 1011.62, F.S. revising requirements for the use of supplemental academic instruction allocation to include specified purposes; deleting a provision authorizing the Florida State University School to expend specified funds for certain purposes; providing an alternate district sparsity index calculation for certain school districts; revising and providing provisions relating to the research-based reading instruction allocation; revising and providing provisions relating to the Florida digital classrooms allocation; creating the safe schools categorical; and providing that certain underallocations may not be the basis for a positive allocation adjustment in the current year.

Section 5. Amends s. 1011.78, F.S. revising requirements for standard student attire.

Section 6. Provides an effective date of July 1, 2017.

## **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:

See Fiscal Comments.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

### **D. FISCAL COMMENTS:**

The bill conforms applicable statutes to the appropriations provided in the General Appropriations Act for Prekindergarten through grade 12 education for the 2017-2018 fiscal year.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to educational funding; amending s.  
 3           1001.215, F.S.; revising the duties of the Just Read,  
 4           Florida! Office to conform to changes made by the act;  
 5           amending s. 1002.71, F.S.; revising the deadline for  
 6           the amendment of a student enrollment count for  
 7           specified purposes; amending s. 1003.52, F.S.;  
 8           deleting provisions relating to the Florida School for  
 9           Boys in Okeechobee; amending s. 1011.62, F.S.;  
 10          revising requirements for the use of supplemental  
 11          academic instruction allocation to include specified  
 12          purposes; deleting a provision authorizing the Florida  
 13          State University School to expend specified funds for  
 14          certain purposes; deleting a provision including  
 15          certain dropout prevention programs in certain funding  
 16          categories; providing an alternate district sparsity  
 17          index calculation for certain school districts;  
 18          revising provisions relating to the research-based  
 19          reading instruction allocation and the use of such  
 20          funds; revising provisions relating to the Florida  
 21          digital classrooms allocation and the use of such  
 22          funds; creating the safe schools allocation and  
 23          providing the purpose of the allocation; providing  
 24          that certain underallocations may not be the basis for  
 25          a positive allocation adjustment in the current year;

26 providing for the allocation of funds; amending s.  
 27 1011.78, F.S.; revising school district and charter  
 28 school requirements to qualify for a standard student  
 29 attire incentive payment; providing an effective date.

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

33 Section 1. Subsections (5) and (6) of section 1001.215,  
 34 Florida Statutes, are amended to read:

35 1001.215 Just Read, Florida! Office.—There is created in  
 36 the Department of Education the Just Read, Florida! Office. The  
 37 office shall be fully accountable to the Commissioner of  
 38 Education and shall:

39 ~~(5) Provide technical assistance to school districts in~~  
 40 ~~the development and implementation of district plans for use of~~  
 41 ~~the research-based reading instruction allocation provided in s.~~  
 42 ~~1011.62(9) and annually review and approve such plans.~~

43 ~~(6) Review, evaluate, and provide technical assistance to~~  
 44 ~~school districts' implementation of the K-12 comprehensive~~  
 45 ~~reading plan required in s. 1011.62(9).~~

46 Section 2. Paragraph (c) of subsection (3) of section  
 47 1002.71, Florida Statutes, is amended to read:

48 1002.71 Funding; financial and attendance reporting.—

49 (3)

50 (c) The initial allocation shall be based on estimated

51 student enrollment in each coalition service area. The Office of  
 52 Early Learning shall reallocate funds among the coalitions based  
 53 on actual full-time equivalent student enrollment in each  
 54 coalition service area. Each coalition shall report student  
 55 enrollment pursuant to subsection (2) on a monthly basis. A  
 56 student enrollment count for the prior fiscal year may not be  
 57 amended after September 1 ~~December 31~~ of the subsequent fiscal  
 58 year.

59 Section 3. Subsection (21) of section 1003.52, Florida  
 60 Statutes, is amended to read:

61 1003.52 Educational services in Department of Juvenile  
 62 Justice programs.-

63 ~~(21) The education programs at the Florida School for Boys~~  
 64 ~~in Okeechobee shall be operated by the Department of Education,~~  
 65 ~~either directly or through grants or contractual agreements with~~  
 66 ~~other public or duly accredited education agencies approved by~~  
 67 ~~the Department of Education.~~

68 Section 4. Subsections (15) and (16) of section 1011.62,  
 69 Florida Statutes, are renumbered as subsections (16) and (17),  
 70 respectively, paragraph (f) of subsection (1), paragraph (b) of  
 71 subsection (7), paragraphs (a), (c), and (d) of subsection (9),  
 72 subsection (12), and paragraph (b) of present subsection (15)  
 73 are amended, and a new subsection (15) is added to that section,  
 74 to read:

75 1011.62 Funds for operation of schools.-If the annual

76 allocation from the Florida Education Finance Program to each  
 77 district for operation of schools is not determined in the  
 78 annual appropriations act or the substantive bill implementing  
 79 the annual appropriations act, it shall be determined as  
 80 follows:

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

85 (f) Supplemental academic instruction allocation  
 86 ~~category~~ fund.—

87 1. There is created the supplemental academic instruction  
 88 allocation ~~a categorical fund~~ to provide supplemental academic  
 89 instruction to students in kindergarten through grade 12. ~~This~~  
 90 ~~paragraph may be cited as the "Supplemental Academic Instruction~~  
 91 ~~Categorical Fund."~~

92 2. ~~The Categorical funds for~~ supplemental academic  
 93 instruction allocation shall be provided ~~allocated~~ annually in  
 94 the Florida Education Finance Program as specified ~~to each~~  
 95 ~~school district in the amount provided~~ in the General  
 96 Appropriations Act. These funds are ~~shall be~~ in addition to the  
 97 funds appropriated on the basis of FTE student membership in the  
 98 Florida Education Finance Program and shall be included in the  
 99 total potential funds of each school district. ~~These funds shall~~  
 100 ~~be used to provide supplemental academic instruction to students~~

101 ~~enrolled in the K-12 program.~~ For the 2017-2018 ~~2014-2015~~ fiscal  
 102 year, each school district that has a school earning a grade of  
 103 "D" or "F" pursuant to s. 1008.34 must use that school's portion  
 104 of the supplemental academic instruction allocation to implement  
 105 the intervention and support strategies required under s.  
 106 1008.33 and for salary incentives pursuant to s. 1012.2315(3) or  
 107 salary supplements pursuant to s. 1012.22(1)(c)5.c. that are  
 108 provided through a memorandum of understanding between the  
 109 collective bargaining agent and the school board that addresses  
 110 the selection, placement, and expectations of instructional  
 111 personnel and school administrators. For all other schools, the  
 112 school district's use of the supplemental academic instruction  
 113 allocation ~~one or more of the 300 lowest-performing elementary~~  
 114 ~~schools based on the state reading assessment shall use these~~  
 115 ~~funds, together with the funds provided in the district's~~  
 116 ~~research-based reading instruction allocation and other~~  
 117 ~~available funds, to provide an additional hour of instruction~~  
 118 ~~beyond the normal school day for each day of the entire school~~  
 119 ~~year for intensive reading instruction for the students in each~~  
 120 ~~of these schools. This additional hour of instruction must be~~  
 121 ~~provided by teachers or reading specialists who are effective in~~  
 122 ~~teaching reading or by a K-5 mentoring reading program that is~~  
 123 ~~supervised by a teacher who is effective at teaching reading.~~  
 124 ~~Students enrolled in these schools who have level 5 assessment~~  
 125 ~~scores may participate in the additional hour of instruction on~~

126 ~~an optional basis. Exceptional student education centers shall~~  
 127 ~~not be included in the 300 schools. After this requirement has~~  
 128 ~~been met, supplemental instruction strategies may include, but~~  
 129 is ~~are~~ not limited to: modified curriculum, reading instruction,  
 130 after-school instruction, tutoring, mentoring, class size  
 131 reduction, extended school year, intensive skills development in  
 132 summer school, dropout prevention programs as defined in ss.  
 133 1003.52 and 1003.53(1)(a), (b), and (c), and other methods for  
 134 improving student achievement. Supplemental academic instruction  
 135 may be provided to a student in any manner and at any time  
 136 during or beyond the regular 180-day term identified by the  
 137 school as being the most effective and efficient way to best  
 138 help that student progress from grade to grade and to graduate.

139 3. The supplemental academic instruction allocation shall  
 140 consist of a base amount that shall have a workload adjustment  
 141 based on changes in unweighted FTE. In addition, school  
 142 districts that have a school that earns a grade of "D" or "F"  
 143 pursuant to s. 1008.34 shall be allocated additional funds to  
 144 assist those schools in implementing the provisions of  
 145 subparagraph 2. to improve student academic performance. The  
 146 amount provided shall be based on each district's level of per-  
 147 student funding in the reading instruction allocation and the  
 148 supplemental academic instruction allocation and on the total  
 149 FTE for each of the schools. The supplemental academic  
 150 instruction allocation shall be recalculated once during the



151 fiscal year and shall be based on actual student membership from  
152 the October FTE survey. Upon recalculation of funding for the  
153 supplemental academic instruction allocation, if the total  
154 allocation is greater than the amount provided in the General  
155 Appropriations Act, the allocation shall be prorated to the  
156 level provided to support the appropriation, based on each  
157 school district's share of the total.

158 ~~4.3. Effective with the 1999-2000 fiscal year, Funding on~~  
159 ~~the basis of FTE membership beyond the 180-day regular term~~  
160 ~~shall be provided in the FEFP only for students enrolled in~~  
161 ~~juvenile justice education programs or in education programs for~~  
162 ~~juveniles placed in secure facilities or programs under s.~~  
163 ~~985.19. Funding for instruction beyond the regular 180-day~~  
164 ~~school year for all other K-12 students shall be provided~~  
165 ~~through the supplemental academic instruction allocation~~  
166 ~~categorical fund and other state, federal, and local fund~~  
167 ~~sources with ample flexibility for schools to provide~~  
168 ~~supplemental instruction to assist students in progressing from~~  
169 ~~grade to grade and graduating.~~

170 ~~4. The Florida State University School, as a lab school,~~  
171 ~~is authorized to expend from its FEFP or Lottery Enhancement~~  
172 ~~Trust Fund allocation the cost to the student of remediation in~~  
173 ~~reading, writing, or mathematics for any graduate who requires~~  
174 ~~remediation at a postsecondary educational institution.~~

175 ~~5. Beginning in the 1999-2000 school year, dropout~~

176 ~~prevention programs as defined in ss. 1003.52, 1003.53(1)(a),~~  
 177 ~~(b), and (c), and 1003.54 shall be included in group 1 programs~~  
 178 ~~under subparagraph (d)3.~~

179 (7) DETERMINATION OF SPARSITY SUPPLEMENT.—

180 (b) The district sparsity index shall be computed by  
 181 dividing the total number of full-time equivalent students in  
 182 all programs in the district by the number of senior high school  
 183 centers in the district, not in excess of three, which centers  
 184 are approved as permanent centers by a survey made by the  
 185 Department of Education. For districts with a full-time  
 186 equivalent student membership of at least 20,000, but no more  
 187 than 24,000, the index shall be computed by dividing the total  
 188 number of full-time equivalent students in all programs by the  
 189 number of permanent senior high school centers in the district,  
 190 not in excess of four.

191 (9) RESEARCH-BASED READING INSTRUCTION ALLOCATION.—

192 (a) The research-based reading instruction allocation is  
 193 created to provide comprehensive reading instruction to students  
 194 in kindergarten through grade 12. Beginning with the 2017-2018  
 195 ~~For the 2014-2015~~ fiscal year, in each school district that has  
 196 one or more of the 300 lowest-performing elementary schools  
 197 based on a 3-year average of the state reading assessment data,  
 198 priority shall be given to providing an additional hour per day  
 199 of intensive reading instruction ~~beyond the normal school day~~  
 200 ~~for each day of the entire school year~~ for the students in each

201 school. Students enrolled in these schools who have level 4 or  
 202 level 5 assessment scores may participate in the additional hour  
 203 of instruction ~~on an optional basis~~. Exceptional student  
 204 education centers shall not be included in the 300 schools. The  
 205 intensive reading instruction delivered in this additional hour  
 206 ~~and for other students~~ shall include: research-based reading  
 207 instruction that has been proven to accelerate progress of  
 208 students exhibiting a reading deficiency; differentiated  
 209 instruction based on screening, diagnostic, progress monitoring,  
 210 or student assessment data to meet students' specific reading  
 211 needs; explicit and systematic reading strategies to develop  
 212 ~~development in~~ phonemic awareness, phonics, fluency, vocabulary,  
 213 and comprehension, with more extensive opportunities for guided  
 214 practice, error correction, and feedback; and the integration of  
 215 social studies, science, and mathematics-text reading, text  
 216 discussion, and writing in response to reading. ~~For the 2012-~~  
 217 ~~2013 and 2013-2014 fiscal years, a school district may not hire~~  
 218 ~~more reading coaches than were hired during the 2011-2012 fiscal~~  
 219 ~~year unless all students in kindergarten through grade 5 who~~  
 220 ~~demonstrate a reading deficiency, as determined by district and~~  
 221 ~~state assessments, including students scoring Level 1 or Level 2~~  
 222 ~~on the statewide, standardized reading assessment or, upon~~  
 223 ~~implementation, the English Language Arts assessment, are~~  
 224 ~~provided an additional hour per day of intensive reading~~  
 225 ~~instruction beyond the normal school day for each day of the~~

226 ~~entire school year.~~

227 (c) Funds allocated under this subsection must be used to  
 228 provide a system of comprehensive reading instruction to  
 229 students enrolled in the K-12 programs, which may include the  
 230 following:

231 1. ~~The provision of~~ An additional hour per day of  
 232 intensive reading instruction ~~to students in the 300 lowest~~  
 233 ~~performing elementary schools~~ by teachers and reading  
 234 specialists who have demonstrated effectiveness ~~are effective~~ in  
 235 teaching reading.

236 2. Kindergarten through grade 5 reading intervention  
 237 teachers to provide intensive intervention during the school day  
 238 and in the ~~required~~ extra hour for students identified as having  
 239 a reading deficiency.

240 3. ~~The provision of~~ Highly qualified reading coaches to  
 241 specifically support teachers in making instructional decisions  
 242 based on student data, and improve teacher delivery of effective  
 243 reading instruction, intervention, and reading in the content  
 244 areas based on student need.

245 4. Professional development for school district teachers  
 246 in scientifically based reading instruction, including  
 247 strategies to teach reading in content areas and with an  
 248 emphasis on technical and informational text, to help school  
 249 district teachers earn a certification or an endorsement in  
 250 reading.

251 5. ~~The provision of~~ Summer reading camps, using only  
 252 teachers or other district personnel who are certified or  
 253 endorsed in reading, for all students in kindergarten through  
 254 grade 2 who demonstrate a reading deficiency as determined by  
 255 district and state assessments, and students in grades 3 through  
 256 5 who score at Level 1 on the statewide, standardized reading  
 257 assessment or, upon implementation, the English Language Arts  
 258 assessment.

259 6. ~~The provision of~~ Supplemental instructional materials  
 260 that are grounded in scientifically based reading research.

261 7. ~~The provision of~~ Intensive interventions for students  
 262 in kindergarten through grade 12 who have been identified as  
 263 having a reading deficiency or who are reading below grade level  
 264 as determined by the statewide, standardized assessment.

265 (d) Each school district that has a school that earns a  
 266 grade of "D" or "F" pursuant to s. 1008.34 shall annually, ~~by a~~  
 267 ~~date determined by the Department of Education but before May 1,~~  
 268 ~~school districts shall~~ submit a K-12 comprehensive reading plan  
 269 for the specific use of the research-based reading instruction  
 270 allocation in the format prescribed by the department for review  
 271 and approval by the department as part of the monitoring,  
 272 intervention, and support strategies required under s. 1008.33  
 273 ~~the Just Read, Florida! Office created pursuant to s. 1001.215.~~  
 274 ~~The plan annually submitted by school districts shall be deemed~~  
 275 ~~approved unless the department rejects the plan on or before~~

276 ~~June 1. If a school district and the Just Read, Florida! Office~~  
 277 ~~cannot reach agreement on the contents of the plan, the school~~  
 278 ~~district may appeal to the State Board of Education for~~  
 279 ~~resolution. School districts shall be allowed reasonable~~  
 280 ~~flexibility in designing their plans and shall be encouraged to~~  
 281 ~~offer reading intervention through innovative methods, including~~  
 282 ~~career academies. The plan format shall be developed with input~~  
 283 ~~from school district personnel, including teachers and~~  
 284 ~~principals, and shall allow courses in core, career, and~~  
 285 ~~alternative programs that deliver intensive reading remediation~~  
 286 ~~through integrated curricula, provided that the teacher is~~  
 287 ~~deemed highly qualified to teach reading or working toward that~~  
 288 ~~status. No later than July 1 annually, the department shall~~  
 289 ~~release the school district's allocation of appropriated funds~~  
 290 ~~to those districts having approved plans. A school district that~~  
 291 ~~spends 100 percent of this allocation on its approved plan shall~~  
 292 ~~be deemed to have been in compliance with the plan. The~~  
 293 ~~department may withhold funds upon a determination that reading~~  
 294 ~~instruction allocation funds are not being used to implement the~~  
 295 ~~approved plan. The department shall monitor and track the~~  
 296 ~~implementation of each district plan, including conducting site~~  
 297 ~~visits and collecting specific data on expenditures and reading~~  
 298 ~~improvement results. By February 1 of each year, the department~~  
 299 ~~shall report its findings to the Legislature.~~

300 (12) FLORIDA DIGITAL CLASSROOMS ALLOCATION.—

301           (a) The Florida digital classrooms allocation is created  
 302 to support the efforts of school districts ~~district~~ and schools,  
 303 including charter schools, ~~school efforts and strategies to~~  
 304 integrate ~~improve outcomes related to student performance by~~  
 305 ~~integrating~~ technology in classroom teaching and learning to  
 306 ensure students have access to high-quality electronic and  
 307 digital instructional materials and resources, and empower  
 308 classroom teachers to help their students succeed. Each school  
 309 district shall receive a minimum digital classrooms allocation  
 310 in the amount provided in the General Appropriations Act. The  
 311 remaining balance of the digital classrooms allocation shall be  
 312 allocated based on each school district's proportionate share of  
 313 the state's total unweighted full-time equivalent student  
 314 enrollment.

315           (b) Funds allocated under this subsection must be used for  
 316 costs associated with:

317           1. Acquiring and maintaining the items on the eligible  
 318 services list authorized by the Universal Service Administrative  
 319 Company for the Schools and Libraries Program, more commonly  
 320 referred to as the federal E-rate program.

321           2. Acquiring computer and device hardware and associated  
 322 operating system software that complies with the requirements of  
 323 s. 1001.20(4)(a)1.b. The outcomes must be measurable and may  
 324 also be unique to the needs of individual schools and school  
 325 districts within the general parameters established by the

326 ~~Department of Education.~~

327 ~~(b) Each district school board shall adopt a district~~  
 328 ~~digital classrooms plan that meets the unique needs of students,~~  
 329 ~~schools, and personnel and submit the plan for approval to the~~  
 330 ~~Department of Education. In addition, each district school board~~  
 331 ~~must, at a minimum, seek input from the district's~~  
 332 ~~instructional, curriculum, and information technology staff to~~  
 333 ~~develop the district digital classrooms plan. The district's~~  
 334 ~~plan must be within the general parameters established in the~~  
 335 ~~Florida digital classrooms plan pursuant to s. 1001.20. In~~  
 336 ~~addition, if the district participates in federal technology~~  
 337 ~~initiatives and grant programs, the district digital classrooms~~  
 338 ~~plan must include a plan for meeting requirements of such~~  
 339 ~~initiatives and grant programs. Funds allocated under this~~  
 340 ~~subsection must be used to support implementation of district~~  
 341 ~~digital classrooms plans. By October 1, 2014, and by March 1 of~~  
 342 ~~each year thereafter, on a date determined by the department,~~  
 343 ~~each district school board shall submit to the department, in a~~  
 344 ~~format prescribed by the department, a digital classrooms plan.~~  
 345 ~~At a minimum, such plan must include, and be annually updated to~~  
 346 ~~reflect, the following:~~

347 ~~1. Measurable student performance outcomes. Outcomes~~  
 348 ~~related to student performance, including outcomes for students~~  
 349 ~~with disabilities, must be tied to the efforts and strategies to~~  
 350 ~~improve outcomes related to student performance by integrating~~



351 ~~technology in classroom teaching and learning. Results of the~~  
 352 ~~outcomes shall be reported at least annually for the current~~  
 353 ~~school year and subsequent 3 years and be accompanied by an~~  
 354 ~~independent evaluation and validation of the reported results.~~

355 ~~2. Digital learning and technology infrastructure~~  
 356 ~~purchases and operational activities. Such purchases and~~  
 357 ~~activities must be tied to the measurable outcomes under~~  
 358 ~~subparagraph 1., including, but not limited to, connectivity,~~  
 359 ~~broadband access, wireless capacity, Internet speed, and data~~  
 360 ~~security, all of which must meet or exceed minimum requirements~~  
 361 ~~and protocols established by the department. For each year that~~  
 362 ~~the district uses funds for infrastructure, a third party,~~  
 363 ~~independent evaluation of the district's technology inventory~~  
 364 ~~and infrastructure needs must accompany the district's plan.~~

365 ~~3. Professional development purchases and operational~~  
 366 ~~activities. Such purchases and activities must be tied to the~~  
 367 ~~measurable outcomes under subparagraph 1., including, but not~~  
 368 ~~limited to, using technology in the classroom and improving~~  
 369 ~~digital literacy and competency.~~

370 ~~4. Digital tool purchases and operational activities. Such~~  
 371 ~~purchases and activities must be tied to the measurable outcomes~~  
 372 ~~under subparagraph 1., including, but not limited to,~~  
 373 ~~competency-based credentials that measure and demonstrate~~  
 374 ~~digital competency and certifications, third party assessments~~  
 375 ~~that demonstrate acquired knowledge and use of digital~~

376 ~~applications, and devices that meet or exceed minimum~~  
 377 ~~requirements and protocols established by the department.~~  
 378 ~~5. Online assessment related purchases and operational~~  
 379 ~~activities. Such purchases and activities must be tied to the~~  
 380 ~~measurable outcomes under subparagraph 1., including, but not~~  
 381 ~~limited to, expanding the capacity to administer assessments and~~  
 382 ~~compatibility with minimum assessment protocols and requirements~~  
 383 ~~established by the department.~~  
 384 ~~(c) The Legislature shall annually provide in the General~~  
 385 ~~Appropriations Act the FEFP allocation for implementation of the~~  
 386 ~~Florida digital classrooms plan to be calculated in an amount up~~  
 387 ~~to 1 percent of the base student allocation multiplied by the~~  
 388 ~~total K-12 full-time equivalent student enrollment included in~~  
 389 ~~the FEFP calculations for the legislative appropriation or as~~  
 390 ~~provided in the General Appropriations Act. Each school district~~  
 391 ~~shall be provided a minimum of \$250,000, with the remaining~~  
 392 ~~balance of the allocation to be distributed based on each~~  
 393 ~~district's proportion of the total K-12 full-time equivalent~~  
 394 ~~student enrollment. Distribution of funds for the Florida~~  
 395 ~~digital classrooms allocation shall begin following submittal of~~  
 396 ~~each district's digital classrooms plan, which must include~~  
 397 ~~formal verification of the superintendent's approval of the~~  
 398 ~~digital classrooms plan of each charter school in the district,~~  
 399 ~~and approval of the plan by the department. Prior to the~~  
 400 ~~distribution of the Florida digital classrooms allocation funds,~~

401 ~~each district school superintendent shall certify to the~~  
 402 ~~Commissioner of Education that the district school board has~~  
 403 ~~approved a comprehensive district digital classrooms plan that~~  
 404 ~~supports the fidelity of implementation of the Florida digital~~  
 405 ~~classrooms allocation. District allocations shall be~~  
 406 ~~recalculated during the fiscal year consistent with the periodic~~  
 407 ~~recalculation of the FEFP. School districts shall provide a~~  
 408 ~~proportionate share of the digital classrooms allocation to each~~  
 409 ~~charter school in the district, as required for categorical~~  
 410 ~~programs in s. 1002.33(17)(b). A school district may use a~~  
 411 ~~competitive process to distribute funds for the Florida digital~~  
 412 ~~classrooms allocation to the schools within the school district.~~

413 ~~(d) To facilitate the implementation of the district~~  
 414 ~~digital classrooms plans and charter school digital classrooms~~  
 415 ~~plans, the commissioner shall support statewide, coordinated~~  
 416 ~~partnerships and efforts of this state's education practitioners~~  
 417 ~~in the field, including, but not limited to, superintendents,~~  
 418 ~~principals, and teachers, to identify and share best practices,~~  
 419 ~~corrective actions, and other identified needs.~~

420 ~~(e) Beginning in the 2015-2016 fiscal year and each year~~  
 421 ~~thereafter, each district school board shall report to the~~  
 422 ~~department its use of funds provided through the Florida digital~~  
 423 ~~classrooms allocation and student performance outcomes in~~  
 424 ~~accordance with the district's digital classrooms plan. The~~  
 425 ~~department may contract with an independent third party entity~~

426 ~~to conduct an annual independent verification of the district's~~  
 427 ~~use of Florida digital classrooms allocation funds in accordance~~  
 428 ~~with the district's digital classrooms plan. In the event an~~  
 429 ~~independent third party verification is not conducted, the~~  
 430 ~~Auditor General shall, during scheduled operational audits of~~  
 431 ~~the school districts, verify compliance of the use of Florida~~  
 432 ~~digital classrooms allocation funds in accordance with the~~  
 433 ~~district's digital classrooms plan. No later than October 1 of~~  
 434 ~~each year, beginning in the 2015-2016 fiscal year, the~~  
 435 ~~commissioner shall provide to the Governor, the President of the~~  
 436 ~~Senate, and the Speaker of the House of Representatives a~~  
 437 ~~summary of each district's use of funds, student performance~~  
 438 ~~outcomes, and progress toward meeting statutory requirements and~~  
 439 ~~timelines.~~

440 ~~(f) Each school district shall provide teachers,~~  
 441 ~~administrators, students, and parents with access to:~~

442 ~~1. Instructional materials in digital or electronic~~  
 443 ~~format, as defined in s. 1006.29.~~

444 ~~2. Digital materials, including those digital materials~~  
 445 ~~that enable students to earn certificates and industry~~  
 446 ~~certifications pursuant to ss. 1003.4203 and 1008.44.~~

447 ~~3. Teaching and learning tools and resources, including~~  
 448 ~~the ability for teachers and administrators to manage, assess,~~  
 449 ~~and monitor student performance data.~~

450 ~~(g) For the 2016-2017 fiscal year, notwithstanding~~

451 ~~paragraph (c), each school district shall be provided a minimum~~  
 452 ~~of \$500,000, with the remaining balance of the allocation to be~~  
 453 ~~distributed based on each district's proportion of the total K-~~  
 454 ~~12 full-time equivalent enrollment. Each district's digital~~  
 455 ~~classrooms allocation plan must give preference to funding the~~  
 456 ~~number of devices that comply with the requirements of s.~~  
 457 ~~1001.20(4)(a)1.b. and that are needed to allow each school to~~  
 458 ~~administer the Florida Standards Assessments to an entire grade~~  
 459 ~~at the same time. If the district's digital classrooms~~  
 460 ~~allocation plan does not include the purchase of devices, the~~  
 461 ~~district must certify in the plan that the district currently~~  
 462 ~~has sufficient devices to allow each school to administer the~~  
 463 ~~Florida Standards Assessments in the manner described in this~~  
 464 ~~paragraph. This paragraph expires July 1, 2017.~~

465 (15) SAFE SCHOOLS ALLOCATION.—A safe schools allocation is  
 466 created to provide funding to assist school districts in their  
 467 compliance with ss. 1006.07-1006.148, with priority given to  
 468 establishing a school resource officer program pursuant to s.  
 469 1006.12. Each school district shall receive a minimum safe  
 470 schools allocation in an amount provided in the General  
 471 Appropriations Act. Of the remaining balance of the safe schools  
 472 allocation, two-thirds shall be allocated to school districts  
 473 based on the most recent official Florida Crime Index provided  
 474 by the Department of Law Enforcement and one-third shall be  
 475 allocated based on each school district's proportionate share of

476 | the state's total unweighted full-time equivalent student  
 477 | enrollment.

478 | ~~(16)~~~~(15)~~ TOTAL ALLOCATION OF STATE FUNDS TO EACH DISTRICT  
 479 | FOR CURRENT OPERATION.—The total annual state allocation to each  
 480 | district for current operation for the FEFP shall be distributed  
 481 | periodically in the manner prescribed in the General  
 482 | Appropriations Act.

483 | (b) The amount thus obtained shall be the net annual  
 484 | allocation to each school district. However, if it is determined  
 485 | that any school district received an underallocation or  
 486 | overallocation for any prior year because of an arithmetical  
 487 | error, assessment roll change required by final judicial  
 488 | decision, full-time equivalent student membership error, or any  
 489 | allocation error revealed in an audit report, the allocation to  
 490 | that district shall be appropriately adjusted. An  
 491 | underallocation in a prior year caused by a school district's  
 492 | error may not be the basis for a positive allocation adjustment  
 493 | for the current year. ~~Beginning with the 2011-2012 fiscal year,~~  
 494 | If a special program cost factor is less than the basic program  
 495 | cost factor, an audit adjustment may not result in the  
 496 | reclassification of the special program FTE to the basic program  
 497 | FTE. If the Department of Education audit adjustment  
 498 | recommendation is based upon controverted findings of fact, the  
 499 | Commissioner of Education is authorized to establish the amount  
 500 | of the adjustment based on the best interests of the state.

501 Section 5. Paragraph (b) of subsection (3) of section  
 502 1011.78, Florida Statutes, is amended to read:

503 1011.78 Standard student attire incentive payments.—There  
 504 is created an incentive payment for school districts and charter  
 505 schools that implement a standard student attire policy for all  
 506 students in kindergarten through grade 8 in accordance with this  
 507 section.

508 (3) QUALIFICATIONS.—To qualify for the incentive payment,  
 509 a school district or charter school must, at a minimum,  
 510 implement a standard attire policy that:

511 (b) Prohibits certain types or styles of clothing ~~and~~  
 512 ~~requires solid-colored clothing and fabrics for pants, skirts,~~  
 513 ~~shorts, or similar clothing and short- or long-sleeved shirts~~  
 514 ~~with collars.~~


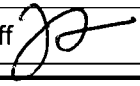
515 Section 6. This act shall take effect July 1, 2017.





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 5103      PCB PKA 17-01      Capital Outlay Funding  
**SPONSOR(S):** PreK-12 Appropriations Subcommittee, Diaz, M.  
**TIED BILLS:**                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: PreK-12 Appropriations Subcommittee	8 Y, 5 N	Seifert	Potvin
1) Appropriations Committee		Seifert 	Leznoff 

**SUMMARY ANALYSIS**

The bill specifies that both district schools and charter schools are eligible to receive the revenue generated from the discretionary 1.5 millage authorized in s. 1011.71(2), Florida Statutes and clarifies the authorized uses of such revenue. The bill amends the eligibility criteria for charter schools to receive capital outlay funds to require the school to:

- Uses facilities that are:
  - Owned by a school district, political subdivision of the state, municipality, Florida College System institution, or state university;
  - Owned by an organization qualified as an exempt organization under s. 501(c)(3) of the Internal Revenue Code; or
  - Owned by and leased from a person or entity that is not an affiliated party of the charter school.
- Be in operation for 2 or more years;
- Not have more than two consecutive school grades lower than "B" unless the school serves a student population at least 50 percent of which is eligible for the National School Lunch Program;
- Have an annual audit with no financial emergency conditions.
- Have received final approval from its sponsor for operation during that fiscal year; and
- Serve students in facilities that are not provided by the charter school sponsor.

The bill clarifies the calculation methodology for the Department of Education (DOE) to allocate state funds appropriated to eligible charter schools for capital outlay purposes. The bill also establishes the calculation methodology for DOE to determine the amount of the discretionary 1.5 millage revenue a school district must distribute to each eligible charter school.

The bill adjusts the capital outlay full-time equivalent (COFTE) calculations to be consistent with Florida Education Finance Program (FEFP) full-time equivalent (FTE) membership calculations for facility space needs and COFTE determination procedures.

Except for the section pertaining to capital outlay FTE calculation which takes effect upon becoming law, this bill takes effect July 1, 2017.

This bill conforms to the proposed House General Appropriations Act

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Charter School Capital Outlay

###### Present Situation

Funding for charter school capital outlay is primarily provided by state funds when such funds are appropriated in the General Appropriations Act. Section 1013.62, Florida Statutes, describes charter school eligibility for capital outlay funding, how such funds must be allocated, and allowable capital outlay funding uses.

To be eligible for charter school capital outlay funding, a charter school must:

- Have been in operation for at least three years and:
  - Be governed by a governing board established in Florida for three or more years which operates both charter schools and conversion charter schools within the state
  - Be part of an expanded feeder chain<sup>1</sup> with an existing charter school in the district that is currently receiving charter school capital outlay funds,
  - Be accredited by the Commission on Schools of the Southern Association of Colleges and Schools, or
  - Serve students in facilities that are provided by a business partner for a charter school-in-the-workplace;
- Have an annual audit that does not reveal any of the financial emergency conditions provided in s. 218.503(1), Florida Statutes, for the most recent fiscal year for which such audit results are available.
- Have satisfactory student achievement based upon the state accountability standards applicable to charter schools.
- Have received final approval from its sponsor pursuant to s. 1002.33, Florida Statutes, for operation during that fiscal year.
- Serve students in facilities that are not provided by the charter school sponsor.<sup>2</sup>

Capital outlay funds may be used by a charter school's governing board for the:

- Purchase of real property.
- Construction of school facilities.
- Purchase, lease-purchase, or lease of permanent or relocatable school facilities.
- Purchase of vehicles to transport students to and from the charter school.
- Renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of five years or longer.
- Purchase, lease-purchase, or lease of new and replacement equipment, and enterprise resource software applications.<sup>3</sup>

---

<sup>1</sup> A charter school may be considered a part of an expanded feeder chain under s. 1013.62, F.S., if it either sends or receives a majority of its students directly to or from a charter school that is currently receiving capital outlay funding pursuant to Section 1013.62, F.S. Rule 6A-2.0020 (1), F.A.C.

<sup>2</sup> Section 1013.62(1)(a), F.S. A conversion charter school, i.e., a charter school created by the conversion of an existing public school to charter status, is not eligible for capital outlay funding if it operates in facilities provided by its sponsor at no charge or for a nominal fee or if it is directly or indirectly operated by the school district. Section 1013.62(1)(d), F.S.

<sup>3</sup> Enterprise resource software applications must be "classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, have a useful life of at least 5 years, and are used to support schoolwide administration or state-mandated reporting requirements." Section 1013.62(2)(f), F.S.

- Payment of the cost of premiums for property and casualty insurance necessary to insure the school facilities.
- Purchase, lease-purchase, or lease of driver's education vehicles, motor vehicles used for the maintenance or operation of plants and equipment, security vehicles, or vehicles used in storing or distributing materials and equipment.<sup>4</sup>

Beginning in Fiscal Year 2016-2017, charter schools receive a weight of 1.0 per full-time equivalent (FTE) student, with an additional weight for schools that meet one or both of the following criteria:

- 75 percent or more of the school's students are eligible for free or reduced-price lunch.
- 25 percent or more of the school's students are students with disabilities.

Schools that meet only one of the above criteria receive capital outlay funding weighted at 1.25. Schools that meet both criteria receive capital outlay funding weighted at 1.5. Eligible schools that do not meet either of the criteria receive capital outlay funding weighted at 1.0.

In the most recent five fiscal years, the Legislature appropriated the following charter school capital outlay funds:

Fiscal Year	Appropriation	Total Charter Schools Funded
2012-13	\$55.2 million <sup>5</sup>	432
2013-14	\$90.6 million <sup>6</sup>	473
2014-15	\$75.0 million <sup>7</sup>	487
2015-16	\$50.0 million <sup>8</sup>	535
2016-17	\$75.0 million <sup>9</sup>	556

In addition to the appropriated state funds for charter school capital outlay, the law authorizes, but does not require, school districts to share the discretionary 1.5 mills revenue with charter schools.<sup>10</sup> At least three school districts, Franklin, Sarasota, and Sumter, have shared revenue generated from the discretionary 1.5 millage with charter schools within their districts<sup>11</sup>; however, it is unknown the extent school districts currently share such revenue as the Department of Education does not collect this data.

### Effect of Proposed Changes

The bill specifies that both district schools and charter schools are eligible for the revenue generated from the discretionary 1.5 millage authorized in s. 1011.71(2), Florida Statutes.

The bill clarifies that charter school capital outlay funding shall consist of revenue resulting from the discretionary millage authorized in s. 1011.71(2), Florida Statutes, and state funds when such funds are appropriated in the General Appropriations Act. To be eligible to receive both types of capital outlay funds, a charter school must:

- Use facilities that are:

<sup>4</sup> Section 1013.62(3)(a)-(h), F.S.

<sup>5</sup> Specific Appropriation 16, s. 2, ch. 2012-118, L.O.F.

<sup>6</sup> Specific Appropriation 18, s. 2, ch. 2013-40, L.O.F.

<sup>7</sup> Specific Appropriation 25, s. 2, ch. 2014-51, L.O.F.

<sup>8</sup> Specific Appropriation 18, s. 2, ch. 2015-232, L.O.F.

<sup>9</sup> Specific Appropriation 19, s. 2, ch. 2016-66, L.O.F.

<sup>10</sup> Section 1011.71(2), F.S.

<sup>11</sup> Florida Department of Education Office of Funding and Financial Reporting, Source: Survey of Florida District School Boards, December 2011; Report Prepared May 17, 2012.

- Owned by a school district, political subdivision of the state, municipality, Florida College System institution, or state university;
- Owned by an organization qualified as an exempt organization under s. 501(c)(3) of the Internal Revenue Code; or
- Owned by and leased from a person or entity that is not an affiliated party of the charter school. The bill defines “affiliated party of the charter school” to mean:
  - The applicant for the charter school pursuant to s. 1002.33, Florida Statutes;
  - The governing board of the charter school or a member of the governing board;
  - The charter school owner;
  - The charter school principal;
  - An employee of the charter school;
  - An independent contractor of the charter school or charter school governing board;
  - A relative as defined in s. 1002.33(24)(a)2., Florida Statutes, of a charter school governing board member, a charter school owner, a charter school principal, a charter school employee, or an independent contractor of a charter school or charter school governing board;
  - A subsidiary corporation, a service corporation, an affiliated corporation, a parent corporation, a limited liability company, a limited partnership, a trust, a partnership, or a related party that, individually or through one or more entities:
    - Shares common ownership or control; and
    - Directly or indirectly manages, administers, controls, or oversees the operation of the charter school; or
  - Any person or entity, individually or through one or more entities that share common ownership, which directly or indirectly manages, administers, controls, or oversees the operation of any of the foregoing.
- Be in operation for 2 or more years.
- Not have more than two consecutive school grades lower than "B" unless the school serves a student population at least 50 percent of which is eligible for free or reduced-price meals.
- Have an annual audit with no financial emergency conditions.
- Have received final approval from its sponsor for operation during that fiscal year.
- Serve students in facilities that are not provided by the charter school’s sponsor.

The bill clarifies the calculation methodology for the Department of Education (DOE) to use to allocate state capital outlay funds to eligible charter schools. The bill also establishes a calculation methodology for the DOE to use to determine the amount of the discretionary 1.5 millage revenue a school district must distribute to each eligible charter school.

The bill adds as allowable uses of capital outlay funds the purchase or lease of computer hardware necessary for gaining access to electronic content or to serve purposes specified in the charter schools and non-charter public schools digital classrooms plan. Charter schools are also aligned with non-charter public schools to allow payment of the cost of the opening day collection for the library media center of a new school.

### **Capital Outlay Full-Time Equivalent Membership**

#### **Present Situation**

Public school capital outlay full-time equivalent (COFTE) is comprised of kindergarten through grade 12 students for which the school districts provide the educational facility. The COFTE membership is determined by averaging the unweighted full-time equivalent student membership for the second and third FTE surveys and comparing the results on a school-by-school basis with the Florida Inventory for School Houses.<sup>12</sup>

<sup>12</sup> s.1013.64(3), F.S.

## Effect of Proposed Changes

The bill aligns s.1013.64(3), Florida Statutes, with the actual COFTE membership calculation by:

- Changing kindergarten to pre-kindergarten for students funded for the Florida Education Finance Program.
- Limiting the second and third surveys to 0.5 FTE membership per student.

### B. SECTION DIRECTORY:

Section 1. Amends s. 1002.33, F.S.; conforming provisions to changes made by the act.

Section 2. Amends s. 1011.71, F.S.; providing charter schools are eligible for school districts discretionary millage for specified purposes; revising the approved uses of the discretionary millage; and authorizing the acquisition of enterprise resource software through specified means.

Section 3. Amends s. 1013.62, F.S.; providing that charter school capital outlay funds shall consist of specified funds; revising charter school eligibility criteria for capital outlay funds; revising the calculation methodology for state funds appropriated for charter school capital outlay; providing the calculation methodology for the distribution of specified revenue to eligible charter schools; and revising the authorized uses of charter school capital outlay funds.

Section 4. Amends s. 1013.64, F.S.; revising the calculation of capital outlay membership for school districts for the Public Education Capital Outlay and Debt Service Trust Fund.

Section 5. Except as otherwise provided, provides an effective date of July 1, 2017.

## 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:

See Fiscal Comments.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The bill establishes the calculation methodology for the Department of Education to determine the amount of the discretionary 1.5 millage revenue a school district would be required to distribute to each eligible charter school. This methodology includes reducing from the calculated 1.5 mills capital outlay

amount the total amount of state funds allocated to the eligible charter school. The following chart shows the estimated required payment of the 1.5 millage revenue under different scenarios of appropriated state funds:

<b>Estimated Share of 1.5 Mills</b>	
<b>State Funds</b>	<b>District Funds</b>
\$0	\$147.9 million
\$50 million	\$96.4 million
\$75 million	\$71.4 million
\$100 million	\$50.4 million

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 28, 2017, the PreK-12 Appropriations Subcommittee adopted one amendment and reported the bill favorably. The amendment removed duplicative language already contained in the bill.

1                                    A bill to be entitled  
 2                    An act relating to capital outlay funding; amending s.  
 3                    1002.33, F.S.; conforming provisions to changes made  
 4                    by the act; amending s. 1011.71, F.S.; providing that  
 5                    charter schools are eligible for school districts  
 6                    discretionary millage for specified purposes; revising  
 7                    the approved uses of the discretionary millage;  
 8                    authorizing the acquisition of enterprise resource  
 9                    software through specified means; amending s. 1013.62,  
 10                    F.S.; providing that charter school capital outlay  
 11                    funds shall consist of specified funds; revising  
 12                    charter school eligibility criteria for capital outlay  
 13                    funds; providing a definition; revising the  
 14                    calculation methodology for state funds appropriated  
 15                    for charter school capital outlay; providing the  
 16                    calculation methodology for the distribution of  
 17                    specified revenue to eligible charter schools;  
 18                    revising the authorized uses of charter school capital  
 19                    outlay funds; amending s. 1013.64, F.S.; revising the  
 20                    calculation of capital outlay membership for  
 21                    allocations to school districts from the Public  
 22                    Education Capital Outlay and Debt Service Trust Fund;  
 23                    providing for the expenditure of funds; providing  
 24                    effective dates.  
 25

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

27

28 Section 1. Subsection (19) and paragraph (a) of subsection  
29 (20) of section 1002.33, Florida Statutes, are amended to read:

30 1002.33 Charter schools.—

31 (19) CAPITAL OUTLAY FUNDING.—Charter schools are eligible  
32 for capital outlay funds pursuant to ss. 1011.71(2) and s-  
33 1013.62. Capital outlay funds authorized in ss. 1011.71(2) and  
34 1013.62 which have been shared with a charter school-in-the-  
35 workplace prior to July 1, 2010, are deemed to have met the  
36 authorized expenditure requirements for such funds.

37 (20) SERVICES.—

38 (a)1. A sponsor shall provide certain administrative and  
39 educational services to charter schools. These services shall  
40 include contract management services; full-time equivalent and  
41 data reporting services; exceptional student education  
42 administration services; services related to eligibility and  
43 reporting duties required to ensure that school lunch services  
44 under the National School ~~federal~~ Lunch Program, consistent with  
45 the needs of the charter school, are provided by the school  
46 district at the request of the charter school, that any funds  
47 due to the charter school under the National School ~~federal~~  
48 Lunch Program be paid to the charter school as soon as the  
49 charter school begins serving food under the National School  
50 ~~federal~~ Lunch Program, and that the charter school is paid at



51 | the same time and in the same manner under the National School  
 52 | ~~federal~~ Lunch Program as other public schools serviced by the  
 53 | sponsor or the school district; test administration services,  
 54 | including payment of the costs of state-required or district-  
 55 | required student assessments; processing of teacher certificate  
 56 | data services; and information services, including equal access  
 57 | to student information systems that are used by public schools  
 58 | in the district in which the charter school is located. Student  
 59 | performance data for each student in a charter school,  
 60 | including, but not limited to, FCAT scores, standardized test  
 61 | scores, previous public school student report cards, and student  
 62 | performance measures, shall be provided by the sponsor to a  
 63 | charter school in the same manner provided to other public  
 64 | schools in the district.

65 |         2. A total administrative fee for the provision of such  
 66 | services shall be calculated based upon up to 5 percent of the  
 67 | available funds defined in paragraph (17)(b) for all students,  
 68 | except that when 75 percent or more of the students enrolled in  
 69 | the charter school are exceptional students as defined in s.  
 70 | 1003.01(3), the 5 percent of those available funds shall be  
 71 | calculated based on unweighted full-time equivalent students.  
 72 | However, a sponsor may only withhold up to a 5-percent  
 73 | administrative fee for enrollment for up to and including 250  
 74 | students. For charter schools with a population of 251 or more  
 75 | students, the difference between the total administrative fee

76 calculation and the amount of the administrative fee withheld  
77 may only be used for capital outlay purposes specified in s.  
78 1013.62(4) ~~1013.62(3)~~.

79 3. For high-performing charter schools, as defined in s.  
80 1002.331, a sponsor may withhold a total administrative fee of  
81 up to 2 percent for enrollment up to and including 250 students  
82 per school.

83 4. In addition, a sponsor may withhold only up to a 5-  
84 percent administrative fee for enrollment for up to and  
85 including 500 students within a system of charter schools which  
86 meets all of the following:

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

89 b. Has all schools located in the same county;

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

92 d. Has the same governing board; and

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

95 5. The difference between the total administrative fee  
96 calculation and the amount of the administrative fee withheld  
97 pursuant to subparagraph 4. may be used for instructional and  
98 administrative purposes as well as for capital outlay purposes  
99 specified in s. 1013.62(4) ~~1013.62(3)~~.

100 6. For a high-performing charter school system that also

101 meets the requirements in subparagraph 4., a sponsor may  
 102 withhold a 2-percent administrative fee for enrollments up to  
 103 and including 500 students per system.

104 7. Sponsors shall not charge charter schools any  
 105 additional fees or surcharges for administrative and educational  
 106 services in addition to the maximum 5-percent administrative fee  
 107 withheld pursuant to this paragraph.

108 8. The sponsor of a virtual charter school may withhold a  
 109 fee of up to 5 percent. The funds shall be used to cover the  
 110 cost of services provided under subparagraph 1. and  
 111 implementation of the school district's digital classrooms plan  
 112 pursuant to s. 1011.62.

113 Section 2. Subsection (2) of section 1011.71, Florida  
 114 Statutes, is amended to read:

115 1011.71 District school tax.—

116 (2) In addition to the maximum millage levy as provided in  
 117 subsection (1), each school board may levy not more than 1.5  
 118 mills against the taxable value for school purposes for ~~district~~  
 119 ~~schools, including~~ charter schools pursuant to s. 1013.62(3) and  
 120 for district schools ~~at the discretion of the school board,~~ to  
 121 fund:

122 (a) New construction and remodeling projects, as set forth  
 123 in s. 1013.64(3)(b) and (6)(b) and included in the district's  
 124 educational plant survey pursuant to s. 1013.31, without regard  
 125 to prioritization, sites and site improvement or expansion to

126 new sites, existing sites, auxiliary facilities, athletic  
 127 facilities, or ancillary facilities.

128 (b) Maintenance, renovation, and repair of existing school  
 129 plants or of leased facilities to correct deficiencies pursuant  
 130 to s. 1013.15(2).

131 (c) The purchase, lease-purchase, or lease of school  
 132 buses.

133 (d) The purchase, lease-purchase, or lease of computer and  
 134 device ~~new and replacement equipment, computer hardware and~~  
 135 ~~operating system software, including electronic hardware and~~  
 136 ~~other hardware devices~~ necessary for gaining access to or  
 137 enhancing the use of electronic and digital instructional  
 138 content and resources ~~or to facilitate the access to and the use~~  
 139 ~~of a school district's digital classrooms plan pursuant to s.~~  
 140 ~~1011.62, excluding software other than the operating system~~  
 141 ~~necessary to operate the hardware or device;~~ and enterprise  
 142 resource software applications that are classified as capital  
 143 assets in accordance with definitions of the Governmental  
 144 Accounting Standards Board, have a useful life of at least 5  
 145 years, and are used to support districtwide administration or  
 146 state-mandated reporting requirements. Enterprise resource  
 147 software may be acquired by annual license fees, maintenance  
 148 fees, or lease agreements.

149 (e) Payments for educational facilities and sites due  
 150 under a lease-purchase agreement entered into by a district

151 school board pursuant to s. 1003.02(1)(f) or s. 1013.15(2), not  
 152 exceeding, in the aggregate, an amount equal to three-fourths of  
 153 the proceeds from the millage levied by a district school board  
 154 pursuant to this subsection. The three-fourths limit is waived  
 155 for lease-purchase agreements entered into before June 30, 2009,  
 156 by a district school board pursuant to this paragraph.

157 (f) Payment of loans approved pursuant to ss. 1011.14 and  
 158 1011.15.

159 (g) Payment of costs directly related to complying with  
 160 state and federal environmental statutes, rules, and regulations  
 161 governing school facilities.

162 (h) Payment of costs of leasing relocatable educational  
 163 facilities, of renting or leasing educational facilities and  
 164 sites pursuant to s. 1013.15(2), or of renting or leasing  
 165 buildings or space within existing buildings pursuant to s.  
 166 1013.15(4).

167 (i) Payment of the cost of school buses when a school  
 168 district contracts with a private entity to provide student  
 169 transportation services if the district meets the requirements  
 170 of this paragraph.

171 1. The district's contract must require that the private  
 172 entity purchase, lease-purchase, or lease, and operate and  
 173 maintain, one or more school buses of a specific type and size  
 174 that meet the requirements of s. 1006.25.

175 2. Each such school bus must be used for the daily

176 transportation of public school students in the manner required  
 177 by the school district.

178 3. Annual payment for each such school bus may not exceed  
 179 10 percent of the purchase price of the state pool bid.

180 4. The proposed expenditure of the funds for this purpose  
 181 must have been included in the district school board's notice of  
 182 proposed tax for school capital outlay as provided in s.  
 183 200.065(10).

184 (j) Payment of the cost of the opening day collection for  
 185 the library media center of a new school.

186 Section 3. Section 1013.62, Florida Statutes, is amended  
 187 to read:

188 1013.62 Charter schools capital outlay funding.—

189 (1) Charter school capital outlay funding shall consist of  
 190 revenue resulting from the discretionary millage authorized in  
 191 s. 1011.71(2) and state funds when such funds are appropriated  
 192 in the General Appropriations Act ~~In each year in which funds~~  
 193 ~~are appropriated for charter school capital outlay purposes, the~~  
 194 ~~Commissioner of Education shall allocate the funds among~~  
 195 ~~eligible charter schools as specified in this section.~~

196 (a) To be eligible to receive capital outlay funds ~~for a~~  
 197 ~~funding allocation~~, a charter school must:

198 1. Use facilities that are:

199 a. Owned by a school district, political subdivision of  
 200 the state, municipality, Florida College System institution, or

201 state university;  
 202 b. Owned by an organization, qualified as an exempt  
 203 organization under s. 501(c)(3) of the Internal Revenue Code; or  
 204 c. Owned by and leased, at a fair market value in the  
 205 school district in which the charter school is located, from a  
 206 person or entity that is not an affiliated party of the charter  
 207 school. For purposes of this sub-subparagraph, the term  
 208 "affiliated party of the charter school" means the applicant for  
 209 the charter school pursuant to s. 1002.33; the governing board  
 210 of the charter school or a member of the governing board; the  
 211 charter school owner; the charter school principal; an employee  
 212 of the charter school; an independent contractor of the charter  
 213 school or the governing board of the charter school; a relative,  
 214 as defined in s. 1002.33(24)(a)2., of a charter school governing  
 215 board member, a charter school owner, a charter school  
 216 principal, a charter school employee, or an independent  
 217 contractor of a charter school or charter school governing  
 218 board; a subsidiary corporation, a service corporation, an  
 219 affiliated corporation, a parent corporation, a limited  
 220 liability company, a limited partnership, a trust, a  
 221 partnership, or a related party, individually or through one or  
 222 more entities that share common ownership or control, that  
 223 directly or indirectly manages, administers, controls, or  
 224 oversees the operation of the charter school; or any person or  
 225 entity, individually or through one or more entities that share

226 common ownership, that directly or indirectly manages,  
 227 administers, controls, or oversees the operation of any of the  
 228 foregoing.

229 2. Have been in operation for 2 or more years.

230 3. Have earned no more than two consecutive school grades  
 231 lower than "B" unless the school serves a student population at  
 232 least 50 percent of which is eligible for free or reduced-price  
 233 school lunch under the National School Lunch Program or, for  
 234 schools operating programs under the Community Eligibility  
 235 Provision of the Health, Hunger-Free Kids Act of 2010, an  
 236 equivalent percentage of the student population eligible for  
 237 free and reduced-price meals as determined by applying the  
 238 multiplier authorized under the National School Lunch Act, 42  
 239 U.S.C. s. 1759a(a)(1)(F)(vii), to the number of students  
 240 reported for direct certification.

241 ~~1.a. Have been in operation for 2 or more years;~~

242 ~~b. Be governed by a governing board established in the~~  
 243 ~~state for 3 or more years which operates both charter schools~~  
 244 ~~and conversion charter schools within the state;~~

245 ~~c. Be an expanded feeder chain of a charter school within~~  
 246 ~~the same school district that is currently receiving charter~~  
 247 ~~school capital outlay funds;~~

248 ~~d. Have been accredited by the Commission on Schools of~~  
 249 ~~the Southern Association of Colleges and Schools; or~~

250 ~~e. Serve students in facilities that are provided by a~~



251 ~~business partner for a charter school in the workplace pursuant~~  
 252 ~~to s. 1002.33(15)(b).~~

253 4.2. Have an annual audit that does not reveal any of the  
 254 financial emergency conditions provided in s. 218.503(1) for the  
 255 most recent fiscal year for which such audit results are  
 256 available.

257 ~~3. Have satisfactory student achievement based on state~~  
 258 ~~accountability standards applicable to the charter school.~~

259 5.4. Have received final approval from its sponsor  
 260 pursuant to s. 1002.33 for operation during that fiscal year.

261 6.5. Serve students in facilities that are not provided by  
 262 the charter school's sponsor.

263 (b) A charter school is not eligible to receive capital  
 264 outlay funds ~~for a funding allocation~~ if it was created by the  
 265 conversion of a public school and operates in facilities  
 266 provided by the charter school's sponsor for a nominal fee, or  
 267 at no charge, or if it is directly or indirectly operated by the  
 268 school district.

269 ~~(2)(c)~~ The department shall use the following calculation  
 270 methodology to allocate state funds appropriated in the General  
 271 Appropriations Act to eligible charter schools ~~The funding~~  
 272 ~~allocation for eligible charter schools shall be calculated as~~  
 273 ~~follows:~~

274 ~~(a)1.~~ Eligible charter schools shall be grouped into  
 275 categories based on their student populations according to the

276 following criteria:

277 1.a. Seventy-five percent or greater who are eligible for  
 278 free or reduced-price school meals under the National School  
 279 Lunch Program or, for schools operating programs under the  
 280 Community Eligibility Provision of the Healthy, Hunger-Free Kids  
 281 Act of 2010, an equivalent percentage of the student population  
 282 eligible for free and reduced-price meals as determined by  
 283 applying the multiplier authorized under the National School  
 284 Lunch Act, 42 U.S.C. s. 1759a(a)(1)(F)(vii), to the number of  
 285 students reported for direct certification ~~lunch.~~

286 2.b. Twenty-five percent or greater with disabilities as  
 287 defined in state board rule and consistent with the requirements  
 288 of the Individuals with Disabilities Education Act.

289 (b)2. If an eligible charter school does not meet the  
 290 criteria for either category under paragraph (a) ~~subparagraph~~  
 291 1., its FTE shall be provided as the base amount of funding and  
 292 shall be assigned a weight of 1.0. An eligible charter school  
 293 that meets the criteria under subparagraph (a)1. or subparagraph  
 294 (a)2. ~~sub-subparagraph 1.a. or sub-subparagraph 1.b.~~ shall be  
 295 provided an additional 25 percent above the base funding amount,  
 296 and the total FTE shall be multiplied by a weight of 1.25. An  
 297 eligible charter school that meets the criteria under both  
 298 subparagraphs (a)1. and (a)2. ~~sub-subparagraphs 1.a. and b.~~  
 299 shall be provided an additional 50 percent above the base  
 300 funding amount, and the FTE for that school shall be multiplied

301 by a weight of 1.5.

302 (c)~~3.~~ The state appropriation for charter school capital  
 303 outlay shall be divided by the total weighted FTE for all  
 304 eligible charter schools to determine the base charter school  
 305 per weighted FTE allocation amount. The per weighted FTE  
 306 allocation amount shall be multiplied by the weighted FTE to  
 307 determine each charter school's capital outlay allocation.

308 (d)~~(2)(a)~~ The department shall calculate the eligible  
 309 charter school funding allocations. Funds shall be allocated  
 310 using full-time equivalent membership from the second and third  
 311 enrollment surveys and free and reduced-price school meals under  
 312 the National School Lunch Program data. The department shall  
 313 recalculate the allocations periodically based on the receipt of  
 314 revised information, on a schedule established by the  
 315 Commissioner of Education.

316 (e)~~(b)~~ The department shall distribute capital outlay  
 317 funds monthly, beginning in the first quarter of the fiscal  
 318 year, based on one-twelfth of the amount the department  
 319 reasonably expects the charter school to receive during that  
 320 fiscal year. The commissioner shall adjust subsequent  
 321 distributions as necessary to reflect each charter school's  
 322 recalculated allocation.

323 (3) If the school board levies the discretionary millage  
 324 authorized in s. 1011.71(2), the department shall use the  
 325 following calculation methodology to determine the amount of

326 revenue that a school district must distribute to each eligible  
 327 charter school:

328 (a) Reduce the total discretionary millage revenue by the  
 329 school district's annual debt service obligation incurred as of  
 330 March 1, 2017.

331 (b) Divide the school district's adjusted discretionary  
 332 millage revenue by the district's total capital outlay full-time  
 333 equivalent membership and the total number of unweighted full-  
 334 time equivalent students of each eligible charter school to  
 335 determine a capital outlay allocation per full-time equivalent  
 336 student.

337 (c) Multiply the capital outlay allocation per full-time  
 338 equivalent student by the total number of full-time equivalent  
 339 students of each eligible charter school to determine the  
 340 capital outlay allocation for each charter school.

341 (d) If applicable, reduce the capital outlay allocation  
 342 identified in paragraph (c) by the total amount of state funds  
 343 allocated to each eligible charter school in subsection (2) to  
 344 determine the maximum calculated capital outlay allocation.

345 (e) School districts shall distribute capital outlay funds  
 346 to charter schools no later than February 1 of each year,  
 347 beginning on February 1, 2018, for the 2017-2018 fiscal year.

348 (4) ~~(3)~~ A charter school's governing body may use charter  
 349 school capital outlay funds for the following purposes:

350 (a) Purchase of real property.

351 (b) Construction of school facilities.

352 (c) Purchase, lease-purchase, or lease of permanent or  
353 relocatable school facilities.

354 (d) Purchase of vehicles to transport students to and from  
355 the charter school.

356 (e) Renovation, repair, and maintenance of school  
357 facilities that the charter school owns or is purchasing through  
358 a lease-purchase or long-term lease of 5 years or longer.

359 ~~(f) Effective July 1, 2008, purchase, lease-purchase, or~~  
360 ~~lease of new and replacement equipment, and enterprise resource~~  
361 ~~software applications that are classified as capital assets in~~  
362 ~~accordance with definitions of the Governmental Accounting~~  
363 ~~Standards Board, have a useful life of at least 5 years, and are~~  
364 ~~used to support schoolwide administration or state-mandated~~  
365 ~~reporting requirements.~~

366 (f) ~~(g)~~ Payment of the cost of premiums for property and  
367 casualty insurance necessary to insure the school facilities.

368 (g) ~~(h)~~ Purchase, lease-purchase, or lease of driver's  
369 education vehicles; motor vehicles used for the maintenance or  
370 operation of plants and equipment; security vehicles; or  
371 vehicles used in storing or distributing materials and  
372 equipment.

373 (h) Purchase, lease-purchase, or lease of computer and  
374 device hardware and operating system software necessary for  
375 gaining access to or enhancing the use of electronic and digital

376 instructional content and resources; and enterprise resource  
 377 software applications that are classified as capital assets in  
 378 accordance with definitions of the Governmental Accounting  
 379 Standards Board, have a useful life of at least 5 years, and are  
 380 used to support schoolwide administration or state-mandated  
 381 reporting requirements. Enterprise resource software may be  
 382 acquired by annual license fees, maintenance fees, or lease  
 383 agreement.

384 (i) Payment of the cost of the opening day collection for  
 385 the library media center of a new school.

386  
 387 Conversion charter schools may use capital outlay funds received  
 388 through the reduction in the administrative fee provided in s.  
 389 1002.33(20) for renovation, repair, and maintenance of school  
 390 facilities that are owned by the sponsor.

391 (5)~~(4)~~ If a charter school is nonrenewed or terminated,  
 392 any unencumbered funds and all equipment and property purchased  
 393 with district public funds shall revert to the ownership of the  
 394 district school board, as provided for in s. 1002.33(8)(e) and  
 395 (f). In the case of a charter lab school, any unencumbered funds  
 396 and all equipment and property purchased with university public  
 397 funds shall revert to the ownership of the state university that  
 398 issued the charter. The reversion of such equipment, property,  
 399 and furnishings shall focus on recoverable assets, but not on  
 400 intangible or irrecoverable costs such as rental or leasing

401 fees, normal maintenance, and limited renovations. The reversion  
 402 of all property secured with public funds is subject to the  
 403 complete satisfaction of all lawful liens or encumbrances. If  
 404 there are additional local issues such as the shared use of  
 405 facilities or partial ownership of facilities or property, these  
 406 issues shall be agreed to in the charter contract prior to the  
 407 expenditure of funds.

408 (6)~~(5)~~ The Commissioner of Education shall specify  
 409 procedures for submitting and approving requests for funding  
 410 under this section and procedures for documenting expenditures.

411 (7)~~(6)~~ The annual legislative budget request of the  
 412 Department of Education shall include a request for capital  
 413 outlay funding for charter schools. The request shall be based  
 414 on the projected number of students to be served in charter  
 415 schools who meet the eligibility requirements of this section.

416 Section 4. Effective upon this act becoming a law,  
 417 paragraphs (a), (b), and (c) of subsection (3) of section  
 418 1013.64, Florida Statutes, are amended to read:

419 1013.64 Funds for comprehensive educational plant needs;  
 420 construction cost maximums for school district capital  
 421 projects.—Allocations from the Public Education Capital Outlay  
 422 and Debt Service Trust Fund to the various boards for capital  
 423 outlay projects shall be determined as follows:

424 (3)(a) Each district school board shall receive an amount  
 425 from the Public Education Capital Outlay and Debt Service Trust

426 Fund to be calculated by computing the capital outlay membership  
 427 as determined by the department. Such membership must include,  
 428 but is not limited to, prekindergarten through grade 12+

429 ~~1. K-12~~ students whose instruction is funded by the  
 430 Florida Education Finance Program and prekindergarten  
 431 ~~exceptional students~~ for whom the school district provides the  
 432 educational facility, ~~except hospital- and homebound part-time~~  
 433 ~~students; and~~

434 ~~2. Students who are career education students, and adult~~  
 435 ~~disabled students and who are enrolled in school district career~~  
 436 ~~centers.~~

437 (b) The capital outlay full-time equivalent membership  
 438 shall be determined ~~for prekindergarten exceptional education~~  
 439 ~~students, kindergarten through the 12th grade, and for career~~  
 440 ~~centers~~ by counting the reported unweighted full-time equivalent  
 441 student membership for the second and third surveys with each  
 442 survey limited to 0.5 full-time equivalent student membership  
 443 per student and comparing the results on a school-by-school  
 444 basis with the Florida Inventory of School Houses. Funds  
 445 accruing to a district school board from the provisions of this  
 446 section shall be expended on needed projects as shown by survey  
 447 or surveys under the rules of the State Board of Education. ~~If~~  
 448 ~~the prior academic year's third survey count is higher than the~~  
 449 ~~current year's second survey count when comparing the results on~~  
 450 ~~a school-by-school basis with the Florida Inventory of School~~



451 ~~Houses, the prior year's third survey count shall be used on a~~  
 452 ~~school-by-school basis for determining the current capital~~  
 453 ~~outlay membership. The Florida Inventory of School Houses shall~~  
 454 ~~be updated with the current capital outlay membership count as~~  
 455 ~~soon as practicable after verification of the capital outlay~~  
 456 ~~membership.~~

457 (c) The capital outlay full-time equivalent membership by  
 458 grade level organization shall be used in making calculations.  
 459 The capital outlay full-time equivalent membership by grade  
 460 level organization for the 4th prior year must be used to  
 461 compute the base-year allocation. The capital outlay full-time  
 462 equivalent membership by grade-level organization for the prior  
 463 year must be used to compute the growth over the highest of the  
 464 3 years preceding the prior year. From the total amount  
 465 appropriated by the Legislature pursuant to this subsection, 40  
 466 percent shall be allocated among the base capital outlay full-  
 467 time equivalent membership and 60 percent among the growth  
 468 capital outlay full-time equivalent membership. The allocation  
 469 within each of these groups shall be prorated to the districts  
 470 based upon each district's percentage of base and growth capital  
 471 outlay full-time equivalent membership. The most recent 4-year  
 472 capital outlay full-time equivalent membership data shall be  
 473 used in each subsequent year's calculation for the allocation of  
 474 funds pursuant to this subsection. If a change, correction, or  
 475 recomputation of data during any year results in a reduction or

476 increase of the calculated amount previously allocated to a  
477 district, the allocation to that district shall be adjusted  
478 accordingly. If such recomputation results in an increase or  
479 decrease of the calculated amount, such additional or reduced  
480 amounts shall be added to or reduced from the district's future  
481 appropriations. However, no change, correction, or recomputation  
482 of data shall be made subsequent to 2 years following the  
483 initial annual allocation.

484 Section 5. Except as otherwise expressly provided in this  
485 act and except for this section, which shall take effect upon  
486 this act becoming a law, this act shall take effect July 1,  
487 2017.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Appropriations Committee  
2 Representative Nuñez offered the following:

3

4 **Amendment**


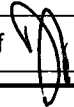
5 Remove lines 201-228 and insert:

6 state university; or7 b. Owned by an organization, qualified as an exempt8 organization under s. 501(c)(3) of the Internal Revenue Code.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 5105 PCB EDC 17-03 School Improvement  
**SPONSOR(S):** Education Committee, Latvala and others  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee	13 Y, 5 N	Fudge	Hassell
1) Appropriations Committee		Seifert 	Leznoff 

### SUMMARY ANALYSIS

The bill streamlines early warning system requirements and alleviates school improvement planning requirements by requiring a school improvement plan only for schools with a grade of "D" or "F." The bill also streamlines the school improvement process by:

- requiring the same level of intensive interventions and support strategies for "D" and "F" schools;
- requiring the school district to provide the SBE a district-managed turnaround plan by September 1 after a school earns a "D" or "F;"
- requiring the selection of another turnaround option after the school receives a third consecutive grade below a "C" unless the school is deemed likely to improve to a "C" and receives an additional year; and
- requiring another turnaround option be implemented after 2 years implementing the first plan unless the school is deemed likely to improve to a "C."

The bill provides that an educational emergency exists in a school district when a school earns a "D" or "F" and requires the district to execute a memorandum of understanding with the collective bargaining agent concerning the selection, placement, and expectations of instructional personnel and school administrators at the school. The memorandum must also be submitted to the SBE by September 1 after a school earns a "D" or "F."

The bill authorizes the establishment of "schools of hope" and designation of "hope operators" to provide students in areas of persistently low-performing schools with a high-quality education option designed to close the opportunity gap and increase student achievement. The bill:

- establishes criteria for schools of hope and hope operators;
- defines persistently low-performing schools as those subject to differentiated accountability for more than three years or closed as a result of school improvement requirements;
- authorizes the State Board of Education (SBE) to identify and designate hope operators who meet specified criteria;
- removes barriers to hope operators by creating a new notice and agreement process that is exempt from the current charter law and state procurement laws. The prss:
  - allows a hope operator to submit a notice of intent to establish a school of hope in a school district with one or more persistently low-performing schools;
  - requires the school district to enter into a performance based agreement with the hope operator which must include specified provisions;
- provides a school of hope with specific exemptions from current law;
- provides provisions for facilities and funding for schools of hope;
- establishes a grant program to cover specified operational expenses; and
- establishes the Schools of Hope Revolving Loan Program to help schools of hope cover school building construction and startup costs.

The bill takes effect July 1, 2017, except as otherwise provided.

The bill conforms to the proposed House General Appropriations Act.

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

STORAGE NAME: h5105.APC.DOCX

DATE: 4/2/2017



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

“Differentiated accountability” (DA) references the escalating interventions and supports that must be provided to schools receiving school grades of “D” or “F” under Florida’s statewide accountability system in order to help them improve student performance.<sup>1</sup> Of Florida’s approximately 3,500 public schools, 461 (13 percent) are currently subject to DA requirements.<sup>2</sup> As of the 2015-2016 school year, 115 schools have been in DA status, meaning they have earned a “D” or “F” for more than 3 consecutive years.<sup>3</sup>

<b>2015-2016 Schools in DA for More than 3 Years</b>			
# of Years in DA	# Schools	Avg % Scoring Lvl 3+ ELA assessment	Avg % Scoring Lvl 3+ Math assessment
4	54	33.9%	33.3%
5+	61	24.7%	28.6%
<b>Total</b>	<b>115</b>	<b>29.30%</b>	<b>30.95%</b>

Although progressively intensive interventions and supports are provided by school districts and the Florida Department of Education (DOE) under the law, many schools fail to make sufficient improvement to demonstrate that their students are being adequately served. This highlights lax provisions in the law which allow school districts to maintain operation of low-performing schools, even for up to 10 years.<sup>4</sup>

In *Citizens for Strong Schools v. Florida State Board of Education et al.*,<sup>5</sup> the trial court stated that “[t]here can be little doubt that allowing a school to remain in F status for an extended period of time raises serious issues regarding the constitutional acceptance of such an event. While the Department of Education’s hands may be tied by the legislation that it is required to follow, the Legislature is not similarly situated.” While “the State cannot be held liable for ineffective operational, control, and supervisory decisions at the local level, the court would be concerned about how long the Legislature would tolerate a local school board’s ineffectual operation that involves the presence of long term “F” schools.”<sup>6</sup> “This is especially true since the . . . evidence shows that an “F” school can be turned around without additional resources being provided.”<sup>7</sup>

<sup>1</sup> See s. 1008.33, F.S.; rule 6A-1.099811, F.A.C.

<sup>2</sup> Florida Department of Education, *Turning Around Low Performing Schools: hearing before the House PreK-12 Quality Subcommittee* (Jan. 25, 2017).

<sup>3</sup> Email, Florida Department of Education, Office of Government Relations (Mar. 22, 2017).

<sup>4</sup> Northwestern Middle School has received a “D” or “F” for the last 10 school years. *See id.*

<sup>5</sup> Case No. 16-2862, (Fla. 1st DCA 2016).

<sup>6</sup> *Citizens for Strong Schools v. Fla. St. Bd. of Ed. et al.*, Case No. 16-2862, (Fla. 1st DCA 2016).

<sup>7</sup> *Id.* “The Court also concludes that local school boards, pursuant to their constitutional responsibility to ‘operate, control and supervise’ schools and to ‘determine the rate of school district taxes’ in support of schools, are ‘part of the state system of public education’ and play a very important role in delivering education in Florida. To the extent that Plaintiffs complain about particular levels of student performance or the availability of resources in particular schools, those are matters within the authority of local school boards.” *Id.* at 14.

## **Differentiated Accountability**

### **Present Situation**

The SBE is responsible for holding all school districts and public schools accountable for student performance<sup>8</sup> through a state system of school improvement and education accountability that assesses student performance by school, identifies schools that are not meeting accountability standards, and institutes appropriate measures for enforcing improvement.<sup>9</sup>

The state system of school improvement and education accountability must:

- provide for uniform accountability standards;
- provide assistance of escalating intensity to schools not meeting accountability standards;
- direct support to schools in order to improve and sustain performance;
- focus on the performance of student subgroups; and
- enhance student performance<sup>10</sup>

School districts must be held accountable for improving the academic performance of all students and for identifying and improving schools that fail to meet accountability standards.<sup>11</sup>

The academic performance of all students has a significant effect on the state school system. The SBE must equitably enforce the accountability requirements of the state school system and may impose state requirements on school districts in order to improve the academic performance of all districts, schools, and students.<sup>12</sup>

The DOE must annually identify each public school in need of intervention and support to improve student academic performance. All schools earning a grade of “D” or “F” are schools in need of intervention and support.<sup>13</sup>

The SBE must adopt a differentiated matrix of intervention and support strategies for assisting public schools identified as in need of intervention. The intervention and support strategies must address student performance and may include improvement planning, leadership quality improvement, educator quality improvement, professional development, curriculum alignment and pacing, and the use of continuous improvement and monitoring plans and processes. In addition, the SBE may prescribe reporting requirements to review and monitor the progress of the schools. The rule must define the intervention and support strategies for school improvement for schools earning a grade of “D” or “F” and the roles for the district and department. The rule shall differentiate among schools earning consecutive grades of “D” or “F,” or a combination thereof, and provide for more intense monitoring, intervention, and support strategies for these schools.<sup>14</sup>

The SBE must apply the most intense intervention and support strategies to schools earning an “F.” Within a year after receiving the first “F,” the school district must implement a differentiated matrix of intervention and support strategies, select a turnaround option, and submit a plan for implementing the turnaround option to the DOE. The plan must be approved by the SBE. Upon approval, the turnaround option must be implemented in the following school year.<sup>15</sup> A school that earns a grade of “D” for 3 consecutive years must implement the district-managed turnaround option.<sup>16</sup>

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<sup>8</sup> Sections 1008.33(1) and (2)(a), 1008.34 and 1008.345, F.S.

<sup>9</sup> Section 1008.33(2)(a), F.S.

<sup>10</sup> Section 1008.33(2)(b), F.S.

<sup>11</sup> Section 1008.33(2)(c), F.S.

<sup>12</sup> Section 1008.33(3)(a), F.S., Art. IX, Fla. Const.

<sup>13</sup> Sections 1008.33(3)(b) and 1008.34, F.S.

<sup>14</sup> Sections 1008.33(3)(c) and 1002.33(9)(n), F.S.

<sup>15</sup> Section 1008.33(4)(a), F.S.

<sup>16</sup> Section 1008.33(5), F.S.



Turnaround options include:

- converting the school to a district-managed turnaround school;
- reassigning students to another school and monitor the progress of each reassigned student;
- closing the school and reopening the school as one or more charter schools, each with a governing board that has a demonstrated record of effectiveness;
- contracting with an outside entity that has a demonstrated record of effectiveness to operate the school; or
- implementing a hybrid of the above turnaround options or other turnaround models that have a demonstrated record of effectiveness.<sup>17</sup>

A school earning a grade of “F” or 3 consecutive grades of “D” must have a planning year followed by 2 full school years to implement the initial turnaround. Implementation of the turnaround option is no longer required if the school improves by at least one letter grade during the planning year.<sup>18</sup>

A school earning a grade of “F” or 3 consecutive grades of “D” that improves its letter grade must continue to implement strategies identified in its school improvement plan pursuant to s. 1001.42(18)(a). The department must annually review implementation of the school improvement plan for 3 years to monitor the school’s continued improvement. The department must annually review implementation of the school improvement plan for 3 years to monitor the school’s continued improvement.<sup>19</sup>

If a school with an “F” or 3 consecutive grades of “D” does not improve by at least one letter grade after 2 full years of implementing the turnaround option, the school district must select a different option and submit another implementation plan to the department for state board approval. Implementation of the new plan must begin the school year following the implementation period of the existing turnaround option, unless the SBE determines that the school is likely to improve a letter grade if additional time is provided to implement the existing turnaround option.<sup>20</sup>

### Effect of Proposed Changes

The bill requires the SBE to apply the intensive intervention and support strategies to schools earning a grade of “D” along with schools earning a grade of “F.” The bill requires such schools to immediately implement a differentiated matrix of intervention and support strategies and, by September 1, provide the DOE with a district managed turnaround plan and the memorandum of understanding it must execute as a result of an educational emergency. An educational emergency exists if a school district has one or more “D” or “F” schools and requires district school boards to negotiate to free “D” and “F” schools from restrictions that limit their ability to implement programs and strategies to improve student performance. The negotiations must result in a memorandum of understanding that addresses the selection, placement and expectations of instructional personnel and school administrators.

Upon approval by the SBE, the school district must implement the plan for the remainder of the year and continue implementation for the next full school year. The SBE may allow an additional year of implementation if the SBE determines the school is likely to improve to a “C” or higher after the first full school year of implementation. If the school’s grade does not improve to a “C” or higher after the additional year (its fourth consecutive grade below a “C”), or after the first full year of implementation if an additional year is not granted, the school must:

- reassign students to another school and monitor the progress of each student;

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<sup>17</sup> Section 1008.33(4)(b), F.S.

<sup>18</sup> Section 1008.33(4)(c), F.S. *But see* 6A-1.099811(9)(a), F.A.C. (providing that a school district may discontinue implementing a turnaround plan only if it earns a school grade of “C” or higher).

<sup>19</sup> Section 1001.42(18)(a) and 1008.33(4)(d), F.S.

<sup>20</sup> Section 1008.33(4)(e), F.S.

- close the school and reopen as one or more charter schools with a governing board that has a demonstrated record of effectiveness; or
- contract with an outside entity that has a demonstrated record of effectiveness to operate the school.

If a school does not improve to a “C” or higher after 2 full years of implementing the turnaround option, it must implement another turnaround option beginning with the next school year unless the SBE determines that the school is likely to improve to a “C” or higher if additional time is provided to implement the existing turnaround option.

The bill provides for earlier implementation of a community assessment team by requiring a team to be assigned to each school district or governing board with a school earning a “D,” whereas current law provides for assignment only when a school earns a grade of “F” or three consecutive grades of “D.” The bill requires the team to make recommendations based on effective intervention and support strategies identified by the commissioner<sup>21</sup> for incorporation into the school’s improvement plan.

## **School Improvement Planning**

### **Present Situation**

With the exception of charter schools graded “A”, “B” or “C,”<sup>22</sup> all Florida public schools must have a school improvement plan that is developed and implemented by the school’s advisory council.<sup>23</sup> If a school has a significant gap in achievement on statewide, standardized assessments<sup>24</sup> by one or more student subgroups;<sup>25</sup> has not significantly increased the percentage of students passing statewide, standardized assessments;<sup>26</sup> has not significantly increased the percentage of students demonstrating learning gains as determined using the school grade calculation<sup>27</sup> who passed statewide, standardized assessments; or has significantly lower graduation rates for a subgroup when compared to the state’s graduation rate,<sup>28</sup> the school’s improvement plan must include strategies for improving those results.<sup>29</sup>

For non-charter schools earning a “D” or “F” in the most recent grades release and schools that improved from an “F” to a “C” or higher within the last three years, development and implementation of the plan is based on a form developed by the DOE.<sup>30</sup> In such cases, the plan must be submitted through the Continuous Improvement Management System (CIMS).<sup>31</sup> The DOE reviews, approves, and

<sup>21</sup> The Commissioner of Education is required to report intervention and support strategies used by school districts whose students in both the highest and lowest quartiles exceed the statewide learning growth for students in those quartiles. *See s. 1008.345(5)(b), F.S.*

<sup>22</sup> Section 1002.33(9)(n) <sup>22</sup>

<sup>23</sup> Sections 1001.42(18)(a) and 1001.452(2), F.S. SACs are composed of principals, teachers, educational support personnel, parents, students, local business representatives, and community members. Section 1001.452(1)(a), F.S. SACs are responsible for developing and implementing the school’s improvement plan, assisting in the development of the school’s budget, and assisting in determinations regarding the use of school improvement funds and school recognition awards. Sections 1001.452(2) and 1008.36(4), F.S.

<sup>24</sup> Statewide, standardized assessments include statewide, standardized assessments for English language arts (grades 3-10) and mathematics (grades 3-8); end-of-course assessments for Algebra I, Algebra II, Geometry, Biology I, Civics, and U.S. History; the Statewide Science Assessment (grades 5 and 8), and their associated alternate assessments for students with significant cognitive disabilities. *See s. 1008.22(3), F.S.*

<sup>25</sup> Subgroups include economically disadvantaged students, students from major racial/ethnic groups, students with disabilities, and students with limited English proficiency. 20 U.S.C. s. 6311(b)(2)(C)(v)(II).

<sup>26</sup> A Level 3, Level 4, or Level 5 constitutes a passing score on statewide, standardized assessments. Section 1008.34(1)(a), F.S.

<sup>27</sup> *See s. 1008.34(3)(b), F.S.*

<sup>28</sup> Section 1008.34(3)(b)2.a., F.S.

<sup>29</sup> Section 1001.42(18)(a)1., F.S.

<sup>30</sup> *See Florida Department of Education, Form DA-2 Checklist for Focus and Priority Schools (Dec. 2014), available at <https://www.flrules.org/gateway/reference.asp?No=Ref-04620> (incorporated by reference in rule 6A-1.099811, F.A.C.).*

<sup>31</sup> CIMS is a web application developed by the DOE’s Bureau of School Improvement to provide district and school teams with an online platform for collaborative planning and problem solving as well as a public site for stakeholders to access approved plans. Florida Department of Education, Bureau of School Improvement, *Welcome to CIMS*, <https://www.floridacims.org/> (last visited Aug. 17, 2016).

also monitors implementation of the plan.<sup>32</sup> Schools that receive a “D” three years in a row or that receive an “F” are assigned a community assessment team, which reviews the school’s performance data to determine causes for the low performance, including the role of school, area, and district administrative personnel.<sup>33</sup>

### Effect of Proposed Changes

To reduce paperwork and time associated with school improvement planning, the bill eliminates the requirement that schools with a grade above a “D” develop and implement a school improvement plan, except for schools that must implement strategies to address a deficiency enumerated above.

## **Charter School Requirements**

### Present Situation

Charter schools that earn a grade of “D” or “F” must develop a school improvement plan, which must be approved by the sponsor.<sup>34</sup> Corrective actions are required for charter schools earning three consecutive grades of “D,” two consecutive grades of “D” followed by a grade of “F,” or two nonconsecutive grades of “F” within a three-year period. Such a charter school may choose to:

- contract for educational services to be provided directly to students, instructional personnel, and school administrators;
- contract with an outside entity with a track record of effectiveness to operate the school;
- hire a new director or principal who has authority to hire new staff; or
- voluntarily close the school.<sup>35</sup>

The charter school must implement the corrective action in the school year following receipt of a third consecutive grade of “D,” a grade of “F” following two consecutive grades of “D,” or a second nonconsecutive grade of “F” within a 3-year period.<sup>36</sup> Corrective actions are no longer required if the charter school improves by at least one letter grade; however, the school must continue to implement its school improvement plan.<sup>37</sup> If a charter school does not improve by at least one letter grade after two full school years of implementing a corrective action, the school must choose another action.<sup>38</sup>

A charter school’s contract is automatically terminated if the school earns two consecutive grades of “F,” unless the charter school qualifies for an exception.<sup>39</sup> A sponsor may terminate, at any time, a charter school that is required to implement a school improvement plan or corrective actions; however, this discretionary authority does not extend to charter schools that meet an exception to mandatory termination.<sup>40</sup>

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<sup>32</sup> Florida Department of Education, Bureau of School Improvement, *Frequently Asked Questions: SIP*, <https://www.floridacims.org/faqs?category=sip> (last visited Sept. 8, 2016).

<sup>33</sup> Section 1008.345(6)(d), F.S.

<sup>34</sup> Section 1002.33(9)(n)1., F.S.

<sup>35</sup> Section 1002.33(9)(n)2.a., F.S.

<sup>36</sup> Section 1002.33(9)(n)2.b., F.S.

<sup>37</sup> Section 1002.33(9)(n)2.d., F.S.

<sup>38</sup> Section 1002.33(9)(n)2.c. and e., F.S. Implementation of the new corrective action must begin in the school year following the implementation period of the existing corrective action. The sponsor may waive corrective actions if it determines that the charter school is likely to improve its grade if additional time is given to implement the school improvement plan. The sponsor may also extend the implementation period for a corrective action based upon a similar standard. The sponsor may not waive or extend corrective actions if the charter school earns a second consecutive grade of “F” while in corrective action. *Id.* Unless an exception applies, such a charter school must be terminated by the sponsor. Section 1002.33(9)(n) 4, F.S.

<sup>39</sup> Section 1002.33(9)(n)4., F.S.

<sup>40</sup> Section 1002.33(9)(n)6., F.S.

The director and a representative of a charter school that is required to implement a school improvement plan or corrective action must annually appear before the sponsor to report the progress of the corrective strategies being implemented by the school.<sup>41</sup>

### Effect of Proposed Changes

The bill requires corrective actions be taken by a charter school if the school earns three consecutive grades below a "C" and requires the corrective action be implemented in the school year following the third consecutive "C." The bill provides that corrective actions are no longer required if the charter school grade improves to a "C" or higher. The bill permits an exception to a "double 'F'" termination for a charter school that serves a majority of students who are zoned for a "D" or "F" school.

## **Schools of Hope**

### **Schools of Hope Program**

#### Effect of Proposed Changes

The bill provides for the establishment of schools of hope to provide students in areas of persistently low-performing schools with a unique, high-quality education option designed to close the opportunity gap and increase student achievement.

The bill defines a school of hope as a charter school operated by a hope operator to serve students from one or more persistently low-performing schools; is located within the attendance zone of the persistently low-performing school or within a five mile radius of the school, whichever is greater; and is a Title I eligible school. The bill defines hope operators as nonprofit organizations that operate three or more charter schools with a record of serving students from low-income families and receives the designation from the SBE. In determining hope operator status, the SBE must determine whether the past performance of the operator meets or exceeds the following criteria:

- Student achievement results which must exceed the district and state averages in the state in which the school operates.
- College attendance rates at all schools currently operated by the entity which must exceed 80 percent.
- The percent of students enrolled at all schools currently operated by the entity eligible for a free or reduced price lunch which must exceed 70 percent.
- The operator is in good standing with the authorizer in each state in which it operates.
- The audited financial statements of the operator are free of material exceptions and going concern issues.
- Other outcome measures determined by the SBE.

A hope operator may also qualify if the operator:

- was awarded a U.S. Department of Education Charter School Program Grant for Replication and Expansion of High-Quality Charter Schools within the past 3 years;
- receives funds through the National Fund or Regional Fund of the Charter School Growth Funds; or
- is selected by a district school board as part of the turnaround process requirements under the bill.

Once measurable criteria is established, any operator seeking status as a hope operator must meet those qualifications, unless an operator is selected by a district as a turnaround option. Any operator seeking hope operator status must meet those qualifications, unless the operator is selected. The bill authorizes initial hope operator status to be valid for up to 5 years. If a hope operator seeks renewal of

its status, renewal is solely based on the academic and financial performance of all schools established in Florida by the hope operator since its initial designation.

The bill authorizes a hope operator to submit a notice of intent to open a school of hope in the school district where a persistently low-performing school has been identified.

The bill requires the notice of intent to include:

- an academic focus and plan;
- a financial plan;
- the goals and objectives for increasing student achievement for student from low-income families;
- a completed or planned community outreach plan;
- the organizational history of hope in working with student with similar demographics;
- the grade levels to be served and enrollment projections;
- the proposed location proposed for the school and its proximity to the persistently low-performing school; and
- a staffing plan.

The school district must enter into a performance based agreement with a hope operator. The performance based agreement must:

- incorporate the notice of intent;
- identify the location proposed for the school and its proximity to the persistently low-performing school.
- enumerate the grades to be served each year of the agreement and whether the school will serve children in school readiness or prekindergarten;
- describe the plan of action and specific milestones for student recruitment and enrollment of students from persistently low-performing schools, including enrollment preferences and procedures for conducting transparent admissions lotteries. Students from persistently low-performing schools are exempt from any enrollment lottery to the extent permitted by federal grant requirement;
- establish the current incoming baseline standard of student academic achievement, the outcomes to be achieved and the method of measurement that will be used;
- describe the methods of involving parents and expected levels for the involvement;
- describe the grounds for termination, including failure to meet the requirements for student performance, generally accepted standards of fiscal management or material violation of the terms of the agreement. The nonrenewal or termination of a performance based agreement must comply with the requirements of s. 1002.33(8);
- allow the hope operator to open additional schools to serve students zoned for a persistently low-performing school;
- provide for an initial term of at least five years. The agreement must be renewed, unless the school fails to meet the requirements for student performance, the generally accepted standards of fiscal management or the school materially violates the law or terms of the agreement;
- require transportation of students to conform to statutory guidelines. The governing body of the school may provide transportation through an agreement with the district school board, a private provider or parents. Transportation cannot be a barrier to equal access for student residing in a reasonable distance of school;
- require that any agreement to borrow or secure funds from a source other than the state or school district must indemnify the state and school district from any and all liability;
- provide that any financial agreement entered into by the hope operator is not an obligation of the state or school district and is payable only from funds pledged by such agreement; and
- prohibit the pledge of credit or taxing power of the state or school district.

The bill requires a school district that fails to enter into a performance based agreement within 60 days to reduce the charter school administrative fee to one percent for all charter schools operating in the

district. Upon successful execution of the performance based agreement, the district may resume withholding the full administrative fee but may not recover previous lost fees. The bill allows an aggrieved charter school to recover attorney's fees and costs in actions to recover withheld administrative fees.

The bill requires that disputes between hope operators and school district regarding performance based agreements be submitted to a magistrate that is agreed to by both parties. If the parties are unable to agree, the dispute will be submitted to a qualified magistrate appointed by the Commissioner of Education. The bill requires the magistrate to hold hearings and make recommendations to the SBE, which may not alter the statutory provisions of performance agreements. The final decision of the SBE may be appealed to the First District Court of Appeals. The bill permits the hope operator to recover attorney's fees and cost if the SBE determines the district acted unlawfully with regard to the performance agreement.

The bill requires the SBE to:

- publish an annual list of persistently low-performing schools;
- adopt a standard notice of intent and performance based agreement to be used by hope operators and school boards;
- resolve disputes between a hope operator and a school district arising from a performance-based agreement or a contract, including the appointment of a special magistrate to hold hearings and render decisions regarding disputes; and
- provide students in persistently low-performing schools with a public school that meets accountability standards.

The Florida Constitution provides that “[t]he state board of education shall be a body corporate and have such supervision of the system of free public education as is provided by law,” while local school boards have the power to “operate, control and supervise all free public schools within the school district.” Courts have held that this supervisory authority allows the SBE to approve or deny a charter application because the school board has control over the contractual process. “This broader supervisory authority may at times infringe on a school board’s local powers, but such infringement is expressly contemplated – and in fact encouraged by the very nature of the supervision – by the Florida Constitution.”<sup>42</sup>

The bill addresses the conditions that allow a school to persistently fail to meet the needs of its students, while recognizing a school district’s authority to operate, control, and supervise schools within the district, by requiring a school district with a “D” or “F” to enter into a performance based agreement with a hope operator who has submitted a notice of intent. However, the SBE, in the exercise of its supervisory authority, may contract with a hope operator if the school district fails to do so. Unlike *Duval County School Board*,<sup>43</sup> the bill authorizes the SBE to exercise its supervisory authority only when a school district fails to fulfill its constitutional duty. If the SBE enters into a performance based agreement with a hope operator, the district must transfer to the school of hope the proportionate share of state funds allocated from the FEFP.

The bill provides hope operators with the following statutory authority:

- allows a school of hope to be designated as a local educational agency for the purposes of receiving federal funds;
- provides that, for the purpose of tort liability, the operator, school of hope and its employees or agent are subject to the same waiver of sovereign immunity in tort actions as the state, state

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<sup>42</sup> *Sch. Bd. of Palm Beach Cnty. v. Fla. Charter Educ. Found., Inc.*, 42 Fla. L. Weekly D 189 (Fla. 4th DCA 2017).

<sup>43</sup> In *Duval County School Board v. State Board of Education*, 998 So. 2d 641 (Fla. 1st DCA 2008), several school districts challenged s. 1002.335 F.S., which created an independent state-level entity that could directly authorize the creation of charter schools. School districts could retain exclusive authority to sponsor charter schools if approved by the state board. The court found that the law was facially unconstitutional because it created a parallel system of free public education outside the control of locally elected school boards.

agencies and or subdivisions. The sponsor is not liable for civil damages under state law for the employment actions or personal injury, property damage or death resulting from an act or omission of an operator, the school of hope and its employees or agents;

- allows a school of hope to be either a private or public employer and provides that employees of a public employer must be compulsory members of the Florida Retirement System;
- allows a hope operator to employ staff that do not meet the educator certification requirements, so long as the school disqualifies staff from employment in any position that requires direct contact with students if the staff member is statutorily disqualified for such employment; and
- allows calculation for class size compliance to be the average at the school level.

The bill provides that schools of hope are exempt from chapters 1000-1013 of the Florida Statutes and all board polices, except statutes pertaining to:

- the student assessment program and school grading;
- student progression and graduation;
- services to students with disabilities
- civil rights and discrimination;
- student health, safety and welfare;
- public meetings and records public inspection and criminal and civil penalties;
- public records; and
- code of ethics for public officers and employees.

The bill provides that a school of hope must utilize facilities which comply with the Florida Building Code except for the State Requirements for Educational Facilities. Schools of hope that utilize school district facilities must comply with the State Requirements for Educational Facilities only if the school district and hope operator have entered into a mutual management plan for the reasonable maintenance of such facilities. The mutual management plan must have a provision requiring the district school board to maintain the school facilities in the same manner as its other public schools within the district.

The local governing authority cannot impose any local building requirements or site-development restrictions that are addressed by and more stringent than those found in the State Requirements for Educational Facilities of the Florida Building Code. The local governing authority must treat school of hope equitably in comparison to similar requirements, restrictions, and site planning processes imposed upon public schools. The local municipality is the agency with jurisdiction for inspection of a facility and issuance of a certificate of occupancy or use. If in an unincorporated area, the authority is placed with the county governing authority. If an official or employee of the local governing authority refuses to comply with this paragraph, the aggrieved school has the right to bring an action in circuit court to enforce its rights by injunction.

The bill provides that facilities of a school of hope are exempt from a number of taxes, fees and assessments. The bill also provides that a number of existing community and state facilities may provide space to schools of hope.

The bill requires each district to annually provide a list of its underutilized, vacant or surplus property and facilities to the DOE. A hope operator operating a school of hope may utilize an underutilized, vacant, or surplus educational facility at no cost or at a mutually agreed cost not to exceed \$600 per student. The hope operator cannot sell or dispose of the facility without written permission from the school district. An underutilized, vacant or surplus property is an entire, or portion of, a property that is not fully used (or used irregularly or intermittently) by the school district for instructional or program use.

### **Schools of Hope Funding**

The bill provides that a school of hope is funded in the same manner as other charter schools and traditional schools. A school of hope is considered a charter school for purposes of charter capital outlay, but may not use the funds to purchase real property or construct school facilities. In addition,

the bill provides school of hope with priority in the DOE's Public Charter School Grant Program competitions.

The bill creates a special category of grants and aids for school of hope. Eligible expenditures from an appropriation in the special category may include:

- Preparing teachers, school leaders, and specialized instructional support personnel, including costs associated with:
  - providing professional development; and
  - hiring and compensating teachers, school leaders, and specialized instructional support personnel for services beyond the school day and year.
- Acquiring supplies, training, equipment, and educational materials including developing and acquiring instructional materials.
- Providing one-time, startup costs associated with providing transportation to students to and from the charter school.
- Carrying out community engagement activities, which may include paying the cost of student and staff recruitment.
- Providing funds to cover the nonvoted ad valorem millage that would otherwise be required for schools and the required local effort funds when the state board enters into an agreement with a hope operator.

The bill provides that if a school of hope is not renewed or is terminated, any unencumbered funds and all equipment and property purchased with the funds revert to ownership of the state. Such reversion must focus on tangible or irrecoverable costs, such as rental or leasing fees, normal maintenance, and limited renovations. The reversion of all property secured with grant funds is subject to the complete satisfaction of all lawful liens or encumbrances.

Funds from the special category which are not disbursed by June 30 of the fiscal year in which the funds are appropriated may be carried forward for up to 5 years after the effective date of the original appropriation.

The bill establishes the Schools of Hope Revolving Loan Program within the DOE. The purpose of the program is to provide assistance to charter schools to meet school building construction and to pay for expenses related to starting up a new charter school. The fund will comprise legislatively appropriated funding, repaid loan funding, and interest earned. The bill requires that all repayments of principal and interest be returned to the loan fund and made available for loans to other applicants.

The bill limits funds provided through the program to 25 percent of the total cost of the project. The total cost of the project must be calculated based on 80 percent of the cost per student station multiplied by the capacity of the facility. The interest rate on loans from the fund may be used to defray the costs of administration. The rate must be the lower of the rate paid on monies held in the fund or a rate equal to 50 percent of the statewide maximum bond interest rate authorized pursuant to state law.

A hope operator that has been designated by the state board and has executed a performance based agreement shall receive a loan for projects that are located in the attendance area of a persistently low-performing school or within a five mile radius and primarily serve students from low-performing schools.

The bill allows the department to select a third-party administrator to administer the program and report annually to the department. However, the department must continue to administer the program until a third-party administrator is selected. The department must post on its website the projects that have received loans, the geographic distribution of the projects, the status of the projects, the costs of the program, and student outcomes.

Funds appropriated for the program which but are not disbursed by June 30 of the fiscal year in which they are appropriated may be carried forward for up to 5 years after the effective date of the original appropriation.



## **Early Warning Systems**

### **Present Situation**

Currently, schools with a 6th, 7th or 8th grade class must implement an early warning system (EWS) to identify students who need additional support to improve academic performance. The EWS must include the following early warning indicators:

- Attendance below 90 percent.
- One or more suspensions.
- Course failure in English Language Arts or math.
- A Level 1 score on the statewide, standardized assessment in English Language Arts or math.
- Additional indicators deemed appropriate by the school district.

The schools' child study team or a school-based team must convene to determine appropriate intervention strategies when a student exhibits two or more early warning indicators. The school must provide 10 days' written notice of the meeting to the parent. The notice must include the meeting's purpose, time and location and provide the parent the opportunity to participate.<sup>44</sup>

Schools with a 6th, 7th or 8th grade class must include data and information in its school improvement plan regarding the schools early warning system. The information must include:

- a list of the early warning indicators used;
- the number of students who have two or more early warning indicators;
- the number of students in each grade that exhibits each early warning indicator; and
- a description of all intervention strategies used to improve academic performance of students identified by the early warning system.

The school must also describe in its school improvement plan the strategies used by the school to implement the instructional practices for middle grades emphasized by the district's professional development system.<sup>45</sup>

### **Effect of Proposed Changes**

The bill expands the schools that must implement an EWS from schools with a 6th, 7th or 8th grade class to schools that serve any students in kindergarten through grade 8.

The bill clarifies that the EWS indicator that identifies a course failure in English Language Arts or math must be for any grading period and includes a substantial reading deficiency for a kindergarten through grade 3 student as an EWS indicator.

The bill requires a school-based team, rather than a "child study team," to be responsible for monitoring EWS data and to implement appropriate intervention strategies for a student who exhibits two or more early learning indicators unless the student is already being served by an intervention program. The team may include a school psychologist. Because not all schools are required to implement a school improvement plan, the bill eliminates the requirement that a school's improvement plan include middle grades EWS data and related information.<sup>46</sup>

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<sup>44</sup> Section 1001.42(18)(b), F.S.

<sup>45</sup> Section 1001.42(18)(a), F.S.

<sup>46</sup> Early warning system is already a component of the school improvement plan for schools with a grade of "D" or "F." See Florida Department of Education, *Form SIP-1, School Improvement Plan* (Dec. 2014), available at [https://www.flrules.org/gateway/readRefFile.asp?refId=4622&filename=SIP-1\\_2014-15.pdf](https://www.flrules.org/gateway/readRefFile.asp?refId=4622&filename=SIP-1_2014-15.pdf) (incorporated by reference in rule 6A-1.099811, F.A.C.).

**B. SECTION DIRECTORY:**

Section 1. Amends s. 1001.42, F.S., relating to the powers and duties of the district school board.

Section 2. Amends s. 1008.33, F.S., relating to the authority to enforce public school improvement.

Section 3. Amends s. 1008.345, F.S., relating to the implementation of state system of school improvement and education accountability.

Section 4. Amends s. 1002.33, F.S., relating to charter schools.

Section 5. Creates s. 1002.333, F.S., relating to persistently low-performing schools.

Section 6. Creates s. 1001.291, F.S., establishing schools of hope revolving loan program; providing criteria for administration of the program.

Section 7. Provides for the severability of the provisions of the bill.

Section 8. Provides an effective date of July 1, 2017, except as otherwise provided.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The proposed House General Appropriations Act provides \$200 million in recurring General Revenue funds to implement the provisions of this act.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

#### **B. RULE-MAKING AUTHORITY:**

The bill requires the State Board of Education to adopt rules regarding schools of hope.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 30, 2017, the Education Committee adopted one amendment and reported the proposed committee bill favorably. The amendment changes the name of "success operators" to "hope operators" and "schools of success" to "schools of hope." The amendment also revises the definition of "schools of hope" to include Title I eligibility as a required criterion. The bill analysis reflects the bill as amended.

1                                   A bill to be entitled  
 2           An act relating to school improvement; amending s.  
 3           1001.42, F.S.; revising provisions relating to school  
 4           improvements plans; requiring only specified schools  
 5           to submit a school improvement plan; deleting a  
 6           requirement that certain information be included in  
 7           the improvement plans of certain schools; revising the  
 8           grade levels required to implement an early warning  
 9           system; revising the required content of an early  
 10          warning system; requiring a specified team to monitor  
 11          specified data; authorizing a psychologist to be a  
 12          member of the team; revising what constitutes an  
 13          educational emergency and establishing duties of  
 14          district school boards relating to such emergency;  
 15          amending s. 1008.33, F.S.; providing that intervention  
 16          and support services apply consistently to any school  
 17          meeting specified criteria; revising the required  
 18          timeline for the implementation of a district-managed  
 19          turnaround plan; providing turnaround options  
 20          available to school districts meeting specified  
 21          criteria; amending s. 1008.345, F.S.; revising the  
 22          criteria a school must meet to have a community  
 23          assessment team; revising the duties of a community  
 24          assessment team; amending 1002.33, F.S.; revising the  
 25          criteria a charter school must meet to require

26 corrective action; revising requirements for  
27 corrective action by charter schools; revising  
28 criteria for waiver of automatic charter termination;  
29 creating s. 1002.333, F.S., relating to persistently  
30 low-performing schools; providing definitions;  
31 providing eligibility criteria for hope operators;  
32 providing for the designation and redesignation of a  
33 hope operator; authorizing hope operators to establish  
34 schools of hope in specified areas; providing the  
35 process for the establishment of a school of hope;  
36 providing the requirements for a performance-based  
37 agreement; authorizing a school of hope to be  
38 designated as a local education agency; providing that  
39 a sponsor is not liable for specified damages;  
40 providing that a school of hope may be a private or  
41 public employer; authorizing a school of hope to  
42 participate in the Florida Retirement System;  
43 authorizing a hope operator to employ certain staff;  
44 providing specific statutory exemptions for schools of  
45 hope; providing requirements for facilities used by  
46 schools of hope; requiring districts to annually  
47 provide a list of specified property to the Department  
48 of Education; providing that schools of hope shall be  
49 funded through the Florida Education Finance Program;  
50 establishing additional funding sources and guidelines

51 | for eligible expenditures; providing a mechanism to  
 52 | address school district noncompliance; providing  
 53 | authority and obligations of the State Board of  
 54 | Education; providing a mechanism for the resolution of  
 55 | disputes; providing for rulemaking; creating s.  
 56 | 1001.291, F.S.; establishing the Schools of Hope  
 57 | Revolving Loan Program; providing criteria for  
 58 | administration of the program; providing for  
 59 | severability; providing effective dates.

60 |

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

62 |

63 | Section 1. Subsections (18) and (21) of section 1001.42,  
 64 | Florida Statutes, are amended to read:

65 | 1001.42 Powers and duties of district school board.—The  
 66 | district school board, acting as a board, shall exercise all  
 67 | powers and perform all duties listed below:

68 | (18) IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.—  
 69 | Maintain a system of school improvement and education  
 70 | accountability as provided by statute and State Board of  
 71 | Education rule. This system of school improvement and education  
 72 | accountability shall be consistent with, and implemented  
 73 | through, the district's continuing system of planning and  
 74 | budgeting required by this section and ss. 1008.385, 1010.01,  
 75 | and 1011.01. This system of school improvement and education

76 | accountability shall comply with the provisions of ss. 1008.33,  
 77 | 1008.34, 1008.345, and 1008.385 and include the following:

78 |       (a) School improvement plans.—

79 |       ~~1.~~ The district school board shall annually approve and  
 80 | require implementation of a new, amended, or continuation school  
 81 | improvement plan for each school in the district which has a  
 82 | school grade of "D" or "F"; ~~If a school~~ has a significant gap  
 83 | in achievement on statewide, standardized assessments  
 84 | administered pursuant to s. 1008.22 by one or more student  
 85 | subgroups, as defined in the federal Elementary and Secondary  
 86 | Education Act (ESEA), 20 U.S.C. s. 6311(b)(2)(C)(v)(II); has not  
 87 | significantly increased the percentage of students passing  
 88 | statewide, standardized assessments; has not significantly  
 89 | increased the percentage of students demonstrating Learning  
 90 | Gains, as defined in s. 1008.34 and as calculated under s.  
 91 | 1008.34(3)(b), who passed statewide, standardized assessments;  
 92 | or has significantly lower graduation rates for a subgroup when  
 93 | compared to the state's graduation rate. ~~The, that school's~~  
 94 | improvement plan of a school that meets the requirements of this  
 95 | paragraph shall include strategies for improving these results.  
 96 | The state board shall adopt rules establishing thresholds and  
 97 | for determining compliance with this subparagraph.

98 |       ~~2. A school that includes any of grades 6, 7, or 8 shall~~  
 99 | ~~include annually in its school improvement plan information and~~  
 100 | ~~data on the school's early warning system required under~~

101 ~~paragraph (b), including a list of the early warning indicators~~  
 102 ~~used in the system, the number of students identified by the~~  
 103 ~~system as exhibiting two or more early warning indicators, the~~  
 104 ~~number of students by grade level that exhibit each early~~  
 105 ~~warning indicator, and a description of all intervention~~  
 106 ~~strategies employed by the school to improve the academic~~  
 107 ~~performance of students identified by the early warning system.~~  
 108 ~~In addition, a school that includes any of grades 6, 7, or 8~~  
 109 ~~shall describe in its school improvement plan the strategies~~  
 110 ~~used by the school to implement the instructional practices for~~  
 111 ~~middle grades emphasized by the district's professional~~  
 112 ~~development system pursuant to s. 1012.98(4)(b)9.~~

113 (b) Early warning system.—

114 1. A school that serves any students in kindergarten  
 115 through grade ~~includes any of grades 6, 7, or 8~~ shall implement  
 116 an early warning system to identify students in such grades ~~6,~~  
 117 ~~7, and 8~~ who need additional support to improve academic  
 118 performance and stay engaged in school. The early warning system  
 119 must include the following early warning indicators:

120 a. Attendance below 90 percent, regardless of whether  
 121 absence is excused or a result of out-of-school suspension.

122 b. One or more suspensions, whether in school or out of  
 123 school.

124 c. Course failure in English Language Arts or mathematics  
 125 during any grading period.



126 d. A Level 1 score on the statewide, standardized  
 127 assessments in English Language Arts or mathematics or, for  
 128 students in kindergarten through grade 3, a substantial reading  
 129 deficiency under s. 1008.25(5)(a).

130  
 131 A school district may identify additional early warning  
 132 indicators for use in a school's early warning system. The  
 133 system must include data on the number of students identified by  
 134 the system as exhibiting two or more early warning indicators,  
 135 the number of students by grade level who exhibit each early  
 136 warning indicator, and a description of all intervention  
 137 strategies employed by the school to improve the academic  
 138 performance of students identified by the early warning system.

139 2. A school-based team responsible for implementing the  
 140 requirements of this paragraph shall monitor the data from the  
 141 early warning system. The team may include a school  
 142 psychologist. When a student exhibits two or more early warning  
 143 indicators, the team, in consultation with the student's parent,  
 144 shall school's child study team under s. 1003.02 or a school-  
 145 based team formed for the purpose of implementing the  
 146 requirements of this paragraph shall convene to determine  
 147 appropriate intervention strategies for the student unless the  
 148 student is already being served by an intervention program at  
 149 the direction of a school-based, multidisciplinary team. Data  
 150 and information relating to a student's early warning indicators

151 | must be used to inform any intervention strategies provided to  
 152 | the student ~~The school shall provide at least 10 days' written~~  
 153 | ~~notice of the meeting to the student's parent, indicating the~~  
 154 | ~~meeting's purpose, time, and location, and provide the parent~~  
 155 | ~~the opportunity to participate.~~

156 | (21) EDUCATIONAL AUTHORITY TO DECLARE AN EMERGENCY. ~~May~~  
 157 | ~~declare an emergency in cases in which one or more schools in~~  
 158 | ~~the district are failing or are in danger of failing and~~  
 159 | Negotiate special provisions of its contract with the  
 160 | appropriate bargaining units to free ~~these~~ schools with a school  
 161 | grade of "D" or "F" from contract restrictions that limit the  
 162 | school's ability to implement programs and strategies needed to  
 163 | improve student performance. The negotiations shall result in a  
 164 | memorandum of understanding that addresses the selection,  
 165 | placement, and expectations of instructional personnel and  
 166 | school administrators. For purposes of this subsection, an  
 167 | educational emergency exists in a school district if one or more  
 168 | schools in the district have a school grade of "D" or "F."

169 | Section 2. Subsections (3), (4), and (5) of section  
 170 | 1008.33, Florida Statutes, are amended to read:

171 | 1008.33 Authority to enforce public school improvement.—

172 | (3)(a) The academic performance of all students has a  
 173 | significant effect on the state school system. Pursuant to Art.  
 174 | IX of the State Constitution, which prescribes the duty of the  
 175 | State Board of Education to supervise Florida's public school

176 | system, the state board shall equitably enforce the  
 177 | accountability requirements of the state school system and may  
 178 | impose state requirements on school districts in order to  
 179 | improve the academic performance of all districts, schools, and  
 180 | students based upon the provisions of the Florida K-20 Education  
 181 | Code, chapters 1000-1013; the federal ESEA and its implementing  
 182 | regulations; and the ESEA flexibility waiver approved for  
 183 | Florida by the United States Secretary of Education.

184 |       (b) ~~Beginning with the 2011-2012 school year,~~ The  
 185 | Department of Education shall annually identify each public  
 186 | school in need of intervention and support to improve student  
 187 | academic performance. All schools earning a grade of "D" or "F"  
 188 | pursuant to s. 1008.34 are schools in need of intervention and  
 189 | support.

190 |       (c) The state board shall adopt by rule a differentiated  
 191 | matrix of intervention and support strategies for assisting  
 192 | traditional public schools identified under this section and  
 193 | rules for implementing s. 1002.33(9)(n), relating to charter  
 194 | schools. The intervention and support strategies must address  
 195 | student performance and may include improvement planning,  
 196 | leadership quality improvement, educator quality improvement,  
 197 | professional development, curriculum alignment and pacing, and  
 198 | the use of continuous improvement and monitoring plans and  
 199 | processes. In addition, the state board may prescribe reporting  
 200 | requirements to review and monitor the progress of the schools.

201 The rule must define the intervention and support strategies for  
 202 school improvement for schools earning a grade of "D" or "F" and  
 203 the roles for the district and department. ~~The rule shall~~  
 204 ~~differentiate among schools earning consecutive grades of "D" or~~  
 205 ~~"F," or a combination thereof, and provide for more intense~~  
 206 ~~monitoring, intervention, and support strategies for these~~  
 207 ~~schools.~~

208 (4)(a) The state board shall apply intensive ~~the most~~  
 209 ~~intense~~ intervention and support strategies to schools earning a  
 210 grade of "D" or "F." In the first full school year after a  
 211 school initially earns a grade of "D" or "F," the school  
 212 district must immediately implement intervention and support  
 213 strategies prescribed in rule under paragraph (3)(c) and, by  
 214 September 1, provide, ~~select a turnaround option from those~~  
 215 ~~provided in subparagraphs (b)1.-5., and submit a plan for~~  
 216 ~~implementing the turnaround option to the department~~ with the  
 217 memorandum of understanding negotiated pursuant to s.  
 218 1001.42(21) and a district-managed turnaround plan for approval  
 219 by the state board. Upon approval by the state board, the school  
 220 district must implement the plan for the remainder of the school  
 221 year and continue the plan for 1 full school year. The state  
 222 board may allow a school an additional year of implementation  
 223 before the school must implement a turnaround option required  
 224 under paragraph (b) if it determines that the school is likely  
 225 to improve to a grade of "C" or higher after the first full

226 school year of implementation. ~~for approval by the state board.~~  
 227 ~~Upon approval by the state board, the turnaround option must be~~  
 228 ~~implemented in the following school year.~~

229 (b) Unless an additional year of implementation is  
 230 provided pursuant to paragraph (a), ~~The turnaround options~~  
 231 ~~available to a school district to address~~ a school that earns  
 232 three consecutive grades below a "C" must implement one of the  
 233 following a grade of "F" are:

234 ~~1. Convert the school to a district-managed turnaround~~  
 235 ~~school;~~

236 ~~1.2.~~ Reassign students to another school and monitor the  
 237 progress of each reassigned student;

238 ~~2.4.~~ Contract with an outside entity that has a  
 239 demonstrated record of effectiveness to operate the school; or

240 3. Close the school and reopen the school as one or more  
 241 charter schools, each with a governing board that has a  
 242 demonstrated record of effectiveness.~~.~~

243 ~~5. Implement a hybrid of turnaround options set forth in~~  
 244 ~~subparagraphs 1. 4. or other turnaround models that have a~~  
 245 ~~demonstrated record of effectiveness.~~

246 (c) ~~A school earning a grade of "F" shall have a planning~~  
 247 ~~year followed by 2 full school years to implement the initial~~  
 248 ~~turnaround option selected by the school district and approved~~  
 249 ~~by the state board.~~ Implementation of the turnaround option is  
 250 no longer required if the school improves to a grade of "C" or

251 | ~~higher by at least one letter grade.~~

252 |       ~~(d) A school earning a grade of "F" that improves its~~  
 253 | ~~letter grade must continue to implement strategies identified in~~  
 254 | ~~its school improvement plan pursuant to s. 1001.42(18)(a). The~~  
 255 | ~~department must annually review implementation of the school~~  
 256 | ~~improvement plan for 3 years to monitor the school's continued~~  
 257 | ~~improvement.~~

258 |       ~~(d)(e)~~ If a school earning a grade of "D" or "F" does not  
 259 | improve to a grade of "C" or higher by ~~at least one letter grade~~  
 260 | after 2 full school years of implementing the turnaround option  
 261 | selected by the school district under paragraph (b), the school  
 262 | district must implement ~~select a different option and submit~~  
 263 | another turnaround option implementation plan to the department  
 264 | ~~for approval by the state board.~~ Implementation of the  
 265 | turnaround option approved plan must begin the school year  
 266 | following the implementation period of the existing turnaround  
 267 | option, unless the state board determines that the school is  
 268 | likely to improve to a "C" or higher ~~a letter grade~~ if  
 269 | additional time is provided to implement the existing turnaround  
 270 | option.

271 |       ~~(5) A school that earns a grade of "D" for 3 consecutive~~  
 272 | ~~years must implement the district managed turnaround option~~  
 273 | ~~pursuant to subparagraph (4)(b)1. The school district must~~  
 274 | ~~submit an implementation plan to the department for approval by~~  
 275 | ~~the state board.~~

276 Section 3. Paragraph (d) of subsection (6) of section  
 277 1008.345, Florida Statutes, is amended to read:

278 1008.345 Implementation of state system of school  
 279 improvement and education accountability.-

280 (6)

281 (d) The commissioner shall assign a community assessment  
 282 team to each school district or governing board with a school  
 283 that earned a grade of "D" or "F" ~~or three consecutive grades of~~  
 284 "D" pursuant to s. 1008.34 to review the school performance data  
 285 and determine causes for the low performance, including the role  
 286 of school, area, and district administrative personnel. The  
 287 community assessment team shall review a high school's  
 288 graduation rate calculated without high school equivalency  
 289 diploma recipients for the past 3 years, disaggregated by  
 290 student ethnicity. The team shall make recommendations to the  
 291 school board or the governing board and to the State Board of  
 292 Education based on the interventions and support strategies  
 293 identified pursuant to subsection (5) to which address the  
 294 causes of the school's low performance and to incorporate the  
 295 strategies ~~and may be incorporated~~ into the school improvement  
 296 plan. The assessment team shall include, but not be limited to,  
 297 a department representative, parents, business representatives,  
 298 educators, representatives of local governments, and community  
 299 activists, and shall represent the demographics of the community  
 300 from which they are appointed.

301 Section 4. Paragraph (n) of subsection (9) of section  
 302 1002.33, Florida Statutes, is amended to read:

303 1002.33 Charter schools.—

304 (9) CHARTER SCHOOL REQUIREMENTS.—

305 (n)1. The director and a representative of the governing  
 306 board of a charter school that has earned a grade of "D" or "F"  
 307 pursuant to s. 1008.34 shall appear before the sponsor to  
 308 present information concerning each contract component having  
 309 noted deficiencies. The director and a representative of the  
 310 governing board shall submit to the sponsor for approval a  
 311 school improvement plan to raise student performance. Upon  
 312 approval by the sponsor, the charter school shall begin  
 313 implementation of the school improvement plan. The department  
 314 shall offer technical assistance and training to the charter  
 315 school and its governing board and establish guidelines for  
 316 developing, submitting, and approving such plans.

317 2.a. If a charter school earns three consecutive grades  
 318 below a "C" of "D," ~~two consecutive grades of "D" followed by a~~  
 319 ~~grade of "F," or two nonconsecutive grades of "F" within a 3-~~  
 320 ~~year period,~~ the charter school governing board shall choose one  
 321 of the following corrective actions:

322 (I) Contract for educational services to be provided  
 323 directly to students, instructional personnel, and school  
 324 administrators, as prescribed in state board rule;

325 (II) Contract with an outside entity that has a



326 demonstrated record of effectiveness to operate the school;

327 (III) Reorganize the school under a new director or  
 328 principal who is authorized to hire new staff; or

329 (IV) Voluntarily close the charter school.

330 b. The charter school must implement the corrective action  
 331 in the school year following receipt of a third consecutive  
 332 grade below a "C" ~~of "D," a grade of "F" following two~~  
 333 ~~consecutive grades of "D," or a second nonconsecutive grade of~~  
 334 ~~"F" within a 3-year period.~~

335 c. The sponsor may annually waive a corrective action if  
 336 it determines that the charter school is likely to improve a  
 337 letter grade if additional time is provided to implement the  
 338 intervention and support strategies prescribed by the school  
 339 improvement plan. Notwithstanding this sub-subparagraph, a  
 340 charter school that earns a second consecutive grade of "F" is  
 341 subject to subparagraph 3. ~~4.~~

342 d. A charter school is no longer required to implement a  
 343 corrective action if it improves to a "C" or higher ~~by at least~~  
 344 ~~one letter grade~~. However, the charter school must continue to  
 345 implement strategies identified in the school improvement plan.  
 346 The sponsor must annually review implementation of the school  
 347 improvement plan to monitor the school's continued improvement  
 348 pursuant to subparagraph 4. ~~5.~~

349 e. A charter school implementing a corrective action that  
 350 does not improve to a "C" or higher ~~by at least one letter grade~~

351 after 2 full school years of implementing the corrective action  
 352 must select a different corrective action. Implementation of the  
 353 new corrective action must begin in the school year following  
 354 the implementation period of the existing corrective action,  
 355 unless the sponsor determines that the charter school is likely  
 356 to improve to a "C" or higher ~~a letter grade~~ if additional time  
 357 is provided to implement the existing corrective action.  
 358 Notwithstanding this sub-subparagraph, a charter school that  
 359 earns a second consecutive grade of "F" while implementing a  
 360 corrective action is subject to subparagraph 3. 4.

361 ~~3. A charter school with a grade of "D" or "F" that~~  
 362 ~~improves by at least one letter grade must continue to implement~~  
 363 ~~the strategies identified in the school improvement plan. The~~  
 364 ~~sponsor must annually review implementation of the school~~  
 365 ~~improvement plan to monitor the school's continued improvement~~  
 366 ~~pursuant to subparagraph 5.~~

367 3.4. A charter school's charter contract is automatically  
 368 terminated if the school earns two consecutive grades of "F"  
 369 after all school grade appeals are final unless:

370 a. The charter school is established to turn around the  
 371 performance of a district public school pursuant to s.  
 372 1008.33(4)(b)3. Such charter schools shall be governed by s.  
 373 1008.33;

374 b. The charter school serves a student population the  
 375 majority of which resides in a school zone served by a district

376 public school subject to s. 1008.33(4) ~~that earned a grade of~~  
 377 ~~"F" in the year before the charter school opened~~ and the charter  
 378 school earns at least a grade of "D" in its third year of  
 379 operation. The exception provided under this sub-subparagraph  
 380 does not apply to a charter school in its fourth year of  
 381 operation and thereafter; or

382 c. The state board grants the charter school a waiver of  
 383 termination. The charter school must request the waiver within  
 384 15 days after the department's official release of school  
 385 grades. The state board may waive termination if the charter  
 386 school demonstrates that the Learning Gains of its students on  
 387 statewide assessments are comparable to or better than the  
 388 Learning Gains of similarly situated students enrolled in nearby  
 389 district public schools. The waiver is valid for 1 year and may  
 390 only be granted once. Charter schools that have been in  
 391 operation for more than 5 years are not eligible for a waiver  
 392 under this sub-subparagraph.

393  
 394 The sponsor shall notify the charter school's governing board,  
 395 the charter school principal, and the department in writing when  
 396 a charter contract is terminated under this subparagraph. The  
 397 letter of termination must meet the requirements of paragraph  
 398 (8)(c). A charter terminated under this subparagraph must follow  
 399 the procedures for dissolution and reversion of public funds  
 400 pursuant to paragraphs (8)(e)-(g) and (9)(o).

401        ~~4.5.~~ The director and a representative of the governing  
 402 board of a graded charter school that has implemented a school  
 403 improvement plan under this paragraph shall appear before the  
 404 sponsor at least once a year to present information regarding  
 405 the progress of intervention and support strategies implemented  
 406 by the school pursuant to the school improvement plan and  
 407 corrective actions, if applicable. The sponsor shall communicate  
 408 at the meeting, and in writing to the director, the services  
 409 provided to the school to help the school address its  
 410 deficiencies.

411        ~~5.6.~~ Notwithstanding any provision of this paragraph  
 412 except sub-subparagraphs 3.a.-c. ~~4.a.-e.~~, the sponsor may  
 413 terminate the charter at any time pursuant to subsection (8).

414        Section 5. Effective upon this act becoming a law, section  
 415 1002.333, Florida Statutes, is created to read:

416        1002.333 Persistently low-performing schools.-

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

418        (a) "Hope operator" means an entity identified by the  
 419 department pursuant to subsection (2).

420        (b) "Persistently low-performing school" means a school  
 421 that has been subject to a differentiated matrix of intervention  
 422 and support strategies for more than 3 years and a school that  
 423 was closed pursuant to s. 1008.33(4) within 2 years after the  
 424 submission of a notice of intent.

425        (c) "School of hope" means a charter school operated by a

426 hope operator which serves students from one or more  
 427 persistently low-performing schools; is located in the  
 428 attendance zone of a persistently low-performing school or  
 429 within a 5-mile radius of such school, whichever is greater; and  
 430 is a Title I eligible school.

431 (2) HOPE OPERATOR.—A hope operator is a nonprofit  
 432 organization with tax exempt status under s. 501(c)(3) of the  
 433 Internal Revenue Code that operates three or more charter  
 434 schools that serve students in grades K-12 in Florida or other  
 435 states with a record of serving students from low-income  
 436 families and is designated by the State Board of Education as a  
 437 hope operator based on a determination that:

438 (a) The past performance of the hope operator meets or  
 439 exceeds the following criteria:

440 1. The achievement of enrolled students exceeds the  
 441 district and state averages of the states in which the  
 442 operator's schools operate;

443 2. The average college attendance rate at all schools  
 444 currently operated by the operator exceeds 80 percent, if such  
 445 data is available;

446 3. The percentage of students eligible for a free or  
 447 reduced price lunch under the National School Lunch Act enrolled  
 448 at all schools currently operated by the operator exceeds 70  
 449 percent;

450 4. The operator is in good standing with the authorizer in

451 each state in which it operates;

452 5. The audited financial statements of the operator are  
 453 free of material exceptions and going concern issues; and

454 6. Other outcome measures as determined by the State Board  
 455 of Education;

456 (b) The operator was awarded a United States Department of  
 457 Education Charter School Program grant for Replication and  
 458 Expansion of High-Quality Charter Schools within the preceding 3  
 459 years before applying to be a hope operator;

460 (c) The operator receives funding through the National  
 461 Fund or a Regional Fund of the Charter School Growth Fund to  
 462 accelerate the growth of the nation's best charter schools; or

463 (d) The operator is selected by a district school board in  
 464 accordance with s. 1008.33.

465  
 466 An entity that meets the requirements of paragraph (b),  
 467 paragraph (c), or paragraph (d) before the adoption by the state  
 468 board of measurable criteria pursuant to paragraph (a) shall be  
 469 designated as a hope operator. After the adoption of the  
 470 measurable criteria, an entity shall be designated as a hope  
 471 operator if it meets the criteria or is selected by a district  
 472 school board in accordance with s. 1008.33.

473 (3) DESIGNATION OF HOPE OPERATOR.—Initial status as a hope  
 474 operator is valid for 5 years from the opening of a school of  
 475 hope. If a hope operator seeks the renewal of its status, such

476 renewal shall solely be based upon the academic and financial  
 477 performance of all schools established by the operator in the  
 478 state since its initial designation.

479 (4) ESTABLISHMENT OF SCHOOLS OF HOPE.—A hope operator may  
 480 submit a notice of intent to open a school of hope to the school  
 481 district in which a persistently low-performing school has been  
 482 identified by the State Board of Education pursuant to  
 483 subsection (10).

484 (a) The notice of intent must include:

- 485 1. An academic focus and plan.
- 486 2. A financial plan.
- 487 3. Goals and objectives for increasing student achievement  
 488 for the students from low-income families.
- 489 4. A completed or planned community outreach plan.
- 490 5. The organizational history of success in working with  
 491 students with similar demographics.
- 492 6. The grade levels to be served and enrollment  
 493 projections.
- 494 7. The proposed location or geographic area proposed for  
 495 the school and its proximity to the persistently low-performing  
 496 school.
- 497 8. A staffing plan.

498 (b) Notwithstanding the requirements of s. 1002.33, a  
 499 school district shall enter into a performance-based agreement  
 500 with a hope operator to open schools to serve students from

501 | persistently low-performing schools.

502 |       (5) PERFORMANCE-BASED AGREEMENT.—The following shall  
 503 | comprise the entirety of the performance-based agreement:

504 |           (a) The notice of intent, which is incorporated by  
 505 | reference and attached to the agreement.

506 |           (b) The location or geographic area proposed for the  
 507 | school of hope and its proximity to the persistently low-  
 508 | performing school.

509 |           (c) An enumeration of the grades to be served in each year  
 510 | of the agreement and whether the school will serve children in  
 511 | the school readiness or prekindergarten programs.

512 |           (d) A plan of action and specific milestones for student  
 513 | recruitment and the enrollment of students from persistently  
 514 | low-performing schools, including enrollment preferences and  
 515 | procedures for conducting transparent admissions lotteries that  
 516 | are open to the public. Students from persistently low-  
 517 | performing schools shall be exempt from any enrollment lottery  
 518 | to the extent permitted by federal grant requirements.

519 |           (e) A delineation of the current incoming baseline  
 520 | standard of student academic achievement, the outcomes to be  
 521 | achieved, and the method of measurement that will be used.

522 |           (f) A description of the methods of involving parents and  
 523 | expected levels for such involvement.

524 |           (g) The grounds for termination, including failure to meet  
 525 | the requirements for student performance established pursuant to



526 paragraph (e), generally accepted standards of fiscal  
 527 management, or material violation of terms of the agreement. The  
 528 nonrenewal or termination of a performance-based agreement must  
 529 comply with the requirements of s. 1002.33(8).

530 (h) A provision allowing the hope operator to open  
 531 additional schools to serve students enrolled in or zoned for a  
 532 persistently low-performing school if the hope operator  
 533 maintains its status under subsection (3).

534 (i) A provision establishing the initial term as 5 years.  
 535 The agreement shall be renewed, upon the request of the hope  
 536 operator, unless the school fails to meet the requirements for  
 537 student performance established pursuant to paragraph (e) or  
 538 generally accepted standards of fiscal management or the school  
 539 of hope materially violates the law or the terms of the  
 540 agreement.

541 (j) A requirement to provide transportation consistent  
 542 with the requirements of ss. 1006.21-1006.27 and s. 1012.45. The  
 543 governing body of the school of hope may provide transportation  
 544 through an agreement or contract with the district school board,  
 545 a private provider, or parents of enrolled students.  
 546 Transportation may not be a barrier to equal access for all  
 547 students residing within reasonable distance of the school.

548 (k) A requirement that any arrangement entered into to  
 549 borrow or otherwise secure funds for the school of hope from a  
 550 source other than the state or a school district shall indemnify

551 the state and the school district from any and all liability,  
 552 including, but not limited to, financial responsibility for the  
 553 payment of the principal or interest.

554 (l) A provision that any loans, bonds, or other financial  
 555 agreements are not obligations of the state or the school  
 556 district but are obligations of the school of hope and are  
 557 payable solely from the sources of funds pledged by such  
 558 agreement.

559 (m) A prohibition on the pledge of credit or taxing power  
 560 of the state or the school district.

561 (6) STATUTORY AUTHORITY.—

562 (a) A school of hope may be designated as a local  
 563 education agency, if requested, for the purposes of receiving  
 564 federal funds and, in doing so, accepts the full responsibility  
 565 for all local education agency requirements and the schools for  
 566 which it will perform local education agency responsibilities.  
 567 Students enrolled in a school established by a hope operator  
 568 designated as a local educational agency are not eligible  
 569 students for purposes of calculating the district grade pursuant  
 570 to s. 1008.34(5).

571 (b) For the purposes of tort liability, the hope operator,  
 572 the school of hope, and its employees or agents shall be  
 573 governed by s. 768.28. The sponsor shall not be liable for civil  
 574 damages under state law for the employment actions or personal  
 575 injury, property damage, or death resulting from an act or

576 omission of a hope operator, the school of hope, or its  
 577 employees or agents.

578 (c) A school of hope may be either a private or a public  
 579 employer. As a public employer, the school of hope may  
 580 participate in the Florida Retirement System upon application  
 581 and approval as a covered group under s. 121.021(34). If a  
 582 school of hope participates in the Florida Retirement System,  
 583 the school of hope's employees shall be compulsory members of  
 584 the Florida Retirement System.

585 (d) A hope operator may employ school administrators and  
 586 instructional personnel who do not meet the requirements of s.  
 587 1012.56 if the school administrators and instructional personnel  
 588 are not ineligible for such employment under s. 1012.315.

589 (e) Compliance with s. 1003.03 shall be calculated as the  
 590 average at the school level.

591 (f) Schools of hope operated by a hope operator shall be  
 592 exempt from chapters 1000-1013 and all school board policies.  
 593 However, a hope operator shall be in compliance with the laws in  
 594 chapters 1000-1013 relating to:

595 1. The student assessment program and school grading  
 596 system.

597 2. Student progression and graduation.

598 3. The provision of services to students with  
 599 disabilities.

600 4. Civil rights, including s. 1000.05, relating to

601 discrimination.  
 602 5. Student health, safety, and welfare.  
 603 6. Public meetings and records, public inspection, and  
 604 criminal and civil penalties pursuant to s. 286.011. The  
 605 governing board of a school of hope must hold at least two  
 606 public meetings per school year in the school district in which  
 607 the school of hope is located. Any other meetings of the  
 608 governing board may be held in accordance with s. 120.54(2)(b)2.  
 609 7. Public records pursuant to chapter 119.  
 610 8. The code of ethics for public officers and employees  
 611 pursuant to ss. 112.313(2), (3), (7), and (12) and 112.3143(3).  
 612 (7) FACILITIES.—  
 613 (a) A school of hope shall use facilities that comply with  
 614 the Florida Building Code, except for the State Requirements for  
 615 Educational Facilities. A school of hope that uses school  
 616 district facilities must comply with the State Requirements for  
 617 Educational Facilities only if the school district and the hope  
 618 operator have entered into a mutual management plan for the  
 619 reasonable maintenance of such facilities. The mutual management  
 620 plan shall contain a provision by which the district school  
 621 board agrees to maintain the school facilities in the same  
 622 manner as its other public schools within the district. The  
 623 local governing authority shall not adopt or impose any local  
 624 building requirements or site-development restrictions, such as  
 625 parking and site-size criteria, which are addressed by and more

626 stringent than those found in the State Requirements for  
 627 Educational Facilities of the Florida Building Code. A local  
 628 governing authority must treat schools of hope equitably in  
 629 comparison to similar requirements, restrictions, and site  
 630 planning processes imposed upon public schools. The agency  
 631 having jurisdiction for inspection of a facility and issuance of  
 632 a certificate of occupancy or use shall be the local  
 633 municipality or, if in an unincorporated area, the county  
 634 governing authority. If an official or employee of the local  
 635 governing authority refuses to comply with this paragraph, the  
 636 aggrieved school or entity has an immediate right to bring an  
 637 action in circuit court to enforce its rights by injunction. An  
 638 aggrieved party that receives injunctive relief may be awarded  
 639 reasonable attorney fees and court costs.

640 (b) Any facility, or portion thereof, used to house a  
 641 school of hope shall be exempt from ad valorem taxes pursuant to  
 642 s. 196.1983. Library, community service, museum, performing  
 643 arts, theatre, cinema, church, Florida College System  
 644 institution, college, and university facilities may provide  
 645 space to schools of hope within their facilities under their  
 646 preexisting zoning and land use designations without obtaining a  
 647 special exception, rezoning, land use charter, or other form of  
 648 approval.

649 (c) School of hope facilities are exempt from assessments  
 650 of fees for building permits, except as provided in s. 553.80;

651 fees for building and occupational licenses; impact fees or  
 652 exactions; service availability fees; and assessments for  
 653 special benefits.

654 (d) No later than October 1, each school district shall  
 655 annually provide to the Department of Education a list of all  
 656 underused, vacant, or surplus facilities owned or operated by  
 657 the school district. A hope operator establishing a school of  
 658 hope may use an educational facility identified in this  
 659 paragraph at no cost or at a mutually agreeable cost not to  
 660 exceed \$600 per student. A hope operator using a facility  
 661 pursuant to this paragraph may not sell or dispose of such  
 662 facility without the written permission of the school district.  
 663 For purposes of this paragraph, "underused, vacant, or surplus  
 664 facility" means an entire facility or portion thereof which is  
 665 not fully used or is used irregularly or intermittently by the  
 666 school district for instructional or program use.

667 (8) NONCOMPLIANCE.—A school district that does not enter  
 668 into a performance-based agreement within 60 days after receipt  
 669 of a notice of intent shall reduce the administrative fees  
 670 withheld pursuant to s. 1002.33(20) to 1 percent for all charter  
 671 schools operating in the school district. Upon execution of the  
 672 performance-based agreement, the school district may resume  
 673 withholding the full amount of administrative fees, but may not  
 674 recover any fees that would have otherwise accrued during the  
 675 period of noncompliance. Any charter school that had

676 administrative fees withheld in violation of this subsection may  
 677 recover attorney fees and costs to enforce the requirements of  
 678 this subsection. A school district subject to the requirements  
 679 of this section shall file a monthly report detailing the  
 680 reduction in the amount of administrative fees withheld.

681 (9) FUNDING.—

682 (a) Schools of hope shall be funded in accordance with s.  
 683 1002.33(17).

684 (b) Schools of hope shall receive priority in the  
 685 department's Public Charter School Grant Program competitions.

686 (c) Schools of hope shall be considered charter schools  
 687 for purposes of s. 1013.62, except charter capital outlay may  
 688 not be used to purchase real property or for the construction of  
 689 school facilities.

690 (d) Schools of hope shall receive funds from the "Special  
 691 Categories: Grants and Aids-Schools of Hope" which is created in  
 692 addition to the categories enumerated in s. 216.011(1)(c).

693 Eligible expenditures from an appropriation in the "Special  
 694 Categories: Grants and Aids-Schools of Hope" shall include:

695 1. Preparing teachers, school leaders, and specialized  
 696 instructional support personnel, including costs associated  
 697 with:

698 a. Providing professional development.

699 b. Hiring and compensating teachers, school leaders, and  
 700 specialized instructional support personnel for services beyond

701 the school day and year.

702 2. Acquiring supplies, training, equipment, and  
 703 educational materials, including developing and acquiring  
 704 instructional materials.

705 3. Providing one-time startup costs associated with  
 706 providing transportation to students to and from the charter  
 707 school.

708 4. Carrying out community engagement activities, which may  
 709 include paying the cost of student and staff recruitment.

710 5. Providing funds to cover the nonvoted ad valorem  
 711 millage that would otherwise be required for schools and the  
 712 required local effort funds calculated pursuant to s. 1011.62  
 713 when the State Board of Education enters into an agreement with  
 714 a hope operator pursuant to subsection (5).

715 (e) If a school of hope is not renewed or is terminated,  
 716 any unencumbered funds and all equipment and property purchased  
 717 with the funds shall revert to the ownership of the state. The  
 718 reversion of such equipment, property, and furnishings shall  
 719 focus on tangible or irrecoverable costs such as rental or  
 720 leasing fees, normal maintenance, and limited renovations. The  
 721 reversion of all property secured with grant funds is subject to  
 722 the complete satisfaction of all lawful liens or encumbrances.

723 (f) Notwithstanding s. 216.301 and pursuant to s. 216.351,  
 724 the balance of any appropriation from the Grants and Aids-  
 725 Schools of hope funding appropriation category which is not



726 disbursed by June 30 of the fiscal year in which the funds are  
 727 appropriated may be carried forward for up to 5 years after the  
 728 effective date of the original appropriation.

729 (10) STATE BOARD OF EDUCATION AUTHORITY AND OBLIGATIONS.—  
 730 Pursuant to Art. IX of the State Constitution, which prescribes  
 731 the duty of the State Board of Education to supervise the public  
 732 school system, the State Board of Education shall:

733 (a) Publish an annual list of persistently low-performing  
 734 schools after the release of preliminary school grades.

735 (b) Adopt a standard notice of intent and performance-  
 736 based agreement that must be used by hope operators and district  
 737 school boards to eliminate regulatory and bureaucratic barriers  
 738 that delay access to high quality schools for students in  
 739 persistently low-performing schools.

740 (c) Resolve disputes between a hope operator and a school  
 741 district arising from a performance-based agreement or a  
 742 contract between a charter operator and a school district under  
 743 the requirements of s. 1008.33. The Commissioner of Education  
 744 shall appoint a special magistrate who is a member of The  
 745 Florida Bar in good standing and who has at least 5 years'  
 746 experience in administrative law. The special magistrate shall  
 747 hold hearings to determine facts relating to the dispute and to  
 748 render a recommended decision for resolution to the State Board  
 749 of Education. The recommendation may not alter in any way the  
 750 provisions of the performance agreement under subsection (5).

751 The special magistrate may administer oaths and issue subpoenas  
 752 on behalf of the parties to the dispute or on his or her own  
 753 behalf. Within 15 calendar days after the close of the final  
 754 hearing, the special magistrate shall transmit a recommended  
 755 decision to the State Board of Education and to the  
 756 representatives of both parties by registered mail, return  
 757 receipt requested. The State Board of Education must approve or  
 758 reject the recommended decision at its next regularly scheduled  
 759 meeting that is more than 7 calendar days and no more than 30  
 760 days after the date the recommended decision is transmitted. The  
 761 decision by the State Board of Education is a final agency  
 762 action that may be appealed to the District Court of Appeal,  
 763 First District in accordance with s. 120.68. A charter school  
 764 may recover attorney fees and costs if the State Board of  
 765 Education determines that the school district unlawfully  
 766 implemented or otherwise impeded implementation of the  
 767 performance-based agreement pursuant to this paragraph.

768 (d) Provide students in persistently low-performing  
 769 schools with a public school that meets accountability  
 770 standards. The State Board of Education may enter into a  
 771 performance-based agreement with a hope operator when a school  
 772 district has not improved the school through the interventions  
 773 and support provided under s. 1008.33 or has not complied with  
 774 the requirements of subsection (4). Upon the State Board of  
 775 Education entering into a performance-based agreement with a

776 hope operator, the school district shall transfer to the school  
 777 of hope the proportionate share of state funds allocated from  
 778 the Florida Education Finance Program.

779 (11) RULES.—The State Board of Education shall adopt rules  
 780 pursuant to ss. 120.536(1) and 120.54 to implement this section.

781 Section 6. Section 1001.292, Florida Statutes, is created  
 782 to read:

783 1001.292 Schools of Hope Revolving Loan Program.—

784 (1) The Schools of Hope Revolving Loan Program is  
 785 established within the Department of Education to provide  
 786 assistance to hope operators, as defined in s. 1002.333, to meet  
 787 school building construction needs and pay for expenses related  
 788 to the startup of a new charter school. The program shall  
 789 consist of funds appropriated by the Legislature, money received  
 790 from the repayment of loans made from the program, and interest  
 791 earned.

792 (2) Funds provided pursuant to this section may not exceed  
 793 25 percent of the total cost of the project, which shall be  
 794 calculated based on 80 percent of the cost per student station  
 795 established by s. 1013.64(6)(b) multiplied by the capacity of  
 796 the facility.

797 (3) The department may contract with a third-party  
 798 administrator to administer the program. If the department  
 799 contracts with a third-party administrator, funds shall be  
 800 granted to the third-party administrator to create a revolving

801 loan fund for the purpose of financing projects that meet the  
 802 requirements of subsection (4). The third-party administrator  
 803 shall report to the department annually. The department shall  
 804 continue to administer the program until a third-party  
 805 administrator is selected.

806 (4) Hope operators that have been designated by the State  
 807 Board of Education and have executed a performance-based  
 808 agreement pursuant to s. 1002.333 shall be provided a loan up to  
 809 the amount provided in subsection (2) for projects that are  
 810 located in the attendance area of a persistently low-performing  
 811 school or within a 5-mile radius of such school and primarily  
 812 serve students from the persistently low-performing school.

813 (5) The department shall post on its website the projects  
 814 that have received loans, the geographic distribution of the  
 815 projects, the status of the projects, the costs of the program,  
 816 and student outcomes for students enrolled in the school of hope  
 817 receiving funds.

818 (6) All repayments of principal and interest shall be  
 819 returned to the loan fund and made available for loans to other  
 820 applicants.

821 (7) Interest on loans provided under this program may be  
 822 used to defray the costs of administration and shall be the  
 823 lower of:

824 (a) The rate paid on moneys held in the fund; or

825 (b) A rate equal to 50 percent of the rate authorized

826 under the provisions of s. 215.84.

827 (8) Notwithstanding s. 216.301 and pursuant to s. 216.351,  
 828 funds appropriated for this purpose which are not disbursed by  
 829 June 30 of the fiscal year in which the funds are appropriated  
 830 may be carried forward for up to 5 years after the effective  
 831 date of the original appropriation.



832 Section 7. If any provision of this act or its application  
 833 to any person or circumstance is held invalid, the invalidity  
 834 does not affect the remaining provisions or applications of the  
 835 act which can be given effect without the invalid provision or  
 836 application, and to this end the provisions of this act are  
 837 severable.

838 Section 8. Except as otherwise expressly provided in this  
 839 act and except for this section, which shall take effect upon  
 840 this act becoming a law, this act shall take effect July 1,  
 841 2017.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 5201      PCB HCA 17-01      Medicaid Services  
**SPONSOR(S):** Health Care Appropriations Subcommittee, Brodeur  
**TIED BILLS:**                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health Care Appropriations Subcommittee	13 Y, 0 N	Clark	Pridgeon
1) Appropriations Committee		Clark 	Leznoff 

**SUMMARY ANALYSIS**

The bill conforms statutes to the funding decisions related to the Medicaid Program included in the House proposed General Appropriations Act (GAA) for Fiscal Year 2017-2018. The bill:

- Amends the definition of a “rural hospital” to eliminate sole community hospitals with up to 175 beds;
- Consolidates the Project AIDS Care waiver, Adult Cystic Fibrosis waiver, and Traumatic Brain Injury and Spinal Cord Injury waiver within the Medicaid Long Term Care waiver, effective January 1, 2018;
- Removes obsolete language related to ambulatory surgical center reimbursements due to the implementation of a prospective payment system;
- Removes Hospital Outpatient services reimbursements from the statutory rate freeze due to the implementation of a prospective payment system;
- Requires local governments that submit Intergovernmental Transfers to AHCA to submit the total amount of the funds as agreed upon in the executed letter of agreement, no later than October 31 of the year the funds are pledged unless an alternative plan is specifically approved by AHCA;
- Revises “Medicaid Payments” within the Statewide Medicaid Residency Program to include Hospital Outpatient Medicaid rates due to the implementation of a prospective payment system;
- Revises the years of audited data used in determining Disproportionate Share Hospital payments;
- Provides conforming cross-references.

The bill provides for an effective date of July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

##### Medicaid

Medicaid is the health care safety net for low-income Floridians. Medicaid is a federal and state partnership established to provide coverage for health services for eligible persons. The program is administered by the Agency for Health Care Administration (AHCA) and financed by federal and state funds. AHCA delegates certain functions to other state agencies, including the Department of Children and Families, the Department of Health (DOH), the Agency for Persons with Disabilities, and the Department of Elderly Affairs (DOEA).

The Florida Medicaid program covers approximately 4 million low-income individuals, including approximately 2.3 million, or 58.7%, of the children in Florida.<sup>1</sup> Medicaid is the second largest single program in the state, behind public education, representing 31 percent of the total FY 2016-2017 budget. Medicaid expenditures represent over 19 percent of the total state funds appropriated in FY 2016-2017.

##### Medicaid Waivers

States have some flexibility in the provision of Medicaid services. Section 1915(b) of the Social Security Act provides authority for the Secretary of the U.S. Department of Health and Human Services to waive requirements to the extent that he or she “finds it to be cost-effective and efficient and not inconsistent with the purposes of this title.” Also, Section 1115 of the Social Security Act allows states to use innovative service delivery systems that improve care, increase efficiency, and reduce costs.

States may also ask the federal government to waive federal requirements to expand populations or services, or to try new ways of service delivery. For example, Florida has a Section 1115 waiver to use a comprehensive managed care delivery model for primary and acute care services, the Statewide Medicaid Managed Care (SMMC) Managed Medical Assistance (MMA) program.<sup>2</sup> In addition to the Section 1115 waiver for the MMA program, Florida also has a waiver under Sections 1915(b) and (c) of the Social Security Act to operate the SMMC Long-term Care (LTC) program.<sup>3</sup>

Approximately 82% of the Medicaid population in Florida is enrolled in the MMA and LTC programs.<sup>4</sup>

##### Florida's Medicaid Managed Care Long-term Care Program

The LTC program provides long-term care services to eligible Medicaid beneficiaries. Individuals must enroll in the LTC program if they are age 65 or older and eligible for Medicaid, age 18 or older and eligible for Medicaid by reason of a disability, or determined by the Comprehensive Assessment and Review of Long-term Care Services (CARES) unit<sup>5</sup> at DOEA to need nursing facility level of care and also meets one or more established criteria, such as receiving TANF or enrolled in hospice care.<sup>6</sup>

<sup>1</sup> Agency for Health Care Administration, *Florida Statewide Medicaid Monthly Enrollment Report*, February 2017, available at [http://www.fdhc.state.fl.us/medicaid/Finance/data\\_analytics/enrollment\\_report/index.shtml](http://www.fdhc.state.fl.us/medicaid/Finance/data_analytics/enrollment_report/index.shtml) (last accessed March 17, 2017).

<sup>2</sup> S. 409.964, F.S.

<sup>3</sup> Id.

<sup>4</sup> *Supra*, FN 1.

<sup>5</sup> CARES is a federally mandated pre-admission screening program to assess each individual who requests Medicaid reimbursement for nursing facility placement, or who seeks to receive home and community-based services through other Medicaid waivers.

<sup>6</sup> Agency for Health Care Administration, *Statewide Medicaid Managed Care, Long-term Care Program Snapshot*, December 6, 2016, available at [https://ahca.myflorida.com/Medicaid/statewide\\_mc/pdf/LTC/SMMC\\_LTC\\_Snapshot.pdf](https://ahca.myflorida.com/Medicaid/statewide_mc/pdf/LTC/SMMC_LTC_Snapshot.pdf) (last accessed February 27, 2017).



The LTC program also allows individuals who are eligible for various other Home and Community-based Services (HCBS) waivers<sup>7</sup> to enroll. Such waivers include:

- Developmental Disabilities Waiver (iBudget);
- Traumatic Brain and Spinal Cord Injury Waiver;
- Project AIDS Care Waiver; and
- Adult Cystic Fibrosis Waiver.<sup>8</sup>

LTC plan providers also cover some expanded benefits, such as dental, emergency financial assistance, non-medical transportation, over-the-counter medications/supplies, and vision services.<sup>9</sup>

### Traumatic Brain and Spinal Cord Injury Waiver

The Traumatic Brain and Spinal Cord Injury (TB/SCI) waiver is an HCBS waiver operated by DOH that provides services for individuals with traumatic brain injuries and spinal cord injuries.<sup>10</sup> For purposes of the waiver, “traumatic brain injury” is an injury that produces an altered state of consciousness or anatomic, motor, sensory, or cognitive/behavioral deficits and “spinal cord injury” is an injury that has significant involvement of two of the following: motor deficit, sensory deficit, or bowel and bladder dysfunction.<sup>11</sup> To be eligible, individuals must be 18 years of age or older, be Medicaid eligible, have one of the conditions previously described, and meet nursing home level of care as determined by CARES.<sup>12</sup>

The TB/SCI waiver includes services such as assistive technologies, attendant care, adult companion, counseling, personal care, and support coordination. Currently, the TB/SCI waiver has approximately 350 individuals enrolled with 350 on the waitlist.<sup>13</sup>

### Adult Cystic Fibrosis Waiver

The Adult Cystic Fibrosis (ACF) waiver is an HCBS waiver operated by DOH that provides services for individuals with a diagnosis of cystic fibrosis; a chronic, progressive, and terminal genetic disorder that affects a person’s lungs and digestive system.<sup>14</sup> To be eligible, individuals must be 18 years of age or older, be Medicaid eligible, have a diagnosis of cystic fibrosis, and meet nursing home level of care as determined by CARES.<sup>15</sup>

The ACF waiver includes services such as case management, counseling, personal care, prescription drugs, respite care, and respiratory therapy. Currently, the ACF waiver has approximately 140 individuals enrolled with none on the waitlist.<sup>16</sup>

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<sup>7</sup> *Infra*, FN 10; Medicaid HCBS waivers are authorized by Section 2176 of the Omnibus Budget Reconciliation Act of 1981 and incorporated into Title XIX of the Social Security Act as Section 1915(c). States can use this authority to offer a broad array of services not otherwise available through Medicaid that are intended to prevent or delay institutional placement. Florida’s HCBS waivers vary on a number of dimensions. Some waivers are limited to persons with specific diseases or physical conditions (such as cystic fibrosis); others serve broader groups (such as persons who are elderly and/or have disabilities). Waivers also differ with respect to the number and types of services provided, payment method, and whether waiver services are available statewide or limited to a few counties.

<sup>8</sup> *Supra*, FN 6.

<sup>9</sup> *Id.*

<sup>10</sup> Office of Program Policy Analysis and Government Accountability, *Profile of Florida’s Medicaid Home and Community-Based Services Waivers*, Report No. 13-07, March 2013, available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1307rpt.pdf> (last accessed February 27, 2017).

<sup>11</sup> *Id.*

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

<sup>13</sup> Agency for Health Care Administration, Agency Analysis of 2017 House Bill 619, p. 3 (Feb. 6, 2017).

<sup>14</sup> *Supra*, FN 10.

<sup>15</sup> *Id.*

<sup>16</sup> *Supra*, FN 13

## Project AIDS Care Waiver

The Project AIDS Care (PAC) waiver is an HCBS waiver operated by AHCA that provides services for individuals with a diagnosis of acquired immune deficiency syndrome (AIDS). To be eligible, individuals must be Medicaid eligible, have a diagnosis of AIDS, have an AIDS-related opportunistic infection, be at risk for hospitalization, meet income eligibility requirements of the Social Security Administration for SSI,<sup>17</sup> and not be enrolled in the MMA or LTC programs.<sup>18</sup> To meet SSI income requirements, an individual must not earn more than \$2,205 per month, or 300% of the Federal Benefits Rate (FBR).<sup>19</sup>

The PAC waiver includes services such as case management, home-delivered meals, personal care, restorative massage, specialized medical equipment, and skilled nursing. Currently, the PAC waiver has approximately 7,800 individuals enrolled with none on the waitlist.

## Sole Community Hospitals

The federal Medicare program classifies a hospital as a “sole community hospital” based on criteria specified in title 42, s. 412.92, of the Code of Federal Regulations, including whether the hospital is situated in a federally-designated rural area, the hospital’s capacity, and the hospital’s distance from other hospitals. A sole community hospital is given special treatment and is eligible for payment adjustments from the Medicare program due to the federal government’s consideration of the hospital’s accessibility to residents of rural areas who have limited options for hospital services.

In 2016, the Legislature amended the definition of a rural hospital to include hospitals classified as sole community hospitals having up to 175 licensed beds, beginning in the 2016-2017 fiscal year.<sup>20</sup> Chapter 2016-66, Laws of Florida provided non-recurring funding for the increased cost associated with amending the definition to include hospitals classified as sole community hospitals.

## Outpatient Reimbursement

Florida Medicaid currently reimburses hospital outpatient services using hospital specific cost-based rates which pay a flat rate referred to as a “per diem” to each payable revenue code submitted on an outpatient claim. The hospital outpatient rates are based on unaudited, historical cost reports submitted prior to services being rendered. The reimbursement rates are adjusted post-payment for some facilities each year based on audited cost reports. The cost report audit and rate adjustment processes can take several years for full reconciliation and finalization of payment.

During the 2015 Legislative Session, the Legislature authorized the study and design of an Outpatient Prospective Payment System (OPPS) for Florida Medicaid<sup>21</sup>. The Legislature required that the Agency for Health Care Administration develop a plan to convert Medicaid payments for outpatient services, including hospital outpatient services and ambulatory surgery centers, to a prospective payment system and identify steps necessary for the transition to be completed in a budget neutral manner.

During the 2016 Legislative Session, the Legislature amended s. 409.905, F.S., replacing AHCA’s existing per diem and retroactive adjustment fee methodology for Medicaid outpatient care, with a prospective payment system. Under the new system, AHCA will calculate reimbursement rates annually for Hospital Outpatient Services. Additionally, s. 409.908(5), F.S., was amended to reflect the

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<sup>17</sup> SSI is the Supplemental Security Income program, a federal income supplement program designed to help aged, blind, and disabled people with little to no income by providing cash to meet basic needs such as food, clothing and shelter; See Social Security Administration, Supplemental Security Income Home Page – 2016 Edition, *What is Supplemental Security Income?*, available at <https://www.ssa.gov/ssi/> (last accessed February 27, 2017).

<sup>18</sup> Supra, FN 10.

<sup>19</sup> Current FBR is \$735 per month; Department of Children and Families, *SSI-Related Programs – Financial Eligibility Standards*, available at [http://www.dcf.state.fl.us/programs/access/docs/esspolicymanual/a\\_09.pdf](http://www.dcf.state.fl.us/programs/access/docs/esspolicymanual/a_09.pdf) (last accessed February 26, 2017).

<sup>20</sup> Chapter 2016-65, Laws of Florida

<sup>21</sup> Chapter 2015-232, Laws of Florida

transition to prospective payment system for ambulatory surgical centers. The new rates are required to go into effect on July 1, 2017, and on July 1 every year thereafter. The new methodology must function like an outpatient prospective payment system by categorizing the amount and type of services used in outpatient visits, and group together procedures that share similar characteristics and costs.

### Intergovernmental Transfers

Certain programs, including but not limited to the Statewide Medicaid Residency Program, the Graduate Medical Education Startup Bonus Program, the Disproportionate Share Hospital (DSH), and certain hospital reimbursement exemptions are funded through county and other local tax dollars that are transferred to the state and used to draw federal match. Local dollars transferred to the state and used in this way are known as “intergovernmental transfers” or IGTs. IGTs may be used to augment hospital payments in other ways, specifically through direct payment programs authorized by the federal Centers for Medicare and Medicaid Services (CMS) through waivers or state plan amendments. Examples include the Upper Payment Limit (UPL) and Low Income Pool (LIP) programs. All IGTs are contingent upon the willingness of counties and other local taxing authorities to transfer funds to the state in order to draw down federal match. The local taxing authorities commit to sending these funds to the state in the form of an executed Letter of Agreement with the AHCA. In order for AHCA to make timely payments to hospitals, AHCA must know which local governments will be submitting IGTs and the amount of the funds prior to using the funds to draw the federal match. Current law requires local governments who will be submitting IGTs to submit to AHCA the final executed letter of agreement containing the total amount of the IGTs authorized by the entity, no later than October 1 of each year. Currently, there is no date requirement for the local governments to transfer the actual IGTs to AHCA.

### Statewide Medicaid Residency Program

In 2013, the Legislature created the Statewide Medicaid Residency Program (SMRP) to fund graduate medical education (GME).<sup>22</sup> GME is the education and training of physicians following graduation from a medical school in which physicians refine the clinical skills necessary to practice in a specific medical field (surgery, dermatology, family practice, etc.). GME or “residency” programs for allopathic and osteopathic physicians include internships, residency training, and fellowships. These residency programs vary in length from three to seven years. Previously, graduate medical education was reimbursed through hospital inpatient and outpatient reimbursements.

The SMRP defines “Medicaid payment” as payments made to reimburse a hospital for direct inpatient services, as determined by AHCA. Consequently, AHCA must calculate an allocation fraction in accordance with statutory formula on or before September 15 of each year. A hospital’s annual allocation equals the funds appropriated for the SMRP in the GAA multiplied by its allocation fraction. Regardless of the formula, a hospital’s annual allocation may not exceed two-times the average per resident amount for all hospitals. Any funds beyond this amount must be redistributed to participating hospitals whose annual allocation does not exceed this limit. AHCA must distribute each participating hospital’s annual allocation in four installments on the final business day of each quarter of the state fiscal year.<sup>23</sup>

### Disproportionate Share Hospital Program

The Medicaid Disproportionate Share Hospital (DSH) Program funding distributions are provided to hospitals that provide a disproportionate share of the Medicaid or charity care services to uninsured individuals. Each year, the Legislature delineates how the funds will be distributed to each eligible facility either through statutory formulas or other direction in the implementing bill or proviso.

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<sup>22</sup> Chapter 2013-48, Laws of Florida

<sup>23</sup> S. 409.909, F.S.

## **Effect of Proposed Bill**

### Medicaid Waivers

The bill requires PAC, ACF, and TB/SCI waiver beneficiaries to transition to the LTC program by January 1, 2018. Once all eligible Medicaid beneficiaries have transitioned, AHCA must seek federal approval to terminate the waivers. Waiver consolidation removes administrative burdens on AHCA and DOH by transferring Medicaid beneficiaries from these HCBS waivers into the LTC program. Similar services, and in some cases expanded services, are available to the waiver beneficiaries in the LTC program as are currently available through the waivers.

### Project AIDS Care Waiver Consolidation

The bill would transfer approximately 7,800 individuals from the PAC waiver to the LTC program.

The bill amends eligibility requirements, subject to federal approval, for individuals who would otherwise be eligible for the PAC waiver but do not meet the eligibility requirements for the LTC program. The bill makes those individuals with a diagnosis of AIDS, an AIDS-related opportunistic infection, at risk of hospitalization as determined by AHCA, and income at or below 300% of the FBR eligible for Medicaid. This change in the eligibility requirement would allow an individual otherwise eligible for the PAC waiver, who does not meet the nursing home level of care requirement for the LTC program, to be eligible for the MMA program.

The LTC program offers similar services to those offered under the PAC waiver. Some services will not be available, such as massage therapy, but other services available under the LTC program will replace those services.<sup>24</sup>

### Adult Cystic Fibrosis Waiver Consolidation

The bill would transfer approximately 140 individuals from the ACF waiver to the LTC program.

The bill amends CARES screening requirements to include "hospital level of care" for individuals diagnosed with cystic fibrosis. Currently, to meet LTC eligibility requirements, CARES must determine an individual requires "nursing facility care." This change will allow those individuals diagnosed with cystic fibrosis who do not meet the nursing facility level of care requirement to be eligible for the LTC program.

The LTC program offers similar services to those offered under the ACF waiver, but certain services are not available, such as nutritional supplements and the amount of sterile saline needed by individuals with ACF. AHCA will require LTC program plans to cover over-the-counter benefits to fill the gap in available services.<sup>25</sup>

### Traumatic Brain Injury and Spinal Cord Injury Waiver

The bill transfers approximately 350 individuals from the TB/SCI waiver to the LTC program, and 350 individuals from the TB/SCI waiver waitlist to the LTC program waitlist. It is likely those individuals transferred onto the LTC waitlist will transition into the LTC program faster than they would have moved into the TB/SCI waiver due to their high level of acuity and the large number of people enrolled per year from the waitlist into the LTC program.

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<sup>24</sup> Supra, FN 13 at pg. 4.

<sup>25</sup> Supra, FN 13 at pg. 5.

The LTC program offers services similar to those available through the TB/SCI waiver and expanded benefits will be available to individuals who transfer.

The bill also deletes s. 409.906(13)(b), F.S., a section of law that allows AHCA to consolidate certain waiver programs that will become obsolete upon passage of the bill.

#### Sole Community Hospitals

The bill amends s. 395.602, F.S., to revise the definition of “rural hospital” by deleting the provision allowing a hospital to qualify as a rural hospital by being classified as a sole community hospital having up to 175 licensed beds since the increased costs associated with this change was funding with non-recurring appropriations.

#### Outpatient Reimbursement

During the 2016 Legislative Session, the Legislature required that the Agency for Health Care Administration implement prospective payments for outpatient services, including hospital outpatient services and ambulatory surgery centers.<sup>26</sup> The bill deletes obsolete language in s. 409.908(5), F.S., due to the statutorily required implementation of a prospective payment system effective July 1, 2017. The new rates go into effect on July 1, 2017, and on July 1 every year thereafter. Additionally, the bill eliminates hospital outpatient services from the statutory rate freeze that ensures no increase in statewide expenditures resulting from a change in unit costs effective July 1, 2011.

#### Intergovernmental Transfers

The bill amends s. 409.908, F.S., to require the local governments to submit to AHCA the total amount of the IGTs as agreed upon in the executed letter of agreement, no later than October 31 of the year the IGTs are pledged unless an alternative plan is specifically approved by AHCA.

#### Statewide Medicaid Residency Program

This legislation amends s. 409.909, F.S., to modify the definition of “Medicaid payments” under the SMRP to include outpatient services. This change is necessitated by the statutory transition to a prospective outpatient payment system. This is similar to the transition that occurred when Florida moved to inpatient Diagnosis Related Groups.

#### Disproportionate Share Hospital Program

The bill amends s. 409.911, F.S., to update existing law to provide payments for the 2017-2018 fiscal year related to hospitals in the Disproportionate Share Hospital (DSH) Programs and Medicaid DSH based upon the average of the 2009, 2010, and 2011 audited disproportionate share data to determine each hospital’s Medicaid days and charity care.

The bill provides for an effective date of July 1, 2017.

#### B. SECTION DIRECTORY:

- Section 1:** Amends s. 395.602, F.S., relating to rural hospitals.
- Section 2:** Amends s. 409.904, F.S., relating to optional payments to eligible persons.
- Section 3:** Amends s. 409.906, F.S., relating to optional Medicaid services.
- Section 4:** Amends s. 409.908, F.S., relating to reimbursement of Medicaid providers.
- Section 5:** Amends s. 409.909, F.S., relating to Statewide Medicaid Residency Program.

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<sup>26</sup> Chapter 2016-65, Laws of Florida

- Section 6:** Amends s. 409.911, F.S., relating to Disproportionate Share Program  
**Section 7:** Amends s. 409.979, F.S., relating to eligibility.  
**Section 8:** Amends s. 391.055, F.S., conforming cross-references.  
**Section 9:** Amends s. 393.0661, F.S., conforming cross-references.  
**Section 10:** Amends s. 409.968, F.S., conforming cross-references.  
**Section 11:** Amends s. 427.0135, F.S., conforming cross-references.  
**Section 12:** Amends s. 1011.70, F.S., conforming cross-references.  
**Section 13:** Provides an effective date of July 1, 2017.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

\$476,864,450 in federal Medicaid funds will be generated through the implementation of the Hospital Outpatient Prospective Payment System, the GME program, and the DSH programs:

- Hospital Outpatient Services = \$146,635,622
- Graduate Medical Education = \$110,916,000
- Disproportionate Share Hospital Program = \$219,313,128

#### 2. Expenditures:

The bill will require a transfer of General Revenue funds from DOH to AHCA relating to the TB/SCI waiver in the amount of \$1,976,544. The bill will require a transfer of General Revenue funds from DOH to AHCA related to the ACF waiver in the amount of \$474,206.

The bill will require AHCA to internally transfer General Revenue of \$1,668,324 between budget categories to transfer the PAC waiver to the LTC program.

The bill does not increase the Medicaid outpatient reimbursements as the transition from a cost-based reimbursement system to a prospective payment system is required to be budget neutral.

The bill will require AHCA to make payments to eligible DSH providers, based on the statutory formulas, a total amount of \$309,917,284 (\$6.5 million General Revenue).

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

In order to earn matching federal dollars for IGT funded programs, local governments and other local political subdivisions would be required to provide \$249,828,895 in contributions, no later than October 31, 2017.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

### D. FISCAL COMMENTS:

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

2. Other:

#### **B. RULE-MAKING AUTHORITY:**

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to Medicaid services; amending s.  
 3           395.602, F.S.; revising the definition of the term  
 4           "rural hospital" to delete sole community hospitals;  
 5           amending s. 409.904, F.S.; providing that certain  
 6           persons with AIDS are eligible for optional payments  
 7           for medical assistance and related services; amending  
 8           s. 409.906, F.S.; deleting a provision relating to  
 9           consolidation of waiver services to conform to changes  
 10          made by the act; amending s. 409.908, F.S.; deleting a  
 11          provision relating to reimbursement rate parameters  
 12          for certain Medicaid providers; authorizing the agency  
 13          to receive funds from certain governmental entities  
 14          for specified purposes; providing requirements for  
 15          letters of agreement executed by a local governmental  
 16          entity; amending s. 409.909, F.S.; revising the  
 17          definition of the term "Medicaid payments" to include  
 18          the outpatient enhanced ambulatory payment group for  
 19          purposes of the Statewide Medicaid Residency Program;  
 20          amending s. 409.911, F.S.; updating references to data  
 21          used for calculating disproportionate share program  
 22          payments to certain hospitals for the 2017-2018 fiscal  
 23          year; amending s. 409.979, F.S.; revising eligibility  
 24          criteria for certain long-term care services;  
 25          providing for certain home and community-based service



26 waiver participants to transition into the long-term  
 27 care managed care program; requiring the agency to  
 28 seek federal approval to terminate certain waiver  
 29 programs; amending ss. 391.055, 393.0661, 409.968,  
 30 427.0135, and 1011.70, F.S.; conforming cross-  
 31 references; providing an effective date.

32

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

34

35 Section 1. Paragraph (e) of subsection (2) of section  
 36 395.602, Florida Statutes, is amended to read:

37 395.602 Rural hospitals.—

38 (2) DEFINITIONS.—As used in this part, the term:

39 (e) "Rural hospital" means an acute care hospital licensed  
 40 under this chapter, having 100 or fewer licensed beds and an  
 41 emergency room, which is:

42 1. The sole provider within a county with a population  
 43 density of up to 100 persons per square mile;

44 2. An acute care hospital, in a county with a population  
 45 density of up to 100 persons per square mile, which is at least  
 46 30 minutes of travel time, on normally traveled roads under  
 47 normal traffic conditions, from any other acute care hospital  
 48 within the same county;

49 3. A hospital supported by a tax district or subdistrict  
 50 whose boundaries encompass a population of up to 100 persons per

51 square mile;

52 ~~4. A hospital classified as a sole community hospital~~  
 53 ~~under 42 C.F.R. s. 412.92 which has up to 175 licensed beds;~~

54 4.5. A hospital with a service area that has a population  
 55 of up to 100 persons per square mile. As used in this  
 56 subparagraph, the term "service area" means the fewest number of  
 57 zip codes that account for 75 percent of the hospital's  
 58 discharges for the most recent 5-year period, based on  
 59 information available from the hospital inpatient discharge  
 60 database in the Florida Center for Health Information and  
 61 Transparency at the agency; or

62 5.6. A hospital designated as a critical access hospital,  
 63 as defined in s. 408.07.

64  
 65 Population densities used in this paragraph must be based upon  
 66 the most recently completed United States census. A hospital  
 67 that received funds under s. 409.9116 for a quarter beginning no  
 68 later than July 1, 2002, is deemed to have been and shall  
 69 continue to be a rural hospital from that date through June 30,  
 70 2021, if the hospital continues to have up to 100 licensed beds  
 71 and an emergency room. An acute care hospital that has not  
 72 previously been designated as a rural hospital and that meets  
 73 the criteria of this paragraph shall be granted such designation  
 74 upon application, including supporting documentation, to the  
 75 agency. A hospital that was licensed as a rural hospital during

76 the 2010-2011 or 2011-2012 fiscal year shall continue to be a  
 77 rural hospital from the date of designation through June 30,  
 78 2021, if the hospital continues to have up to 100 licensed beds  
 79 and an emergency room.

80 Section 2. Subsection (11) is added to section 409.904,  
 81 Florida Statutes, to read:

82 409.904 Optional payments for eligible persons.—The agency  
 83 may make payments for medical assistance and related services on  
 84 behalf of the following persons who are determined to be  
 85 eligible subject to the income, assets, and categorical  
 86 eligibility tests set forth in federal and state law. Payment on  
 87 behalf of these Medicaid eligible persons is subject to the  
 88 availability of moneys and any limitations established by the  
 89 General Appropriations Act or chapter 216.

90 (11) Subject to federal waiver approval, a person with  
 91 acquired immune deficiency syndrome (AIDS) who has an AIDS-  
 92 related opportunistic infection and is at risk of  
 93 hospitalization as determined by the agency or its designee, and  
 94 whose income is at or below 300 percent of the federal benefit  
 95 rate (FBR).

96 Section 3. Paragraph (b) of subsection (13) of section  
 97 409.906, Florida Statutes, is amended to read:

98 409.906 Optional Medicaid services.—Subject to specific  
 99 appropriations, the agency may make payments for services which  
 100 are optional to the state under Title XIX of the Social Security

101 Act and are furnished by Medicaid providers to recipients who  
 102 are determined to be eligible on the dates on which the services  
 103 were provided. Any optional service that is provided shall be  
 104 provided only when medically necessary and in accordance with  
 105 state and federal law. Optional services rendered by providers  
 106 in mobile units to Medicaid recipients may be restricted or  
 107 prohibited by the agency. Nothing in this section shall be  
 108 construed to prevent or limit the agency from adjusting fees,  
 109 reimbursement rates, lengths of stay, number of visits, or  
 110 number of services, or making any other adjustments necessary to  
 111 comply with the availability of moneys and any limitations or  
 112 directions provided for in the General Appropriations Act or  
 113 chapter 216. If necessary to safeguard the state's systems of  
 114 providing services to elderly and disabled persons and subject  
 115 to the notice and review provisions of s. 216.177, the Governor  
 116 may direct the Agency for Health Care Administration to amend  
 117 the Medicaid state plan to delete the optional Medicaid service  
 118 known as "Intermediate Care Facilities for the Developmentally  
 119 Disabled." Optional services may include:

120 (13) HOME AND COMMUNITY-BASED SERVICES.—

121 ~~(b) The agency may consolidate types of services offered~~  
 122 ~~in the Aged and Disabled Waiver, the Channeling Waiver, the~~  
 123 ~~Project AIDS Care Waiver, and the Traumatic Brain and Spinal~~  
 124 ~~Cord Injury Waiver programs in order to group similar services~~  
 125 ~~under a single service, or continue a service upon evidence of~~

126 ~~the need for including a particular service type in a particular~~  
 127 ~~waiver. The agency is authorized to seek a Medicaid state plan~~  
 128 ~~amendment or federal waiver approval to implement this policy.~~

129 Section 4. Subsections (6) through (26) of section  
 130 409.908, Florida Statutes, are renumbered as subsections (5)  
 131 through (25), respectively, present subsections (5) and (24) are  
 132 amended, and a new subsection (26) is added to that section, to  
 133 read:

134 409.908 Reimbursement of Medicaid providers.—Subject to  
 135 specific appropriations, the agency shall reimburse Medicaid  
 136 providers, in accordance with state and federal law, according  
 137 to methodologies set forth in the rules of the agency and in  
 138 policy manuals and handbooks incorporated by reference therein.  
 139 These methodologies may include fee schedules, reimbursement  
 140 methods based on cost reporting, negotiated fees, competitive  
 141 bidding pursuant to s. 287.057, and other mechanisms the agency  
 142 considers efficient and effective for purchasing services or  
 143 goods on behalf of recipients. If a provider is reimbursed based  
 144 on cost reporting and submits a cost report late and that cost  
 145 report would have been used to set a lower reimbursement rate  
 146 for a rate semester, then the provider's rate for that semester  
 147 shall be retroactively calculated using the new cost report, and  
 148 full payment at the recalculated rate shall be effected  
 149 retroactively. Medicare-granted extensions for filing cost  
 150 reports, if applicable, shall also apply to Medicaid cost

151 reports. Payment for Medicaid compensable services made on  
 152 behalf of Medicaid eligible persons is subject to the  
 153 availability of moneys and any limitations or directions  
 154 provided for in the General Appropriations Act or chapter 216.  
 155 Further, nothing in this section shall be construed to prevent  
 156 or limit the agency from adjusting fees, reimbursement rates,  
 157 lengths of stay, number of visits, or number of services, or  
 158 making any other adjustments necessary to comply with the  
 159 availability of moneys and any limitations or directions  
 160 provided for in the General Appropriations Act, provided the  
 161 adjustment is consistent with legislative intent.

162 ~~(5) An ambulatory surgical center shall be reimbursed the~~  
 163 ~~lesser of the amount billed by the provider or the Medicare-~~  
 164 ~~established allowable amount for the facility.~~

165 (23)~~(24)~~(a) The agency shall establish rates at a level  
 166 that ensures no increase in statewide expenditures resulting  
 167 from a change in unit costs effective July 1, 2011.  
 168 Reimbursement rates shall be as provided in the General  
 169 Appropriations Act.

170 (b) Base rate reimbursement for inpatient services under a  
 171 diagnosis-related group payment methodology shall be provided in  
 172 the General Appropriations Act.

173 (c) Base rate reimbursement for outpatient services under  
 174 an enhanced ambulatory payment group methodology shall be  
 175 provided in the General Appropriations Act.

176 ~~(d)~~(e) This subsection applies to the following provider  
 177 types:

- 178 ~~1. Inpatient hospitals.~~
- 179 ~~2. Outpatient hospitals.~~
- 180 ~~1.3.~~ Nursing homes.
- 181 ~~2.4.~~ County health departments.
- 182 ~~5. Prepaid health plans.~~

183 ~~(e)~~(d) The agency shall apply the effect of this  
 184 subsection to the reimbursement rates for nursing home diversion  
 185 programs.

186 (26) The agency may receive funds from state entities,  
 187 including, but not limited to, the Department of Health, local  
 188 governments, and other local political subdivisions, for the  
 189 purpose of making special exception payments, including federal  
 190 matching funds. Funds received for this purpose shall be  
 191 separately accounted for and may not be commingled with other  
 192 state or local funds in any manner. The agency may certify all  
 193 local governmental funds used as state match under Title XIX of  
 194 the Social Security Act to the extent and in the manner  
 195 authorized under the General Appropriations Act and pursuant to  
 196 an agreement between the agency and the local governmental  
 197 entity. In order for the agency to certify such local  
 198 governmental funds, a local governmental entity must submit a  
 199 final, executed letter of agreement to the agency, which must be  
 200 received by October 1 of each fiscal year and provide the total

201 amount of local governmental funds authorized by the entity for  
 202 that fiscal year under the General Appropriations Act. The local  
 203 governmental entity shall use a certification form prescribed by  
 204 the agency. At a minimum, the certification form must identify  
 205 the amount being certified and describe the relationship between  
 206 the certifying local governmental entity and the local health  
 207 care provider. Local governmental funds outlined in the letters  
 208 of agreement must be received by the agency no later than  
 209 October 31 of each fiscal year in which such funds are pledged,  
 210 unless an alternative plan is specifically approved by the  
 211 agency.

212 Section 5. Paragraph (b) of subsection (2) of section  
 213 409.909, Florida Statutes, is amended to read:

214 409.909 Statewide Medicaid Residency Program.—

215 (2) On or before September 15 of each year, the agency  
 216 shall calculate an allocation fraction to be used for  
 217 distributing funds to participating hospitals. On or before the  
 218 final business day of each quarter of a state fiscal year, the  
 219 agency shall distribute to each participating hospital one-  
 220 fourth of that hospital's annual allocation calculated under  
 221 subsection (4). The allocation fraction for each participating  
 222 hospital is based on the hospital's number of full-time  
 223 equivalent residents and the amount of its Medicaid payments. As  
 224 used in this section, the term:

225 (b) "Medicaid payments" means the estimated total payments



226 | for reimbursing a hospital for direct inpatient services for the  
 227 | fiscal year in which the allocation fraction is calculated based  
 228 | on the hospital inpatient appropriation and the parameters for  
 229 | the inpatient diagnosis-related group base rate and the  
 230 | parameters for the outpatient enhanced ambulatory payment group  
 231 | rate, including applicable intergovernmental transfers,  
 232 | specified in the General Appropriations Act, as determined by  
 233 | the agency. Effective July 1, 2017, the term "Medicaid payments"  
 234 | means the estimated total payments for reimbursing a hospital  
 235 | for direct inpatient and outpatient services for the fiscal year  
 236 | in which the allocation fraction is calculated based on the  
 237 | hospital inpatient appropriation and outpatient appropriation  
 238 | and the parameters for the inpatient diagnosis-related group  
 239 | base rate and the parameters for the outpatient enhanced  
 240 | ambulatory payment group rate, including applicable  
 241 | intergovernmental transfers, specified in the General  
 242 | Appropriations Act, as determined by the agency.

243 |       Section 6. Paragraph (a) of subsection (2) of section  
 244 | 409.911, Florida Statutes, is amended to read:

245 |       409.911 Disproportionate share program.—Subject to  
 246 | specific allocations established within the General  
 247 | Appropriations Act and any limitations established pursuant to  
 248 | chapter 216, the agency shall distribute, pursuant to this  
 249 | section, moneys to hospitals providing a disproportionate share  
 250 | of Medicaid or charity care services by making quarterly

251 Medicaid payments as required. Notwithstanding the provisions of  
 252 s. 409.915, counties are exempt from contributing toward the  
 253 cost of this special reimbursement for hospitals serving a  
 254 disproportionate share of low-income patients.

255 (2) The Agency for Health Care Administration shall use  
 256 the following actual audited data to determine the Medicaid days  
 257 and charity care to be used in calculating the disproportionate  
 258 share payment:

259 (a) The average of the 2009, 2010, and 2011 ~~2007, 2008,~~  
 260 ~~and 2009~~ audited disproportionate share data to determine each  
 261 hospital's Medicaid days and charity care for the 2017-2018  
 262 ~~2015-2016~~ state fiscal year.

263 Section 7. Subsections (1) and (2) of section 409.979,  
 264 Florida Statutes, are amended to read:

265 409.979 Eligibility.—

266 (1) PREREQUISITE CRITERIA FOR ELIGIBILITY.—Medicaid  
 267 recipients who meet all of the following criteria are eligible  
 268 to receive long-term care services and must receive long-term  
 269 care services by participating in the long-term care managed  
 270 care program. The recipient must be:

271 (a) Sixty-five years of age or older, or age 18 or older  
 272 and eligible for Medicaid by reason of a disability.

273 (b) Determined by the Comprehensive Assessment Review and  
 274 Evaluation for Long-Term Care Services (CARES) preadmission  
 275 screening program to require:

276           1. Nursing facility care as defined in s. 409.985(3); or  
 277           2. For individuals diagnosed as having cystic fibrosis,  
 278 hospital level of care.

279           (2) ENROLLMENT OFFERS.—Subject to the availability of  
 280 funds, the Department of Elderly Affairs shall make offers for  
 281 enrollment to eligible individuals based on a wait-list  
 282 prioritization. Before making enrollment offers, the agency and  
 283 the Department of Elderly Affairs shall determine that  
 284 sufficient funds exist to support additional enrollment into  
 285 plans.

286           (a) A Medicaid recipient enrolled in one of the following  
 287 home and community-based services Medicaid waiver programs who  
 288 meets all of the eligibility criteria established in subsection  
 289 (1) is eligible to participate in the long-term care managed  
 290 care program and shall be transitioned into the long-term care  
 291 managed care program by January 1, 2018:

- 292           1. Traumatic Brain and Spinal Cord Injury Waiver.
- 293           2. Adult Cystic Fibrosis Waiver.
- 294           3. Project AIDS Care Waiver.

295           (b) The agency shall seek federal approval to terminate  
 296 the Traumatic Brain and Spinal Cord Injury Waiver, the Adult  
 297 Cystic Fibrosis Waiver, and the Project AIDS Care Waiver once  
 298 all eligible Medicaid recipients have transitioned into the  
 299 long-term care managed care program.

300           Section 8. Subsection (3) of section 391.055, Florida

301 Statutes, is amended to read:

302 391.055 Service delivery systems.—

303 (3) The Children's Medical Services network may contract  
 304 with school districts participating in the certified school  
 305 match program pursuant to ss. 409.908(21) ~~409.908(22)~~ and  
 306 1011.70 for the provision of school-based services, as provided  
 307 for in s. 409.9071, for Medicaid-eligible children who are  
 308 enrolled in the Children's Medical Services network.

309 Section 9. Subsection (7) of section 393.0661, Florida  
 310 Statutes, is amended to read:

311 393.0661 Home and community-based services delivery  
 312 system; comprehensive redesign.—The Legislature finds that the  
 313 home and community-based services delivery system for persons  
 314 with developmental disabilities and the availability of  
 315 appropriated funds are two of the critical elements in making  
 316 services available. Therefore, it is the intent of the  
 317 Legislature that the Agency for Persons with Disabilities shall  
 318 develop and implement a comprehensive redesign of the system.

319 (7) The agency shall collect premiums or cost sharing  
 320 pursuant to s. 409.906(13)(c) ~~409.906(13)(d)~~.

321 Section 10. Paragraph (a) of subsection (4) of section  
 322 409.968, Florida Statutes, is amended to read:

323 409.968 Managed care plan payments.—

324 (4)(a) Subject to a specific appropriation and federal  
 325 approval under s. 409.906(13)(d) ~~409.906(13)(e)~~, the agency

326 shall establish a payment methodology to fund managed care plans  
 327 for flexible services for persons with severe mental illness and  
 328 substance use disorders, including, but not limited to,  
 329 temporary housing assistance. A managed care plan eligible for  
 330 these payments must do all of the following:

331 1. Participate as a specialty plan for severe mental  
 332 illness or substance use disorders or participate in counties  
 333 designated by the General Appropriations Act;

334 2. Include providers of behavioral health services  
 335 pursuant to chapters 394 and 397 in the managed care plan's  
 336 provider network; and

337 3. Document a capability to provide housing assistance  
 338 through agreements with housing providers, relationships with  
 339 local housing coalitions, and other appropriate arrangements.

340 Section 11. Subsection (3) of section 427.0135, Florida  
 341 Statutes, is amended to read:

342 427.0135 Purchasing agencies; duties and  
 343 responsibilities.—Each purchasing agency, in carrying out the  
 344 policies and procedures of the commission, shall:

345 (3) Not procure transportation disadvantaged services  
 346 without initially negotiating with the commission, as provided  
 347 in s. 287.057(3)(e)12., or unless otherwise authorized by  
 348 statute. If the purchasing agency, after consultation with the  
 349 commission, determines that it cannot reach mutually acceptable  
 350 contract terms with the commission, the purchasing agency may

351 contract for the same transportation services provided in a more  
 352 cost-effective manner and of comparable or higher quality and  
 353 standards. The Medicaid agency shall implement this subsection  
 354 in a manner consistent with s. 409.908(18) ~~409.908(19)~~ and as  
 355 otherwise limited or directed by the General Appropriations Act.

356 Section 12. Subsections (1) and (5) of section 1011.70,  
 357 Florida Statutes, are amended to read:

358 1011.70 Medicaid certified school funding maximization.—

359 (1) Each school district, subject to the provisions of ss.  
 360 409.9071 and 409.908(21) ~~409.908(22)~~ and this section, is  
 361 authorized to certify funds provided for a category of required  
 362 Medicaid services termed "school-based services," which are  
 363 reimbursable under the federal Medicaid program. Such services  
 364 shall include, but not be limited to, physical, occupational,  
 365 and speech therapy services, behavioral health services, mental  
 366 health services, transportation services, Early Periodic  
 367 Screening, Diagnosis, and Treatment (EPSDT) administrative  
 368 outreach for the purpose of determining eligibility for  
 369 exceptional student education, and any other such services, for  
 370 the purpose of receiving federal Medicaid financial  
 371 participation. Certified school funding shall not be available  
 372 for the following services:

- 373 (a) Family planning.
- 374 (b) Immunizations.
- 375 (c) Prenatal care.

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376           (5) Lab schools, as authorized under s. 1002.32, shall be  
377 authorized to participate in the Medicaid certified school match  
378 program on the same basis as school districts subject to the  
379 provisions of subsections (1)-(4) and ss. 409.9071 and  
380 409.908(21) ~~409.908(22)~~.



381           Section 13. This act shall take effect July 1, 2017.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 5203      PCB HCA 17-02      Prescription Drug Monitoring Program  
**SPONSOR(S):** Health Care Appropriations Subcommittee, Brodeur  
**TIED BILLS:**                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health Care Appropriations Subcommittee	13 Y, 0 N	Mielke	Pridgeon
1) Appropriations Committee		Mielke 	Leznoff 

### SUMMARY ANALYSIS

The bill conforms statutes to the funding decisions related to the Prescription Drug Monitoring Program included in the House proposed General Appropriations Act (GAA) for Fiscal Year 2017-2018.

Prescription Drug Monitoring Programs (PDMPs) are state-run electronic databases used to track the prescribing and dispensing of certain controlled prescription drugs to patients. PDMPs are designed to monitor this information for suspected abuse or diversion of controlled prescription drugs and provide prescribers and pharmacists with critical information regarding a patient's controlled substance prescription history. As of December 19, 2014, 49 states either had an operational PDMP database or had adopted legislation authorizing the creation of one.

In 2009, the Legislature created the Prescription Drug Monitoring Program (PDMP) within the Department of Health (DOH). The PDMP employs a database to monitor the prescribing and dispensing of certain controlled substances. Dispensers of controlled substances listed in Schedule II, III, or IV must report certain information to the PDMP database, including the name of the prescriber, the date the prescription is filled and dispensed, and the name, address, and date of birth of the person to whom the controlled substance is dispensed.

Current law requires that all costs incurred by the DOH in administering the PDMP shall be funded through federal grants or private funding applied for or received by the state. However, the 2015-2016 and 2016-2017 GAA implementing legislation authorized the use of state funds for administering the PDMP. The 2015-2016 GAA appropriated \$500,000 in recurring General Revenue to the DOH to implement the PDMP.

The bill permanently authorizes the DOH to use state funds to administer the PDMP to reflect the proposed House budget recommendations for the 2017-2018 Fiscal Year.

The act shall take effect July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **Prescription Drug Monitoring Program**

Prescription Drug Monitoring Programs (PDMPs) are state-run electronic databases used to track the prescribing and dispensing of certain controlled prescription drugs to patients.<sup>1</sup> PDMPs are designed to monitor this information for suspected abuse or diversion of controlled prescription drugs and provide prescribers and pharmacists with critical information regarding a patient's controlled substance prescription history.<sup>2</sup> As of December 19, 2014, 49 states either had an operational PDMP database or had adopted legislation authorizing the creation of one.<sup>3</sup>

Chapter 2009-197, Laws of Florida, established Florida's PDMP within the Department of Health (DOH), and is codified in s. 893.055, F.S. The PDMP uses an electronic database system to monitor the prescribing and dispensing of certain controlled substances.<sup>4</sup> The PDMP database became operational in September of 2011, when it began receiving prescription data from pharmacies and dispensing practitioners.<sup>5</sup>

Florida's PDMP database is known as Electronic-Florida Online Reporting of Controlled Substances Evaluation (E-FORCSE).<sup>6</sup>

##### Funding the Prescription Drug Monitoring Program

Section 893.055(10), F.S. requires that all costs incurred by the DOH in administering the PDMP shall be funded through federal grants or private funding applied for or received by the state.

Section 893.055(11), F.S. provides the DOH may establish a direct-support organization to provide assistance, funding, and promotional support for the activities authorized for the PDMP. Thus, in 2010, the Florida PDMP Foundation (Foundation) was established.

Through June 2016, the Foundation had assets of over \$1.5 million in private and corporate contributions. Of these funds, \$1.4 million are currently being invested in Wells Fargo Bank purchased certificates of deposit and bank money market accounts to provide future funding when needed to continue E-FORCSE operations. These funds would be used in the event General Revenue funds currently supporting the program are discontinued. As of December 1, 2016, the Foundation has provided \$1,010,513 to fund E-FORCSE.<sup>7</sup>

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<sup>1</sup> Centers for Disease Control and Prevention, *Prescription Drug Monitoring Programs*, available at <http://www.cdc.gov/drugoverdose/pdmp/> (last visited March 5, 2017).

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

<sup>3</sup> Brandeis University, Institute of Behavioral Health, and the U.S. Department of Justice, Bureau for Justice Assistance, PDMP Center of Excellence, *Status of Prescription Drug Monitoring Programs (PDMPs)*, available at <http://www.pdmpassist.org/pdf/PDMPProgramStatus2014.pdf> (last visited March 5, 2017). Missouri is the only state without a PDMP. Legislation was filed in December 2016 to establish a program. See [http://www.senate.mo.gov/17info/BTS\\_Web/Bill.aspx?SessionType=R&BillID=57095432](http://www.senate.mo.gov/17info/BTS_Web/Bill.aspx?SessionType=R&BillID=57095432) (last visited March 5, 2017).

<sup>4</sup> Section 893.055(2)(a), F.S.

<sup>5</sup> Florida Department of Health, *Electronic-Florida Online Reporting of Controlled Substances Evaluation (E-FORCSE), 2015-2016 Prescription Drug Monitoring Program Annual Report*, (December 1, 2016), available at <http://www.floridahealth.gov/statistics-and-data/e-force/ documents/2016PDMPAnnualReport.pdf> (last visited March 5, 2017).

<sup>6</sup> Florida Department of Health, *E-FORCSE Home Page*, available at <http://www.floridahealth.gov/statistics-and-data/e-force/> (last visited March 5, 2017).

<sup>7</sup> Florida PDMP Foundation, *Annual Report to the Department of Health 2016*, available at [http://www.flpmpfoundation.com/wp-content/uploads/2016/08/PDMPF\\_Annual\\_Report\\_2016.pdf](http://www.flpmpfoundation.com/wp-content/uploads/2016/08/PDMPF_Annual_Report_2016.pdf) (last visited March 9, 2017).

Additionally, the DOH has received federal funding through six grants totaling \$2,443,471. Other current grant projects include:

- Harold Rogers Data Driven Multi-Disciplinary Approach to Reducing Prescription Drug Abuse Grant 2013-PM-BX-00100 - \$399,950. Project period ends March 31, 2017.
- Harold Rogers PDMP Enhancement Grant 2015-PM-BX-0009 - \$499,991. Project ends September 30, 2017.
- Department of Children and Families Partnerships for Success (PFS) Grant - \$86,625. Project ends September 30, 2017.
- University of Florida Harold Rogers Prescription Drug Monitoring Program: Data-Driven Responses to Prescription Drug Abuse Grant 2016-PM-BX-K005 – \$17,500. Project ends September 30, 2019.<sup>8</sup>

In order to provide sufficient resources, the 2015-2016 General Appropriations Act appropriated \$500,000 in recurring General Revenue to the DOH to implement the PDMP.<sup>9</sup>

Chapter 2015-222, Laws of Florida, the budget implementing bill, authorized the use of state funds appropriated in the 2015-2016 General Appropriations Act to administer the PDMP. Section 893.055(17), F.S., expired on July 1, 2016. Likewise, Chapter 2016-62, Laws of Florida, authorized the use of state funds appropriated in the 2016-2017 General Appropriations Act to administer the PDMP. Section 893.055(17), F.S., has an expiration date of July 1, 2017.

Since its inception in 2010, the PDMP has spent \$3,615,939 for infrastructure, enhancements, personnel, and facility expenses.<sup>10</sup>

### **Effect of Proposed Changes**

The bill amends s. 893.055, F.S., to permanently authorize the DOH to use state funds to administer the PDMP. The bill removes language providing that implementation of the program is contingent upon receipt of nonstate funding.

The bill has an effective date of July 1, 2017.

#### **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 893.055(10), F.S., relating to the prescription drug monitoring program.

**Section 2:** Provides an effective date of July 1, 2017.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The proposed 2017-2018 General Appropriations Act provides \$500,000 in recurring General Revenue funds to DOH for operation of the Prescription Drug Monitoring Program.

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<sup>8</sup> *Id.* at 5.

<sup>9</sup> Ch. 2015-232, Laws of Florida. See Specific Appropriation 503.

<sup>10</sup> *Id.* at 5.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                   A bill to be entitled  
 2           An act relating to the prescription drug monitoring  
 3           program; amending s. 893.055, F.S.; authorizing the  
 4           use of state funds for administration of the program;  
 5           deleting a requirement that implementation of the  
 6           program is contingent on nonstate funding; providing  
 7           an effective date.

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

10  
 11           Section 1. Subsection (10) of section 893.055, Florida  
 12           Statutes, is amended to read:

13           893.055 Prescription drug monitoring program.—

14           (10) All costs incurred by the department in administering  
 15           the prescription drug monitoring program shall be funded through  
 16           federal grants, ~~or~~ private funding applied for or received by  
 17           the state, or state funds appropriated in the General  
 18           Appropriations Act. The department may not commit funds for the  
 19           monitoring program without ensuring funding is available. ~~The~~  
 20           ~~prescription drug monitoring program and the implementation~~  
 21           ~~thereof are contingent upon receipt of the nonstate funding.~~ The  
 22           department and state government shall cooperate with the direct-  
 23           support organization established pursuant to subsection (11) in  
 24           seeking federal grant funds, other nonstate grant funds, gifts,  
 25           donations, or other private moneys for the department if the



26 costs of doing so are not considered material. Nonmaterial costs  
 27 for this purpose include, but are not limited to, the costs of  
 28 mailing and personnel assigned to research or apply for a grant.  
 29 Notwithstanding the exemptions to competitive-solicitation  
 30 requirements under s. 287.057(3)(e), the department shall comply  
 31 with the competitive-solicitation requirements under s. 287.057  
 32 for the procurement of any goods or services required by this  
 33 section. Funds provided, directly or indirectly, by prescription  
 34 drug manufacturers may not be used to implement the program.

35 Section 2. This act shall take effect July 1, 2017.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 5205      PCB HCA 17-03      Department of Veterans' Affairs  
**SPONSOR(S):** Health Care Appropriations Subcommittee, Brodeur  
**TIED BILLS:**            **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health Care Appropriations Subcommittee	15 Y, 0 N	Mielke	Pridgeon
1) Appropriations Committee		Mielke 	Leznoff 

### SUMMARY ANALYSIS

The bill conforms statutes to the funding decisions related to the Department of Veterans Affairs included in the House proposed General Appropriations Act (GAA) for Fiscal Year 2017-2018.

The State Homes for Veterans Trust Fund was created in s. 20.375(4), F.S., as a depository for specialty license plate revenues and can only be used for the purpose of constructing, operating, and maintaining domiciliary and nursing homes for veterans and for continuing promotion and marketing of veteran related specialty license plates. The Operations and Maintenance Trust Fund was created in s. 20.375(3), F.S., as a depository for the funds received from the United States Department of Veterans Affairs for the care of domiciliary and nursing home residents and can only be used for the purpose of operating and maintaining homes.

The bill terminates the State Homes for Veterans Trust Fund, transfers any balances in and revenues of the State Homes for Veterans Trust Fund to the Operations and Maintenance Trust Fund within the Department of Veterans' Affairs, and expands the use of the funds in the Operations and Maintenance Trust Fund to include supporting program operations that benefit veterans or the operations, maintenance, or construction of a nursing home.

The bill redirects the revenues received from the Florida Salutes Veterans, United State Marine Corps, Military Services, Support Our Troops, U.S. Paratroopers, and various other Armed Forces related specialty plates from the State Homes for Veterans Trust Fund to the Operations and Maintenance Trust Fund within the Department of Veterans' Affairs.

The bill redirects the voluntary contributions received from motor vehicle registration or renewals and applications for an original, renewal, or replacement of a driver license or identification from the State Homes for Veterans Trust Fund to the Operations and Maintenance Trust Fund within the Department of Veterans' Affairs.

A personal needs allowance is the amount of income a resident may retain for personal expenditures not covered by the nursing home such as toiletries and haircuts. Section 296.37, F.S., requires every resident of a state veteran domiciliary or nursing home who receives a pension, compensation, or gratuity from the United States Government or income from any other source of more than \$35 per month to contribute to his or her maintenance and support while residing in a home. For the past three fiscal years the General Appropriations Act implementing legislation raised the personal needs allowance to \$105 per month. This prior legislation expires July 1, 2017.

The bill permanently changes the personal needs allowance from \$35 to \$70 per month to reflect the proposed House budget recommendations for Medicaid for the 2017-2018 Fiscal Year.

The act shall take effect July 1, 2017.

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

STORAGE NAME: h5205.APC.DOCX

DATE: 4/2/2017



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

The State Homes for Veterans Trust Fund was created as a depository for specialty license plate revenues and can only be used for the purpose of constructing, operating, and maintaining domiciliary and nursing homes for veterans and for continuing promotion and marketing of veteran related specialty license plates.<sup>1</sup>

The Operations and Maintenance Trust Fund was created as a depository for the funds received from the United States Department of Veterans Affairs for the care of domiciliary and nursing home residents and can only be used for the purpose of operating and maintaining homes.<sup>2</sup>

##### Specialty License Plates

Any voluntary contributions that are collected from motor vehicle registrations or renewals<sup>3</sup> and any voluntary contributions for state homes for veterans that are collected from an application for an original, renewal, or replacement driver license or identification card are deposited in the State Homes for Veterans Trust Fund.<sup>4</sup>

A portion of the fees received from issuance of the Florida Salutes Veterans License Plate, United States Marine Corps License Plate, Military Services License Plate, and Support Our Troops License Plate are deposited in the State Homes for Veterans Trust Fund and used for constructing, operating, and maintaining domiciliaries and nursing homes for veterans.<sup>5</sup> A portion of the revenue generated from a license plate issued pursuant to s. 320.089(1)(b), F.S., is deposited in the State Homes for Veterans Trust Fund.<sup>6</sup> Revenues generated from the U.S. Paratroopers License Plate are deposited in the State Homes for Veterans Trust Fund.<sup>7</sup>

##### Personal Needs Allowance

Once an individual requiring an institutional level of care has established Medicaid eligibility, some of his or her income is used to pay for Medicaid services. For individuals residing in an institution, most of their incomes are applied to the cost of that care, with the exception of a small personal needs allowance used to pay for personal needs that are not covered by Medicaid. A personal needs allowance is the amount of income a resident may retain for personal expenditures not covered by Medicaid such as clothing, toiletries and haircuts. Every resident of a state veterans home who receives a pension, compensation, or gratuity from the United States Government or income from any other source of more than \$35 per month is required to contribute to his or her maintenance and support while residing in a home, pursuant to a schedule of payment determined by the home administrator and department director.<sup>8</sup> The total amount of such contributions shall not exceed the actual cost of operating and maintaining the home.<sup>9</sup>

<sup>1</sup> S. 20.375(4), 320.08058, 320.0891(6).

<sup>2</sup> S. 20.375(3), 296.11(1).

<sup>3</sup> 320.02(15)(f).

<sup>4</sup> 322.08.

<sup>5</sup> 320.08058(4)(b)2., (28)(b)2.a., (38)(b), (63)(b)2.

<sup>6</sup> 320.089(1)(b). Such plates include Veterans of the United States Armed Forces, members of the Florida National Guard, and survivors of Pearl Harbor, among many others.

<sup>7</sup> 320.0891(6).

<sup>8</sup> 296.37(1).

<sup>9</sup> 296.37(1).

In 2015 the median personal needs allowance amount for an individual residing in an institution was \$50 per month. Four states (AL, IL, NC, and SC) set their personal needs allowance at the federal minimum of \$30 per month. Florida's personal needs allowance at \$105 is the highest personal needs allowance for all 50 states and Washington D.C.<sup>10</sup>

Chapter 2014-53, Laws of Florida, amended s. 296.37, F.S., to increase the personal needs allowance to \$105 per month. Subsequent implementing legislation for the General Appropriations Act has maintained the personal needs allowance for residents at \$105 per month.<sup>11</sup> This provision is set to expire July 1, 2017.

### **Effect of Proposed Changes**

The bill terminates the State Homes for Veterans Trust Fund and transfers remaining balances and all revenues to the Operations and Maintenance Trust Fund within the Department of Veterans' Affairs. The bill directs the Department of Veterans' Affairs to pay any outstanding debts or obligations of the trust fund.

The bill amends the allowable uses of funds within the Operations and Maintenance Trust Fund to include supporting program operations that benefit veterans or the operations, maintenance, or construction of a nursing home.

The bill amends the voluntary contributions that are collected from motor vehicle registrations or renewals and any voluntary contributions for state homes for veterans that are collected from an application for an original, renewal, or replacement driver license or identification card to be deposited in the Operations and Maintenance Trust Fund within the Department of Veterans' Affairs.

The bill amends the Florida Salutes Veterans License Plate, United States Marine Corps License Plate, Military Services License Plate, Support Our Troops License Plate, and U.S. Paratroopers License Plate sections of statute to redirect the revenues received to the Operations and Maintenance Trust Fund within the Department of Veterans' Affairs. The bill amends the specialty license plates issued pursuant to s. 320.089(1)(b), F.S., to redirect the revenues received to the Operations and Maintenance Trust Fund within the Department of Veterans' Affairs.

The bill permanently sets the personal needs allowance at \$70 per month to reflect the proposed House budget recommendations for the Medicaid program for the 2017-2018 Fiscal Year.

The bill provides an effective date of July 1, 2017.

### **B. SECTION DIRECTORY:**

**Section 1.** Terminates the State Homes for Veterans Trust Fund; provides for the disposition of balances in, revenues of, and all outstanding appropriations of the trust fund; prescribes procedures for the termination of the trust fund.

**Section 2.** Amends s. 20.375, F.S., relating to the Operations and Maintenance Trust Fund; specifies the use for the money deposited in the Operations and Maintenance Trust Fund; deletes language relating to the State Homes for Veterans Trust Fund.

**Section 3.** Amends s. 296.11, F.S., relating to the Operations and Maintenance Trust Fund; specifies the use for the money deposited in the Operations and Maintenance Trust Fund.

**Section 4.** Amends s. 296.37, F.S., relating to the personal needs allowance.

**Section 5.** Amends s. 296.38, F.S., relating to the Operations and Maintenance Trust Fund; specifies the purpose of the money deposited in the Operations and Maintenance Trust Fund.

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<sup>10</sup> Kaiser Family Foundation - Kaiser Commission on Medicaid and the Uninsured, *Medicaid Financial Eligibility for Seniors and People with Disabilities in 2015* (March 2016), accessible at <http://files.kff.org/attachment/report-medicare-financial-eligibility-for-seniors-and-people-with-disabilities-in-2015> (last accessed March 24, 2017).

<sup>11</sup> Ch. 2015-222 and Ch. 2016-62, Laws of Florida.

**Section 6.** Amends s. 320.02, F.S., relating to the Operations and Maintenance Trust Fund; removing reference to the State Homes for Veterans Trust Fund.

**Section 7.** Amends s. 320.08058, F.S., relating to the Operations and Maintenance Trust Fund; removing reference to the State Homes for Veterans Trust Fund.

**Section 8.** Amends s. 320.089, F.S., relating to the Operations and Maintenance Trust Fund; removing reference to the State Homes for Veterans Trust Fund.

**Section 9.** Amends s. 320.0891, F.S., relating to the Operations and Maintenance Trust Fund; removing reference to the State Homes for Veterans Trust Fund.

**Section 10.** Amends s. 322.08, F.S., relating to the Operations and Maintenance Trust Fund; removing reference to the State Homes for Veterans Trust Fund.

**Section 11.** Provides an effective date of July 1, 2017.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

This bill requires all remaining balances in, and all revenues of the State Homes for Veterans Trust Fund to be transferred to the Operations and Maintenance Trust Fund within the Department of Veterans' Affairs.

#### 2. Expenditures:

The 2017-2018 House proposed General Appropriations Act reflects a total reduction of \$23,629,620 (\$10,663,281 in General Revenue and \$12,966,339 Federal Trust Funds) related to reducing the personal needs allowance from \$105 monthly to \$70 monthly. The reduction directly impacts the Agency for Health Care Administration (AHCA) through nursing home and institutional care facilities for the developmentally disabled reimbursements, the Agency for Persons with Disabilities (APD) for residents served through state institutions, and the Department of Children and Families (DCF) for residents served through state mental health hospitals. The reduction has an indirect impact to the Department of Veterans' Affairs.

The AHCA provides reimbursements to state veterans' nursing homes for individuals who are Medicaid eligible for nursing home care in the same manner as private nursing home providers are reimbursed by AHCA. When the personal needs allowance is reduced, AHCA's reimbursement to the nursing homes is also reduced as the beneficiaries share of cost increases. The total reduction to AHCA's budget by reducing the personal needs allowance from \$105 to \$70 monthly is \$20,858,411 with \$7,961,470 being the general revenue impact. The impact to reimbursements to the state Veterans' Nursing Homes is included in this amount.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Residents in a nursing home will now retain \$70 per month as a personal needs allowance rather than \$105 per month.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1    A bill to be entitled  
 2            An act relating to the Department of Veterans'  
 3            Affairs; terminating the State Homes for Veterans  
 4            Trust Fund within the department; providing for the  
 5            disposition of balances in, revenues of, and  
 6            outstanding appropriations of the trust fund;  
 7            prescribing termination procedures; amending s.  
 8            20.375, F.S.; revising provisions for use and  
 9            administration of funds in the department's Operations  
 10           and Maintenance Trust Fund; conforming provisions to  
 11           changes made by the act; amending s. 296.11, F.S.;  
 12           revising purposes for the expenditure of moneys in the  
 13           trust fund; amending s. 296.37, F.S.; revising income  
 14           requirements for certain contributions by residents of  
 15           a veterans' nursing home; amending ss. 296.38, 320.02,  
 16           320.08058, 320.089, 320.0891, and 322.08, F.S.;  
 17           conforming provisions to changes made by the act;  
 18           providing an effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

21  
 22            Section 1. (1) The State Homes for Veterans Trust Fund  
 23 within the Department of Veterans' Affairs, FLAIR number 20-2-  
 24 692, is terminated.

25            (2) All current balances remaining in, and all revenues

26 of, the trust fund shall be transferred to the Operations and  
 27 Maintenance Trust Fund within the Department of Veterans'  
 28 Affairs.

29 (3) The Department of Veterans' Affairs shall pay any  
 30 outstanding debts or obligations of the terminated fund as soon  
 31 as practicable, and the Chief Financial Officer shall close out  
 32 and remove the terminated fund from various state accounting  
 33 systems using generally accepted accounting principles  
 34 concerning warrants outstanding, assets, and liabilities.

35 Section 2. Paragraph (a) of subsection (3) and subsection  
 36 (4) of section 20.375, Florida Statutes, are amended to read:

37 20.375 Department of Veterans' Affairs; trust funds.—The  
 38 following trust funds shall be administered by the Department of  
 39 Veterans' Affairs:

40 (3) Operations and Maintenance Trust Fund.

41 (a) Funds to be credited to and uses of the trust fund  
 42 shall be administered in accordance with ~~the provisions of ss.~~  
 43 215.32, 296.11, and 296.38, 320.08058, 320.089, and 320.0891.

44 ~~(4) State Homes for Veterans Trust Fund.~~

45 ~~(a) Funds to be credited to and uses of the trust fund~~  
 46 ~~shall be administered in accordance with the provisions of ss.~~  
 47 ~~320.08058 and 320.0891.~~

48 ~~(b) Notwithstanding the provisions of s. 216.301 and~~  
 49 ~~pursuant to s. 216.351, any balance in the trust fund at the end~~  
 50 ~~of any fiscal year shall remain in the trust fund at the end of~~

51 ~~the year and shall be available for carrying out the purposes of~~  
 52 ~~the trust fund.~~

53 Section 3. Subsection (1) of section 296.11, Florida  
 54 Statutes, is amended to read:

55 296.11 Funds of home and disposition of moneys.—

56 (1) The home shall deposit all moneys ~~which~~ it receives  
 57 for care of residents from the United States Department of  
 58 Veterans Affairs and residents into the Operations and  
 59 Maintenance Trust Fund. All such moneys must be expended for the  
 60 purpose of supporting program operations that benefit veterans  
 61 or the operation, maintenance, or construction of a ~~operating~~  
 62 and maintaining the home, subject to the requirements of chapter  
 63 216.

64 Section 4. Subsection (1) of section 296.37, Florida  
 65 Statutes, is amended to read:

66 296.37 Residents; contribution to support.—

67 (1) Every resident of the home who receives a pension,  
 68 compensation, or gratuity from the United States Government, or  
 69 income from any other source of more than \$70 ~~\$35~~ per month,  
 70 shall contribute to his or her maintenance and support while a  
 71 resident of the home in accordance with a schedule of payment  
 72 determined by the administrator and approved by the director.  
 73 The total amount of such contributions shall be to the fullest  
 74 extent possible, ~~but, in no case,~~ shall not exceed the actual  
 75 cost of operating and maintaining the home.

76 Section 5. Subsection (1) of section 296.38, Florida  
 77 Statutes, is amended to read:

78 296.38 Funds of home and disposition of moneys.—

79 (1) The home shall deposit all moneys ~~which~~ it receives  
 80 for care of residents from the United States Department of  
 81 Veterans Affairs and residents into the Operations and  
 82 Maintenance Trust Fund. All such moneys shall be expended for  
 83 the purpose of supporting program operations that benefit  
 84 veterans or the operation, maintenance, or construction of a  
 85 operating and maintaining the home, subject to the requirements  
 86 of chapter 216.

87 Section 6. Paragraph (f) of subsection (15) of section  
 88 320.02, Florida Statutes, is amended to read:

89 320.02 Registration required; application for  
 90 registration; forms.—

91 (15)

92 (f) Notwithstanding s. 320.023, the application form for  
 93 motor vehicle registration and renewal of registration must  
 94 include language permitting a voluntary contribution of \$1 per  
 95 applicant to the state homes for veterans, to be distributed on  
 96 a quarterly basis by the department to the Operations and  
 97 Maintenance State Homes for Veterans Trust Fund within, ~~which is~~  
 98 ~~administered by~~ the Department of Veterans' Affairs.

99  
 100 For the purpose of applying the service charge provided in s.



101 215.20, contributions received under this subsection are not  
 102 income of a revenue nature.

103 Section 7. Paragraph (b) of subsection (4), paragraph (b)  
 104 of subsection (28), paragraph (b) of subsection (38), and  
 105 paragraph (b) of subsection (63) of section 320.08058, Florida  
 106 Statutes, are amended to read:

107 320.08058 Specialty license plates.—

108 (4) FLORIDA SALUTES VETERANS LICENSE PLATES.—

109 (b) The Florida Salutes Veterans license plate annual use  
 110 fee shall be distributed as follows:

111 1. Ten percent shall be distributed to a direct-support  
 112 organization created under s. 292.055 for a period not to exceed  
 113 48 months after the date the direct-support organization is  
 114 incorporated.

115 2. Any remaining fees must be deposited in the Operations  
 116 and Maintenance State Homes for Veterans Trust Fund within,  
 117 ~~which is created in the State Treasury. All such moneys are to~~  
 118 ~~be administered by~~ the Department of Veterans' Affairs and must  
 119 be used to support program operations that benefit veterans or  
 120 the operation, maintenance, or construction of ~~solely for the~~  
 121 ~~purpose of constructing, operating, and maintaining~~ domiciliary  
 122 and nursing homes for veterans and for continuing promotion and  
 123 marketing of the license plate, subject to the requirements of  
 124 chapter 216.

125 (28) UNITED STATES MARINE CORPS LICENSE PLATES.—

126 (b) The department shall distribute the United States  
 127 Marine Corps license plate annual use fees as provided in this  
 128 paragraph.

129 1. The first \$50,000 collected annually shall be  
 130 distributed to the Marine Corps Scholarship Foundation, Inc.

131 2. Any remaining fees collected annually shall be  
 132 distributed as follows:

133 a. Thirty-five percent shall be deposited in the  
 134 Operations and Maintenance State Homes for Veterans Trust Fund  
 135 within the Department of Veterans' Affairs and must be used to  
 136 support program operations that benefit veterans or the  
 137 operation, maintenance, or construction of solely for the  
 138 purpose of constructing, operating, and maintaining domiciliary  
 139 and nursing homes for veterans, subject to the requirements of  
 140 chapter 216.

141 b. Sixty-five percent shall be distributed to the Marine  
 142 Corps Scholarship Foundation, Inc., which shall use all fees  
 143 distributed by the department to fund scholarships and assist  
 144 Marine Corps Junior ROTC and Young Marine programs of this  
 145 state. The foundation shall develop a plan to distribute the  
 146 funds to recipients nominated by residents of the state to  
 147 receive scholarships, and to the Marine Corps Junior ROTC and  
 148 Young Marine programs in the state.

149 (38) MILITARY SERVICES LICENSE PLATES.—

150 (b) The department shall retain all revenues from the sale

151 of such plates until all startup costs for developing and  
 152 issuing the plates have been recovered. Thereafter, the annual  
 153 use fee shall be deposited into the Operations and Maintenance  
 154 ~~State Homes for Veterans~~ Trust Fund within the Department of  
 155 Veterans' Affairs and must be used to support program operations  
 156 that benefit veterans or the operation, maintenance, or  
 157 construction of ~~solely to construct, operate, and maintain~~  
 158 domiciliary and nursing homes for veterans, subject to the  
 159 requirements of chapter 216.

160 (63) SUPPORT OUR TROOPS LICENSE PLATES.—

161 (b) The annual use fees from the plate shall be  
 162 distributed to Support Our Troops, Inc., to be used for the  
 163 benefit of Florida troops and their families in accordance with  
 164 its articles of incorporation. Support Our Troops, Inc., shall  
 165 receive the first \$60,000 of the use fees to offset startup  
 166 costs for developing and establishing the plate. Thereafter, the  
 167 department shall distribute the annual use fees as follows:

168 1. Twenty-five percent shall be distributed to Support Our  
 169 Troops, Inc., to offset marketing, administration, and promotion  
 170 costs.

171 2. Of the remaining 75 percent, 65 percent shall be  
 172 distributed to Support Our Troops, Inc., and 35 percent shall be  
 173 distributed to the Operations and Maintenance ~~State Homes for~~  
 174 ~~Veterans~~ Trust Fund within the Department of Veterans' Affairs  
 175 ~~State Homes~~.

176 Section 8. Paragraph (b) of subsection (1) of section  
 177 320.089, Florida Statutes, is amended to read:

178 320.089 Veterans of the United States Armed Forces;  
 179 members of National Guard; survivors of Pearl Harbor; Purple  
 180 Heart medal recipients; active or retired United States Armed  
 181 Forces reservists; Combat Infantry Badge, Combat Medical Badge,  
 182 or Combat Action Badge recipients; Combat Action Ribbon  
 183 recipients; Air Force Combat Action Medal recipients;  
 184 Distinguished Flying Cross recipients; former prisoners of war;  
 185 Korean War Veterans; Vietnam War Veterans; Operation Desert  
 186 Shield Veterans; Operation Desert Storm Veterans; Operation  
 187 Enduring Freedom Veterans; Operation Iraqi Freedom Veterans;  
 188 Women Veterans; World War II Veterans; and Navy Submariners;  
 189 special license plates; fee.-

190 (1)

191 (b) Notwithstanding any other provision of law to the  
 192 contrary, beginning with fiscal year 2002-2003 and annually  
 193 thereafter, the first \$100,000 in general revenue generated from  
 194 the sale of license plates issued under this section shall be  
 195 deposited into the Grants and Donations Trust Fund, as described  
 196 in s. 296.38(2), to be used for the purposes established by law  
 197 for that trust fund. Any additional general revenue generated  
 198 from the sale of such plates shall be deposited into the  
 199 Operations and Maintenance ~~State Homes for Veterans~~ Trust Fund  
 200 within the Department of Veterans' Affairs and used to support

201 program operations that benefit veterans or the operation,  
 202 maintenance, or construction of ~~solely to construct, operate,~~  
 203 ~~and maintain~~ domiciliary and nursing homes for veterans, subject  
 204 to the requirements of chapter 216.

205 Section 9. Subsection (6) of section 320.0891, Florida  
 206 Statutes, is amended to read:

207 320.0891 U.S. Paratroopers license plate.—

208 (6) The department shall retain all annual use fee  
 209 revenues from the sale of the U.S. Paratroopers license plates  
 210 until all startup costs for developing and issuing the plates  
 211 are recovered, not to exceed \$60,000. Thereafter, the annual use  
 212 fee revenues shall be distributed to the Operations and  
 213 Maintenance State Homes for Veterans Trust Fund within the  
 214 Department of Veterans' Affairs.

215 Section 10. Paragraph (n) of subsection (8) of section  
 216 322.08, Florida Statutes, is amended to read:

217 322.08 Application for license; requirements for license  
 218 and identification card forms.—

219 (8) The application form for an original, renewal, or  
 220 replacement driver license or identification card must include  
 221 language permitting the following:

222 (n) Notwithstanding s. 322.081, a voluntary contribution  
 223 of \$1 per applicant to the state homes for veterans, to be  
 224 distributed on a quarterly basis by the department to the  
 225 Operations and Maintenance State Homes for Veterans Trust Fund

226 | within, ~~which is administered by~~ the Department of Veterans'  
227 | Affairs.

228 |

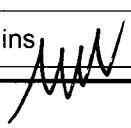
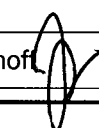
229 | A statement providing an explanation of the purpose of the trust  
230 | funds shall also be included. For the purpose of applying the  
231 | service charge provided under s. 215.20, contributions received  
232 | under paragraphs (b)-(t) are not income of a revenue nature.

233 | Section 11. This act shall take effect July 1, 2017.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 5301      PCB GOT 17-01      State Agency Information Technology Reorganization  
**SPONSOR(S):** Government Operations & Technology Appropriations Subcommittee, Ingoglia  
**TIED BILLS:**                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations & Technology Appropriations Subcommittee	13 Y, 1 N	Mullins	Topp
1) Appropriations Committee		Mullins 	Leznof 

**SUMMARY ANALYSIS**

The bill restructures the information technology (IT) governance structure within the executive branch. Specifically, the bill:

- Creates the Office of Technology and Data Solutions (OTDS) within the Department of Management Services (DMS) and establishes a state chief information officer (CIO) who is appointed by the Governor and confirmed by the Senate.
- Establishes six other positions within the OTDS to include a chief data officer, a chief information security officer, a senior project manager, two senior management analysts, and an administrative assistant.
- Authorizes a type two transfer of all records, property, unexpended balances of appropriations, administrative authority, administrative rules in chapters 74-1 and 74-2, Florida Administrative Code, pending issues, and existing contracts of the Agency for State Technology (AST) to the OTDS.
- Authorizes a type two transfer of the State Data Center from the AST to the DMS.
- Defines the duties and responsibilities of the OTDS to include:
  - developing and recommending IT policy,
  - recommending IT improvements for the delivery of state government services and information,
  - establishing project management and oversight standards,
  - reviewing state agency project oversight deliverables on IT projects with total costs of \$10 million or more,
  - reviewing project oversight deliverables on cabinet agency IT projects that have a total project cost of \$25 million or more and impact another agency or agencies,
  - recommending improvements for state agency and cabinet agency IT projects and project oversight,
  - recommending best practices for the procurement of commercial cloud computing services,
  - recommending IT policy for all IT-related state contracts, including state term contracts,
  - developing an enterprise data inventory and a process for agencies to submit data to the OTDS,
  - recommending state agency data standards and open data standards, and
  - recommending options for developing and maintaining a state open data catalog.
- Requires the State Data Center and state agency customer entities to utilize commercial cloud computing services when beneficial use of these services is validated through cost benefit analyses.
- Creates the Florida Cybersecurity Task Force to review and provide recommendations for the improvement of the state's cybersecurity infrastructure, governance, and operations.
- Repeals sections of law relating to the AST.
- Conforms to the proposed House of Representatives' FY 2017-2018 General Appropriations Act, which reduces \$7.9 million in funding to eliminate the AST and transfers the State Data Center to DMS.
- Appropriates a total of \$1.8 million and seven full-time equivalent positions to the OTDS for Fiscal Year 2017-2018.

The bill is effective July 1, 2017.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Office of Technology and Data Solutions**

###### **Current Situation**

In 2014, the Legislature created the Agency for State Technology to oversee policies for the design, planning, project management, and implementation of enterprise IT services<sup>1</sup>.

The AST is headed by an executive director who serves as the state's chief information officer and is appointed by the Governor and confirmed by the Senate. Current law requires that the state CIO preferably have executive-level experience in both the public and private sectors in development and implementation of information technology strategic planning; management of enterprise information technology projects, particularly management of large-scale consolidation projects; and development and implementation of fiscal and substantive information technology policy.

Duties and responsibilities of the AST include:<sup>2</sup>

- developing and implementing IT architecture standards,
- establishing project management and oversight standards,
- performing project oversight on IT projects with total costs of \$10 million or more,
- providing operational management and oversight of the State Data Center,
- identifying opportunities for standardization and consolidation of IT services that support common business functions,
- recommending additional consolidations of agency data centers or computing facilities, and
- Performing project oversight on any cabinet agency IT project that has a total project cost of \$50 million or more and impacts another agency or agencies.

###### **Effect of Changes**

The bill eliminates the AST by repealing the section of law establishing the agency and creates the Office of Technology and Data Solutions. Specifically, the bill:

- Creates the Office of Technology and Data Solutions (OTDS) within the Department of Management Services (DMS) and establishes a state chief information officer who is appointed by the Governor and confirmed by the Senate.
- Revises the qualifications for the state CIO by requiring at least 10 years of executive-level experience in either the public or private sector, with experience in the development of information technology strategic planning and the development and implementation of fiscal and substantive information technology policy and standards.
- Establishes six other positions within the OTDS to include a chief data officer, a chief information security officer, a senior project manager, two senior management analysts, and an administrative assistant.
- Authorizes a type two transfer of all records, property, unexpended balances of appropriations, administrative authority, administrative rules in chapters 74-1 and 74-2, Florida Administrative Code, pending issues, and existing contracts of the Agency for State Technology (AST) to the OTDS.
- Authorizes a type two transfer of the State Data Center from the AST to the DMS.

Duties and responsibilities of the OTDS include:

- developing and recommending IT policy,

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<sup>1</sup> 2014-221, Laws of Florida.

<sup>2</sup> Section 282.0051, Florida Statutes.

- recommending IT improvements for the delivery of state government services and information,
- establishing project management and oversight standards,
- reviewing state agency project oversight deliverables on IT projects with total costs of \$10 million or more,
- reviewing project oversight deliverables on cabinet agency IT projects that have a total project cost of \$25 million or more and impact another agency or agencies,
- recommending improvements for state agency and cabinet agency IT projects and project oversight,
- recommending best practices for the procurement of commercial cloud computing services,
- recommending IT policy for all IT-related state contracts, including state term contracts,
- developing an enterprise data inventory and a process for agencies to submit data to the OTDS,
- recommending state agency data standards and open data standards, and
- recommending options for developing and maintaining a state open data catalog.

The bill also amends the section of law defining the duties of the cabinet agencies<sup>3</sup> by requiring cabinet agencies by January 1, 2018, to submit project oversight deliverables to the OTDS for all IT projects with a total project cost of \$25M or more and that impact one or more other agencies.

## **Technology Advisory Council**

### **Current Situation**

The Technology Advisory Council is established within the AST<sup>4</sup> pursuant to s. 20.052, F.S. The council is comprised of seven members; four members are appointed by the Governor, two of whom must be from the private sector; and one member each is appointed by the President of the Senate, the Speaker of the House of Representatives, and the Cabinet. All appointments are 4-year terms. The council may make recommendations to the executive director of the AST on matters pertaining to enterprise IT policies, standards, services, and architecture. The executive director of the AST must consult with the council with regard to executing AST's duties that relate to statewide IT strategic planning and policy.

The Council has met only once since being established in law, in 2016.

### **Effect of Changes**

The bill repeals the section of law that establishes the Technology Advisory Council.

## **The State Data Center**

### **Current Situation**

In 2014, the Legislature merged two existing primary state data centers to create the State Data Center, established within the AST, to provide data center services that are hosted either on premises or externally through a third-party provider<sup>5</sup>. The data center director is appointed by the AST executive director. The State Data Center must comply with all applicable state and federal laws, regulations and policies. The State Data Center's duties include:

- Entering into service level agreements with each customer entity.
- Developing and implementing a business continuity plan and a disaster recovery plan and annually conducting a live exercise of each plan.
- Maintaining the performance of the State Data Center.
- For purposes of chapter 273, being the custodian of resources and equipment consolidated and located within the State Data Center.

<sup>3</sup> Section 282.00515, Florida Statutes.

<sup>4</sup> Section 20.61, Florida Statutes.

<sup>5</sup> Section 282.201, Florida Statutes.

- Assuming administrative access rights to resources and equipment consolidated into the State Data Center.

Section 282.0051, F.S. requires the AST to establish a consolidated administrative support structure that is responsible for the provision of financial management, procurement, transactions involving real or personal property, human resources, and operational support for the State Data Center.

### **Effect of Changes**

The bill amends s. 282.201, F.S., establishing the State Data Center within AST and establishes the State Data Center within the DMS by authorizing a type two transfer of the State Data Center from the AST to the DMS. The bill provides for the Secretary of DMS to appoint a State Data Center director who has experience in leading data center facilities and cloud computing management. The DMS State Data Center duties include:

- Developing and implementing appropriate operating guidelines and procedures necessary for the State Data Center to perform its duties.
- Developing and implementing a cost-recovery mechanism that recovers the full direct and indirect cost of services through applicable charges to customer entities.
- Entering into service level agreements with each customer entity.
- Developing and implementing a business continuity plan and a disaster recovery plan and annually conducting a live exercise of each plan.
- Maintaining the performance of the State Data Center.
- For purposes of chapter 273, being the custodian of resources and equipment consolidated and located within the State Data Center.
- Assuming administrative access rights to resources and equipment consolidated into the State Data Center.

The bill also amends s. 282.201, F.S., defining the duties of the State Data Center by requiring use of commercial cloud computing services when beneficial use of these services is validated through cost benefit analyses. Additionally, the bill requires the State Data Center to report biennially on the use of cloud computing by state agency customer entities.

The bill creates a new section of law defining the duties of state agency customer entities. Duties of state agency customer entities include:

- Notifying the State Data Center, by May 31 and November 30 of each year, of any significant changes in anticipated usage of State Data Center services.
- Developing a plan updated annually to address its software applications located at the State Data Center. The plan includes the following components:
  - The appropriate strategy for each application to migrate to a commercial cloud computing service.
  - A high-level migration timeline by fiscal year for each application.
  - For each application that may begin migration activities, a proposed project and budget estimate for the migration project and a cost benefit analysis validating that a commercial cloud computing service can reduce customer entity data center costs, deliver the same or improved levels of service, and meet or exceed the applicable state and federal standards for IT security.
- Utilizing a commercial cloud computing service when developing, upgrading, or purchasing software, when a cost benefit analysis confirms that a commercial cloud computing service can deliver the same or improved levels of service, and meet or exceed the applicable state and federal standards for IT security.

## **Agency Data Center Consolidations**

### **Current Situation**

In 2012, the Legislature amended the agency data center consolidation schedule and provided an exemption from data center consolidation to certain agencies.<sup>6</sup> Additionally, the Implementing Bill for the Fiscal Year 2013-2014 General Appropriations Act<sup>7</sup> modified the data center consolidation schedule in s. 282.201(4), F.S.

Agencies scheduled for consolidation are required to submit a transition plan to the data center by July 1 of the fiscal year before the fiscal year the scheduled consolidation will occur. State agencies are required to execute a new or update an existing service-level agreement within 60 days after the specified consolidation date.

All agencies that were required to consolidate into the State Data Center completed their consolidation activities by the dates specified in law.

### **Effect of Changes**

The bill amends s. 282.201, F.S. by removing subsections (1) and (4) that establish the legislative intent for data center consolidation and the schedule for consolidations of agency data centers.

## **Information Technology Security**

### **Current Situation**

Section 282.318, F.S. establishes the requirements for the security of data and information technology. The AST's duties in regards to IT security include:

- Establishing standards and processes for IT security consistent with generally accepted best practices
- Adopt rules for IT security
- Developing a statewide IT security strategic plan, updated annually
- Developing a framework for use by state agencies for IT security responsibilities such as conducting IT security risk assessments and reporting IT security incidents
- Provide IT security training for state agency information security managers
- Annually review state agency IT security plans

Florida currently does not define or specifically address cybersecurity in statute, instead defining IT security. The state's current IT security structure and approach is decentralized and fragmented among individual state agencies – AST, the Florida Department of Law Enforcement (FDLE), and the Division of Emergency Management (DEM). Some entities involved in IT security are established in statute with defined responsibilities, such as the FDLE Cybercrime Office in s. 943.0415, F.S., and state agencies, but others are not, such as the FDLE Fusion Center. Current statutes require the development and implementation of several types of plans to include IT security plans, continuity of business plans and emergency management plans.

### **Effect of Changes**

The bill generally replaces the AST with the OTDS in regards to existing IT security duties.

The bill creates the Florida Cybersecurity Task Force administratively supported by the FDLE to review and provide recommendations for the improvement of the state's cybersecurity infrastructure, governance, and operations. The task force consists of the following members:

- A representative of the computer crime center of the Florida Department of Law Enforcement appointed by the executive director of the department.

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<sup>6</sup> 2012-142, Laws of Florida.

<sup>7</sup> 2013-41, Laws of Florida.

- A representative of the fusion center of the Florida Department of Law Enforcement appointed by the executive director of the department.
- The chief information security officer of the Office of Technology and Data Solutions.
- A representative of the Division of Telecommunications of the Department of Management Services appointed by the secretary of the department.
- A representative of the Division of Emergency Management in the Executive Office of the Governor appointed by the director of the division.
- A representative of the Office of the Chief Inspector General in the Executive Office of the Governor appointed by the Chief Inspector General.

The task force is required to submit a final report of its findings and recommendations to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 1, 2018.

## **Information Technology Procurement**

### **Current Situation**

Section 282.0051, F.S. requires the AST to advise and collaborate with the DMS in conducting competitive solicitations for state term contracts for IT commodities, consultant services, or staff augmentation contractual services.

### **Effect of Changes**

The bill requires the OTDS to collaborate with the DMS to recommend best practices for the procurement of commercial cloud computing services and to recommend IT policy for all IT-related state term contracts.

## **Repealed Sections of Law**

### **Current Situation**

Section 20.61 creates the AST within the DMS, establishing the executive director as the state's chief information officer.

### **Effect of Changes**

The bill repeals s. 20.61, F.S., establishing the AST.

## **B. SECTION DIRECTORY:**

Section 1. Authorizes a type two transfer of the records, property, positions, pending issues and existing contracts, administrative authority, administrative rules in chapter 74-3, Florida Administrative Code (FAC), in effect as of July 16, 2016, trust funds, and unexpended balances of appropriations, allocations, and other funds of the State Data Center within the Agency for State Technology (AST) to the Department of Management Services. Except for those rules in chapter 74-3, nullifies any other rules adopted by the AST.

Section 2. Authorizes a type two transfer of the records, property, pending issues and existing contracts, administrative authority, administrative rules in chapter 74-1 and 74-2, Florida Administrative Code (FAC), in effect as of August 1, 2016, unexpended balances of appropriations, allocations, and other funds of the AST to the OTDS. Except for those rules in chapter 74-1 and 74-2, nullifies any other rules adopted by the AST.

Section 3. Except for those rules in chapter 74-1, 74-2, and 74-3, nullifies any other rules adopted by the AST.

Section 4. Requires all binding contracts or interagency agreements entered into by the AST or an entity or agent of the AST and any other agency, entity, or person to continue as binding contracts or agreement with the OTDS.

Section 5. Amends s. 17.0315, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 6. Amends s. 20.055, F.S., by removing the AST from the definition of "state agency".

Section 7. Amends s. 20.22, F.S., by adding the OTDS and the State Data Center to the divisions and programs within the Department of Management Services.

Section 8. Repeals s. 20.61, F.S., relating to the AST.

Section 9. Amends s. 97.0525, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 10. Amends s. 110.205, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 11. Amends s. 215.322, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 12. Amends s. 215.96, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 13. Amends s. 216.292, F.S., deleting an expired subsection relating to the AST.

Section 14. Amends s. 282.003, F.S., by modifying the short title of the act.

Section 15. Amends s. 282.0041, F.S., by deleting obsolete definitions, amending existing definitions, and creating definitions for "application programming interface", "cloud computing", "data", "data catalog", "dataset", "machine-readable", and "open data".

Section 16. Amends s. 282.0051, F.S., by defining the powers, duties, and functions of the OTDS. Provides that the state CIO serve as the head of the OTDS and be appointed by the Governor and confirmed by the Senate.

Section 17. Amends s. 282.00515, F.S., by modifying the duties of the cabinet agencies and aligning terminology with changes made in s. 282.0051, F.S.

Section 18. Amends s. 282.201, F.S., by establishing the State Data Center within the Department of Management Services, modifying the State Data Center's duties and responsibilities, removing the agency data center consolidation schedule, and aligning terminology with changes made in s. 282.0051, F.S.

Section 19. Creates s. 282.206, F.S., relating to information technology management by state agencies.

Section 20. Amends s. 282.318, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 21. Amends s. 287.057, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 22. Amends s. 287.0591, F.S., relating to state term contracts for IT commodities, consultant services, or staff augmentation contractual services, by removing the requirement for the DMS to consult with the AST in the solicitation of these state term contracts.

Section 23. Amends s. 445.011, F.S. by removing a requirement for CareerSource Florida, Inc. to coordinate systems development with the AST.

Section 24. Amends s. 445.045, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 25. Amends s. 668.50, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 26. Amends s. 943.0415, F.S., aligning terminology with changes made in s. 282.0051, F.S.

Section 27. Creates the Florida Cybersecurity Task Force to review and assess the state's cybersecurity infrastructure, governance, and operations. Requires that the task force submit a report of its findings and recommendations by November 1, 2018. Task force is abolished January 1, 2019.

Section 28. Does not require Legislative Budget Commission approval for the transfers authorized in sections 1 and 2 of the act.

Section 29. For Fiscal Year 2017-2018, appropriates \$1,813,664 in recurring funds from the General Revenue Fund to the OTDS and authorizes seven full-time equivalent positions and associated salary rate of 665,684 for purposes of implementing the act.

Section 30. From the funds in Section 29, provides \$500,000 for the OTDS to contract for independent advisory services for the planning and feasibility of initiatives proposed by the OTDS. Provides \$238,000 for the OTDS to contract for technology research and advisory services.

Section 31. Provides \$100,000 in nonrecurring general revenue funds to the Florida Department of Law Enforcement for purposes of administrative support for the Florida Cybersecurity Task Force.

Section 32. Provides an effective date of July 1, 2017.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: See Fiscal Comments
2. Expenditures: See Fiscal Comments

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires the State Data Center and state agency customer entities to utilize commercial cloud computing services when beneficial use of these services is validated through cost benefit analyses, which should reduce State Data Center costs in subsequent years.

### D. FISCAL COMMENTS:

- The bill conforms to the proposed House of Representatives' FY 2017-18 General Appropriations Act, which reduces \$7.9 million in funding to eliminate the AST and transfer the State Data Center to DMS. The proposed GAA transfers \$61.8 million and 185 positions for the State Data Center from the AST to the DMS. The proposed GAA reductions include:
  - Elimination of the AST -- \$3.6 million from the General Revenue Fund.
  - Reduction of 20 vacant positions in the State Data Center -- \$1.1 million from the Working Capital Trust Fund.
  - Reduction of rent, network bandwidth costs, and one position due to facility consolidation -- \$2.2 million from the Working Capital Trust Fund.
  - Reduction in unfunded budget -- \$817K from the Working Capital Trust Fund.

- The bill appropriates \$1.9 million and seven full-time equivalent positions for Fiscal Year 2017-18. This total appropriation includes:
  - \$1,813,664 in recurring general revenue funds and seven full-time equivalent positions and associated salary rate of 665,684 to the OTDS for purposes of implementing its assigned duties, responsibilities, and functions.
  - \$100,000 in nonrecurring general revenue funds to the Florida Department of Law Enforcement for purposes of administrative support for the Florida Cybersecurity Task Force.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision: None
2. Other: None

#### **B. RULE-MAKING AUTHORITY:**

1. The bill authorizes the OTDS to adopt rules to implement its duties as defined in s. 282.0051, F.S.
2. The bill authorizes the DMS to adopt rules to implement its duties as defined in s. 282.201, F.S.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**



1                                   A bill to be entitled  
 2           An act relating to state agency information technology  
 3           reorganization; transferring all powers, duties,  
 4           functions, records, offices, personnel, associated  
 5           administrative support positions, property, pending  
 6           issues and existing contracts, administrative  
 7           authority, certain administrative rules, trust funds,  
 8           and unexpended balances of appropriations,  
 9           allocations, and other funds of the state data center  
 10          within the Agency for State Technology to the  
 11          Department of Management Services and the Agency for  
 12          State Technology to the Office of Technology and Data  
 13          Solutions, respectively, by a type two transfer;  
 14          providing that untransferred rules of the Agency for  
 15          State Technology are repealed; providing that certain  
 16          binding contracts and interagency agreements continue  
 17          for remainder of terms; amending ss. 17.0315 and  
 18          20.055, F.S.; conforming provisions to changes made by  
 19          the act; amending s. 20.22, F.S.; establishing the  
 20          State Data Center Program and the Office of Technology  
 21          and Data Solutions within the Department of Management  
 22          Services; repealing s. 20.61, F.S., relating to the  
 23          Agency for State Technology; amending ss. 97.0525,  
 24          110.205, 215.322, 215.96, and 216.292, F.S.;  
 25          conforming provisions to changes made by the act;

26 | amending s. 282.003, F.S.; revising a short title;  
 27 | amending s. 282.0041, F.S.; revising and providing  
 28 | definitions; amending s. 282.0051, F.S.; transferring  
 29 | powers, duties, and functions of the Agency for State  
 30 | Technology to the Office of Technology and Data  
 31 | Solutions and revising such powers, duties, and  
 32 | functions; providing for the appointment of and  
 33 | requirements for the state chief information officer,  
 34 | the chief data officer, and the chief information  
 35 | security officer; removing requirements that the  
 36 | office publish certain policies and standards;  
 37 | removing a requirement that the office provide certain  
 38 | training opportunities to state agencies; requiring  
 39 | the office to review state agency project oversight  
 40 | deliverables and provide certain recommendations to  
 41 | the Governor and the Legislature; requiring state  
 42 | agencies to submit project oversight deliverables to  
 43 | the office for certain information technology  
 44 | projects; removing certain reporting requirements;  
 45 | requiring the office, in collaboration with the  
 46 | department, to recommend best practices for the  
 47 | procurement of commercial cloud computing services and  
 48 | an information technology policy for information  
 49 | technology-related state contracts; requiring the  
 50 | development of and providing requirements for an

51 | enterprise data inventory; removing a requirement that  
 52 | the office conduct certain annual assessments;  
 53 | removing a requirement that the office provide  
 54 | operational management and oversight of the state data  
 55 | center; removing requirements that the office make  
 56 | certain recommendations; removing a requirement that  
 57 | the office provide project oversight on certain  
 58 | information technology projects of specified  
 59 | departments; amending s. 282.00515, F.S.; requiring  
 60 | specified departments to adopt certain standards and  
 61 | authorizing such departments to consult with the  
 62 | office; requiring specified departments to submit  
 63 | project oversight deliverables to the office for  
 64 | certain information technology projects; conforming a  
 65 | cross-reference; amending s. 282.201, F.S.;

66 | transferring the state data center from the Agency for  
 67 | State Technology to the Department of Management  
 68 | Services and revising state data center duties;  
 69 | revising the method of hosting data center services;  
 70 | requiring the Secretary of Management Services to  
 71 | appoint a director of the state data center; deleting  
 72 | legislative intent; requiring the state data center to  
 73 | develop and implement necessary operating guidelines  
 74 | and procedures for a cost recovery mechanism;  
 75 | requiring the state data center, in collaboration with

76 the Department of Law Enforcement, to develop and  
 77 implement a process for detecting, reporting, and  
 78 responding to information technology security  
 79 incidents, breaches, and threats; requiring the state  
 80 data center to establish a commercial cloud computing  
 81 services in certain circumstances; requiring the state  
 82 data center to provide a biennial report on the use of  
 83 cloud computing by state agency customer entities to  
 84 the Governor, the Legislature, and the Office of  
 85 Technology and Data Solutions; removing obsolete  
 86 language; creating s. 282.206, F.S.; requiring a state  
 87 agency customer entity to notify the state data center  
 88 biannually of changes in anticipated use of state data  
 89 center services; requiring a state agency customer  
 90 entity to develop a plan that includes specified  
 91 elements to address its applications located at the  
 92 state data center; requiring the use of commercial  
 93 cloud computing services in certain circumstances;  
 94 amending ss. 282.318, 287.057, 287.0591, 445.011,  
 95 445.045, 668.50, and 943.0415, F.S.; conforming  
 96 provisions to changes made by the act; creating the  
 97 Florida Cybersecurity Task Force; providing membership  
 98 and duties of the task force; requiring the  
 99 cooperation of executive branch departments and  
 100 agencies; requiring a report to be submitted to the

101 Governor and the Legislature; providing for  
 102 expiration; specifying that certain transfers do not  
 103 require Legislative Budget Commission approval;  
 104 providing appropriations; providing for the allocation  
 105 of appropriated funds; providing an effective date.  
 106

107 Be It Enacted by the Legislature of the State of Florida:  
 108

109 Section 1. All powers; duties; functions; records;  
 110 offices; personnel; associated administrative support positions;  
 111 property; pending issues and existing contracts; administrative  
 112 authority; administrative rules in chapter 74-3, Florida  
 113 Administrative Code, in effect as of July 16, 2016; trust funds;  
 114 and unexpended balances of appropriations, allocations, and  
 115 other funds of the state data center, including data center  
 116 administration, within the Agency for State Technology are  
 117 transferred by a type two transfer pursuant to s. 20.06(2),  
 118 Florida Statutes, to the Department of Management Services.

119 Section 2. All powers; duties; functions; records;  
 120 offices; property; pending issues and existing contracts;  
 121 administrative authority; administrative rules in chapters 74-1  
 122 and 74-2, Florida Administrative Code, in effect as of August 1,  
 123 2016; and unexpended balances of appropriations, allocations,  
 124 and other funds of the executive direction entity of the Agency  
 125 for State Technology are transferred by a type two transfer

126 pursuant to s. 20.06(2), Florida Statutes, to the Office of  
 127 Technology and Data Solutions, established in s. 20.22(2),  
 128 Florida Statutes, as amended by this act, within the Department  
 129 of Management Services.

130 Section 3. Except for those rules in chapters 74-1, 74-2,  
 131 and 74-3, Florida Administrative Code, transferred pursuant to  
 132 sections 1 and 2, other rules adopted by the Agency for State  
 133 Technology, if any, are repealed, and the Department of State  
 134 shall update the Florida Administrative Code to remove them.

135 Section 4. Any binding contract or interagency agreement  
 136 existing before July 1, 2017, between the Agency for State  
 137 Technology or any entity or agent of the agency, and any other  
 138 agency, entity, or person shall continue as a binding contract  
 139 or agreement for the remainder of the term of such contract or  
 140 agreement on the successor department or entity responsible for  
 141 the program, activity, or function relative to the contract or  
 142 agreement.

143 Section 5. Subsection (1) of section 17.0315, Florida  
 144 Statutes, is amended to read:

145 17.0315 Financial and cash management system; task force.—

146 (1) The Chief Financial Officer, as the constitutional  
 147 officer responsible for settling and approving accounts against  
 148 the state and keeping all state funds pursuant to s. 4, Art. IV  
 149 of the State Constitution, is the head of and shall appoint  
 150 members to a task force established to develop a strategic

151 business plan for a successor financial and cash management  
 152 system. The task force shall include the state chief information  
 153 officer ~~executive director of the Agency for State Technology~~  
 154 and the director of the Office of Policy and Budget in the  
 155 Executive Office of the Governor. Any member of the task force  
 156 may appoint a designee.

157 Section 6. Paragraph (d) of subsection (1) of section  
 158 20.055, Florida Statutes, is amended to read:

159 20.055 Agency inspectors general.—

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

161 (d) "State agency" means each department created pursuant  
 162 to this chapter and the Executive Office of the Governor, the  
 163 Department of Military Affairs, the Fish and Wildlife  
 164 Conservation Commission, the Office of Insurance Regulation of  
 165 the Financial Services Commission, the Office of Financial  
 166 Regulation of the Financial Services Commission, the Public  
 167 Service Commission, the Board of Governors of the State  
 168 University System, the Florida Housing Finance Corporation, ~~the~~  
 169 ~~Agency for State Technology,~~ the Office of Early Learning, and  
 170 the state courts system.

171 Section 7. Subsection (2) of section 20.22, Florida  
 172 Statutes, is amended to read:

173 20.22 Department of Management Services.—There is created  
 174 a Department of Management Services.

175 (2) The following divisions, office, and programs within

176 | the Department of Management Services are established:  
 177 |       (a) Facilities Program.  
 178 |       (b)1. Technology Program.  
 179 |       2. State Data Center Program.  
 180 |       (c) Workforce Program.  
 181 |       (d)1. Support Program.  
 182 |       2. Federal Property Assistance Program.  
 183 |       (e) Administration Program.  
 184 |       (f) Division of Administrative Hearings.  
 185 |       (g) Division of Retirement.  
 186 |       (h) Division of State Group Insurance.  
 187 |       (i) Office of Technology and Data Solutions.  
 188 |       Section 8. Section 20.61, Florida Statutes, is repealed.  
 189 |       Section 9. Paragraph (b) of subsection (3) of section  
 190 | 97.0525, Florida Statutes, is amended to read:  
 191 |       97.0525 Online voter registration.—  
 192 |       (3)  
 193 |       (b) The division shall conduct a comprehensive risk  
 194 | assessment of the online voter registration system before making  
 195 | the system publicly available and every 2 years thereafter. The  
 196 | comprehensive risk assessment must comply with the risk  
 197 | assessment methodology developed by the Office of Technology and  
 198 | Data Solutions ~~Agency for State Technology~~ for identifying  
 199 | security risks, determining the magnitude of such risks, and  
 200 | identifying areas that require safeguards.



201 Section 10. Paragraph (e) of subsection (2) of section  
 202 110.205, Florida Statutes, is amended to read:

203 110.205 Career service; exemptions.—

204 (2) EXEMPT POSITIONS.—The exempt positions that are not  
 205 covered by this part include the following:

206 (e) The state chief information officer ~~executive director~~  
 207 ~~of the Agency for State Technology~~. Unless otherwise fixed by  
 208 law, the Office of Technology and Data Solutions ~~Agency for~~  
 209 ~~State Technology~~ shall set the salary and benefits of this  
 210 position in accordance with the rules of the Senior Management  
 211 Service.

212 Section 11. Subsections (2) and (9) of section 215.322,  
 213 Florida Statutes, are amended to read:

214 215.322 Acceptance of credit cards, charge cards, debit  
 215 cards, or electronic funds transfers by state agencies, units of  
 216 local government, and the judicial branch.—

217 (2) A state agency as defined in s. 216.011, or the  
 218 judicial branch, may accept credit cards, charge cards, debit  
 219 cards, or electronic funds transfers in payment for goods and  
 220 services with the prior approval of the Chief Financial Officer.  
 221 If the Internet or other related electronic methods are to be  
 222 used as the collection medium, the Office of Technology and Data  
 223 Solutions ~~Agency for State Technology~~ shall review and recommend  
 224 to the Chief Financial Officer whether to approve the request  
 225 with regard to the process or procedure to be used.

226 (9) For payment programs in which credit cards, charge  
 227 cards, or debit cards are accepted by state agencies, the  
 228 judicial branch, or units of local government, the Chief  
 229 Financial Officer, in consultation with the Office of Technology  
 230 and Data Solutions ~~Agency for State Technology~~, may adopt rules  
 231 to establish uniform security safeguards for cardholder data and  
 232 to ensure compliance with the Payment Card Industry Data  
 233 Security Standards.

234 Section 12. Subsection (2) of section 215.96, Florida  
 235 Statutes, is amended to read:

236 215.96 Coordinating council and design and coordination  
 237 staff.—

238 (2) The coordinating council shall consist of the Chief  
 239 Financial Officer; the Commissioner of Agriculture; the Attorney  
 240 General; the Secretary of Management Services; the state chief  
 241 information officer ~~executive director of the Agency for State~~  
 242 ~~Technology~~; and the Director of Planning and Budgeting,  
 243 Executive Office of the Governor, or their designees. The Chief  
 244 Financial Officer, or his or her designee, shall be chair of the  
 245 council, and the design and coordination staff shall provide  
 246 administrative and clerical support to the council and the  
 247 board. The design and coordination staff shall maintain the  
 248 minutes of each meeting and make such minutes available to any  
 249 interested person. The Auditor General, the State Courts  
 250 Administrator, an executive officer of the Florida Association

251 of State Agency Administrative Services Directors, and an  
 252 executive officer of the Florida Association of State Budget  
 253 Officers, or their designees, shall serve without voting rights  
 254 as ex officio members of the council. The chair may call  
 255 meetings of the council as often as necessary to transact  
 256 business; however, the council shall meet at least once a year.  
 257 Action of the council shall be by motion, duly made, seconded  
 258 and passed by a majority of the council voting in the  
 259 affirmative for approval of items that are to be recommended for  
 260 approval to the Financial Management Information Board.

261 Section 13. Subsection (9) of section 216.292, Florida  
 262 Statutes, is renumbered as subsection (8), and present  
 263 subsection (8) of that section is amended to read:

264 216.292 Appropriations nontransferable; exceptions.-  
 265 ~~(8) Notwithstanding subsections (2), (3), and (4), and for~~  
 266 ~~the 2015-2016 fiscal year only, the Agency for State Technology,~~  
 267 ~~with the approval of the Executive Office of the Governor, and~~  
 268 ~~after 14 days prior notice, may transfer up to \$2.5 million of~~  
 269 ~~recurring funds from the Working Capital Trust Fund within the~~  
 270 ~~Agency for State Technology between appropriations categories~~  
 271 ~~for operations, as needed, to realign funds, based upon the~~  
 272 ~~final report of the third party assessment required by January~~  
 273 ~~15, 2016, to begin migration of cloud-ready applications at the~~  
 274 ~~State Data Center to a cloud solution that complies with all~~  
 275 ~~applicable federal and state security and privacy requirements,~~

276 | ~~to the extent feasible within available resources, while~~  
 277 | ~~continuing to provide computing services for existing data~~  
 278 | ~~center applications, until those applications can be cloud-~~  
 279 | ~~ready. Such transfers are subject to the notice and objection~~  
 280 | ~~provisions of s. 216.177. This subsection expires July 1, 2016.~~

281 | Section 14. Section 282.003, Florida Statutes, is amended  
 282 | to read:

283 | 282.003 Short title.—This part may be cited as the  
 284 | ~~"Enterprise Information Technology Services Management Act."~~

285 | Section 15. Subsections (2) and (3) of section 282.0041,  
 286 | Florida Statutes, are renumbered as subsections (3) and (4),  
 287 | respectively, present subsections (4) and (5) are renumbered as  
 288 | subsections (6) and (7), respectively, present subsections (6)  
 289 | and (7) are renumbered as subsections (11) and (12),  
 290 | respectively, present subsections (9) through (14) are  
 291 | renumbered as subsections (13) through (18), respectively,  
 292 | present subsections (15) through (28) are renumbered as  
 293 | subsections (21) through (33), respectively, present subsections  
 294 | (2), (8), and (10) are amended, and new subsections (2), (5),  
 295 | (8), (9), (10), (19), and (20) are added to that section, to  
 296 | read:

297 | 282.0041 Definitions.—As used in this chapter, the term:  
 298 | (2) "Application programming interface" means a set of  
 299 | programming instructions and standards for accessing a web-based  
 300 | software application.

301 (3)(2) "Breach" has the same meaning as provided in s.  
 302 501.171 ~~means a confirmed event that compromises the~~  
 303 ~~confidentiality, integrity, or availability of information or~~  
 304 ~~data.~~

305 (5) "Cloud computing" has the same meaning as provided in  
 306 Special Publication 800-145 issued by the National Institute of  
 307 Standards and Technology.

308 (8) "Data" means a subset of structured information in a  
 309 format that allows such information to be electronically  
 310 retrieved and transmitted.

311 (9) "Data catalog" means a collection of descriptions of  
 312 datasets.

313 (10) "Dataset" means an organized collection of related  
 314 data held in an electronic format.

315 ~~(8)~~ ~~"Enterprise information technology service" means an~~  
 316 ~~information technology service that is used in all agencies or a~~  
 317 ~~subset of agencies and is established in law to be designed,~~  
 318 ~~delivered, and managed at the enterprise level.~~

319 (14)(10) "Incident" means a violation or imminent threat  
 320 of violation, whether such violation is accidental or  
 321 deliberate, of information technology resources, security  
 322 policies, acceptable use policies, or standard security  
 323 practices. An imminent threat of violation refers to a situation  
 324 in which the state agency has a factual basis for believing that  
 325 a specific incident is about to occur.

326           (19) "Machine-readable" means data that is in a format  
 327 that can be easily processed by a computer without human  
 328 intervention.

329           (20) "Open data" means data collected or created by a  
 330 state agency and structured in a way that enables the data to be  
 331 fully discoverable and usable by the public. The term does not  
 332 include data that is restricted from public distribution based  
 333 on federal or state privacy, confidentiality, and security laws  
 334 and regulations or data for which a state agency is statutorily  
 335 authorized to assess a fee for its distribution.

336           Section 16. Section 282.0051, Florida Statutes, is amended  
 337 to read:

338           282.0051 Office of Technology and Data Solutions Agency  
 339 for State Technology; powers, duties, and functions.—The Office  
 340 of Technology and Data Solutions within the Department of  
 341 Management Services shall be headed by the state chief  
 342 information officer who shall be appointed by the Governor and  
 343 confirmed by the Senate. The state chief information officer  
 344 must be a proven, effective administrator with at least 10 years  
 345 of executive-level experience in either the public or private  
 346 sector with experience in the development of information  
 347 technology strategic planning and the development and  
 348 implementation of fiscal and substantive information technology  
 349 policy and standards. The office shall be a separate budget  
 350 entity and shall not be subject to control, supervision, or

351 direction by the Department of Management Services in any  
 352 manner, including, but not limited to, personnel, purchasing,  
 353 and budgetary matters. The state chief information officer shall  
 354 appoint a chief data officer who must have experience in the  
 355 development and implementation of open data initiatives. The  
 356 state chief information officer shall appoint a chief  
 357 information security officer who must have experience and  
 358 expertise in security and risk management for communications and  
 359 information technology resources. The office ~~Agency for State~~  
 360 ~~Technology~~ shall have the following powers, duties, and  
 361 functions:

362 (1) Develop and recommend ~~publish~~ information technology  
 363 policy for the management of the state's information technology  
 364 resources.

365 (2) Recommend information technology improvements for the  
 366 delivery of state government services and ~~Establish and publish~~  
 367 ~~information technology architecture standards to provide for the~~  
 368 ~~most efficient use of the state's information technology~~  
 369 ~~resources and to ensure compatibility and alignment with the~~  
 370 ~~needs of state agencies. The agency shall assist state agencies~~  
 371 ~~in complying with the standards.~~

372 (3) ~~By June 30, 2015,~~ Establish project management and  
 373 oversight standards with which state agencies must comply when  
 374 implementing information technology projects. ~~The agency shall~~  
 375 ~~provide training opportunities to state agencies to assist in~~

376 ~~the adoption of the project management and oversight standards.~~

377 To support data-driven decisionmaking, the standards must  
 378 include, but are not limited to:

379 (a) Performance measurements and metrics that objectively  
 380 reflect the status of an information technology project based on  
 381 a defined and documented project scope, cost, and schedule.

382 (b) Methodologies for calculating acceptable variances in  
 383 the projected versus actual scope, schedule, or cost of an  
 384 information technology project.

385 (c) Reporting requirements, including requirements  
 386 designed to alert all defined stakeholders that an information  
 387 technology project has exceeded acceptable variances defined and  
 388 documented in a project plan.

389 (d) Project management documentation, including, but not  
 390 limited to, operational work plans, project spend plans, and  
 391 project status reports, for use by state agencies.

392 (e) ~~(d)~~ Content, format, and frequency of project updates.

393 (4) (a) Review state agency project oversight deliverables  
 394 and provide recommendations as necessary to the Governor, the  
 395 President of the Senate, and the Speaker of the House of  
 396 Representatives for the improvement of state agency information  
 397 technology projects and project oversight. Beginning January 1,  
 398 2018, except as otherwise provided by law, state agencies shall  
 399 submit project oversight deliverables to the Office of  
 400 Technology and Data Solutions for 2015, perform project



401 ~~oversight on all state agency~~ information technology projects  
 402 that have total project costs of \$10 million or more and that  
 403 are funded in the General Appropriations Act or any other law.  
 404 ~~The agency shall report at least quarterly to the Executive~~  
 405 ~~Office of the Governor, the President of the Senate, and the~~  
 406 ~~Speaker of the House of Representatives on any information~~  
 407 ~~technology project that the agency identifies as high-risk due~~  
 408 ~~to the project exceeding acceptable variance ranges defined and~~  
 409 ~~documented in a project plan. The report must include a risk~~  
 410 ~~assessment, including fiscal risks, associated with proceeding~~  
 411 ~~to the next stage of the project, and a recommendation for~~  
 412 ~~corrective actions required, including suspension or termination~~  
 413 ~~of the project.~~

414 (b) Review project oversight deliverables that are  
 415 submitted to the Office of Technology and Data Solutions by the  
 416 Department of Financial Services, the Department of Legal  
 417 Affairs, and the Department of Agriculture and Consumer Services  
 418 for information technology projects that have total project  
 419 costs of \$25 million or more and that impact one or more other  
 420 agencies and provide recommendations as necessary to the  
 421 Governor, the President of the Senate, and the Speaker of the  
 422 House of Representatives for the improvement of such projects  
 423 and project oversight.

424 (c) If an information technology project implemented by a  
 425 state agency must be connected to or otherwise accommodated by

426 an information technology system administered by the Department  
 427 of Financial Services, the Department of Legal Affairs, or the  
 428 Department of Agriculture and Consumer Services, consult with  
 429 the department regarding the risks and other effects of such  
 430 project on their information technology system and work  
 431 cooperatively with the department regarding the connections,  
 432 interfaces, timing, or accommodations required to implement such  
 433 project.

434 ~~(5) By April 1, 2016, and biennially thereafter, identify~~  
 435 ~~opportunities for standardization and consolidation of~~  
 436 ~~information technology services that support business functions~~  
 437 ~~and operations, including administrative functions such as~~  
 438 ~~purchasing, accounting and reporting, cash management, and~~  
 439 ~~personnel, and that are common across state agencies. The agency~~  
 440 ~~shall provide recommendations for standardization and~~  
 441 ~~consolidation to the Executive Office of the Governor, the~~  
 442 ~~President of the Senate, and the Speaker of the House of~~  
 443 ~~Representatives. The agency is not precluded from providing~~  
 444 ~~recommendations before April 1, 2016.~~

445 ~~(5)(6)~~ In collaboration with the Department of Management  
 446 Services, recommend ~~establish~~ best practices for the procurement  
 447 of commercial cloud computing services ~~information technology~~  
 448 ~~products~~ in order to reduce costs, increase quality of services  
 449 ~~productivity~~, or improve data center services. ~~Such practices~~  
 450 ~~must include a provision requiring the agency to review all~~

451 | ~~information technology purchases made by state agencies that~~  
 452 | ~~have a total cost of \$250,000 or more, unless a purchase is~~  
 453 | ~~specifically mandated by the Legislature, for compliance with~~  
 454 | ~~the standards established pursuant to this section.~~

455 |     (6) In collaboration with the Department of Management  
 456 | Services, recommend an information technology policy for  
 457 | information technology-related state contracts, including state  
 458 | term contracts for information technology commodities,  
 459 | consultant services, and staff augmentation services.

460 |     (7) In consultation with state agencies, develop an  
 461 | enterprise data inventory that describes the data created or  
 462 | collected by a state agency, including geospatial data used in a  
 463 | state agency's geographic information system, and recommend  
 464 | options and associated costs for developing and maintaining an  
 465 | open data catalog that is machine-readable. For purposes of  
 466 | developing the inventory, the office shall:

467 |         (a) Establish a process and a reporting format for state  
 468 | agencies to provide an inventory that describes all current  
 469 | datasets aggregated or stored by the state agency. The inventory  
 470 | shall include, but is not limited to:

471 |             1. The title and description of the information contained  
 472 | within the dataset.

473 |             2. A description of how the data is maintained, including  
 474 | standards or terminologies used to structure the data.

475 |             3. Any existing or planned application programming

476 interface used to publish the data, a description of the data  
 477 contained in any such existing interface, and a description of  
 478 the data expected to be contained in any currently planned  
 479 interface.

480 (b) Recommend any potential methods for standardizing data  
 481 across state agencies that will promote interoperability and  
 482 reduce the collection of duplicative data.

483 (c) Identify what state agency data may be considered open  
 484 data.

485 (d) Recommend open data technical standards and  
 486 terminologies for use by state agencies.

487 (e) Recommend options and all associated costs for the  
 488 state to develop and maintain an open data catalog.

489 ~~(7) (a) Participate with the Department of Management~~  
 490 ~~Services in evaluating, conducting, and negotiating competitive~~  
 491 ~~solicitations for state term contracts for information~~  
 492 ~~technology commodities, consultant services, or staff~~  
 493 ~~augmentation contractual services pursuant to s. 287.0591.~~

494 ~~(b) Collaborate with the Department of Management Services~~  
 495 ~~in information technology resource acquisition planning.~~

496 ~~(8) Develop standards for information technology reports~~  
 497 ~~and updates, including, but not limited to, operational work~~  
 498 ~~plans, project spend plans, and project status reports, for use~~  
 499 ~~by state agencies.~~

500 ~~(9) Upon request, assist state agencies in the development~~

501 ~~of information technology related legislative budget requests.~~

502 ~~(10) Beginning July 1, 2016, and annually thereafter,~~  
 503 ~~conduct annual assessments of state agencies to determine~~  
 504 ~~compliance with all information technology standards and~~  
 505 ~~guidelines developed and published by the agency, and beginning~~  
 506 ~~December 1, 2016, and annually thereafter, provide results of~~  
 507 ~~the assessments to the Executive Office of the Governor, the~~  
 508 ~~President of the Senate, and the Speaker of the House of~~  
 509 ~~Representatives.~~

510 ~~(11) Provide operational management and oversight of the~~  
 511 ~~state data center established pursuant to s. 282.201, which~~  
 512 ~~includes:~~

513 ~~(a) Implementing industry standards and best practices for~~  
 514 ~~the state data center's facilities, operations, maintenance,~~  
 515 ~~planning, and management processes.~~

516 ~~(b) Developing and implementing cost-recovery mechanisms~~  
 517 ~~that recover the full direct and indirect cost of services~~  
 518 ~~through charges to applicable customer entities. Such cost-~~  
 519 ~~recovery mechanisms must comply with applicable state and~~  
 520 ~~federal regulations concerning distribution and use of funds and~~  
 521 ~~must ensure that, for any fiscal year, no service or customer~~  
 522 ~~entity subsidizes another service or customer entity.~~

523 ~~(c) Developing and implementing appropriate operating~~  
 524 ~~guidelines and procedures necessary for the state data center to~~  
 525 ~~perform its duties pursuant to s. 282.201. The guidelines and~~

526 ~~procedures must comply with applicable state and federal laws,~~  
 527 ~~regulations, and policies and conform to generally accepted~~  
 528 ~~governmental accounting and auditing standards. The guidelines~~  
 529 ~~and procedures must include, but not be limited to:~~

530 ~~1. Implementing a consolidated administrative support~~  
 531 ~~structure responsible for providing financial management,~~  
 532 ~~procurement, transactions involving real or personal property,~~  
 533 ~~human resources, and operational support.~~

534 ~~2. Implementing an annual reconciliation process to ensure~~  
 535 ~~that each customer entity is paying for the full direct and~~  
 536 ~~indirect cost of each service as determined by the customer~~  
 537 ~~entity's use of each service.~~

538 ~~3. Providing rebates that may be credited against future~~  
 539 ~~billings to customer entities when revenues exceed costs.~~

540 ~~4. Requiring customer entities to validate that sufficient~~  
 541 ~~funds exist in the appropriate data processing appropriation~~  
 542 ~~category or will be transferred into the appropriate data~~  
 543 ~~processing appropriation category before implementation of a~~  
 544 ~~customer entity's request for a change in the type or level of~~  
 545 ~~service provided, if such change results in a net increase to~~  
 546 ~~the customer entity's costs for that fiscal year.~~

547 ~~5. By September 1 of each year, providing to each customer~~  
 548 ~~entity's agency head the projected costs of providing data~~  
 549 ~~center services for the following fiscal year.~~

550 ~~6. Providing a plan for consideration by the Legislative~~

551 ~~Budget Commission if the cost of a service is increased for a~~  
 552 ~~reason other than a customer entity's request made pursuant to~~  
 553 ~~subparagraph 4. Such a plan is required only if the service cost~~  
 554 ~~increase results in a net increase to a customer entity for that~~  
 555 ~~fiscal year.~~

556 ~~7. Standardizing and consolidating procurement and~~  
 557 ~~contracting practices.~~

558 ~~(d) In collaboration with the Department of Law~~  
 559 ~~Enforcement, developing and implementing a process for~~  
 560 ~~detecting, reporting, and responding to information technology~~  
 561 ~~security incidents, breaches, and threats.~~

562 ~~(e) Adopting rules relating to the operation of the state~~  
 563 ~~data center, including, but not limited to, budgeting and~~  
 564 ~~accounting procedures, cost recovery methodologies, and~~  
 565 ~~operating procedures.~~

566 ~~(f) Beginning May 1, 2016, and annually thereafter,~~  
 567 ~~conducting a market analysis to determine whether the state's~~  
 568 ~~approach to the provision of data center services is the most~~  
 569 ~~effective and efficient manner by which its customer entities~~  
 570 ~~can acquire such services, based on federal, state, and local~~  
 571 ~~government trends, best practices in service provision, and the~~  
 572 ~~acquisition of new and emerging technologies. The results of the~~  
 573 ~~market analysis shall assist the state data center in making~~  
 574 ~~adjustments to its data center service offerings.~~

575 ~~(12) Recommend other information technology services that~~

576 ~~should be designed, delivered, and managed as enterprise~~  
 577 ~~information technology services. Recommendations must include~~  
 578 ~~the identification of existing information technology resources~~  
 579 ~~associated with the services, if existing services must be~~  
 580 ~~transferred as a result of being delivered and managed as~~  
 581 ~~enterprise information technology services.~~

582 ~~(13) Recommend additional consolidations of agency~~  
 583 ~~computing facilities or data centers into the state data center~~  
 584 ~~established pursuant to s. 282.201. Such recommendations shall~~  
 585 ~~include a proposed timeline for consolidation.~~

586 ~~(14) In consultation with state agencies, propose a~~  
 587 ~~methodology and approach for identifying and collecting both~~  
 588 ~~current and planned information technology expenditure data at~~  
 589 ~~the state agency level.~~

590 ~~(15)(a) Beginning January 1, 2015, and notwithstanding any~~  
 591 ~~other law, provide project oversight on any information~~  
 592 ~~technology project of the Department of Financial Services, the~~  
 593 ~~Department of Legal Affairs, and the Department of Agriculture~~  
 594 ~~and Consumer Services that has a total project cost of \$25~~  
 595 ~~million or more and that impacts one or more other agencies.~~  
 596 ~~Such information technology projects must also comply with the~~  
 597 ~~applicable information technology architecture, project~~  
 598 ~~management and oversight, and reporting standards established by~~  
 599 ~~the agency.~~

600 ~~(b) When performing the project oversight function~~



601 | ~~specified in paragraph (a), report at least quarterly to the~~  
 602 | ~~Executive Office of the Governor, the President of the Senate,~~  
 603 | ~~and the Speaker of the House of Representatives on any~~  
 604 | ~~information technology project that the agency identifies as~~  
 605 | ~~high risk due to the project exceeding acceptable variance~~  
 606 | ~~ranges defined and documented in the project plan. The report~~  
 607 | ~~shall include a risk assessment, including fiscal risks,~~  
 608 | ~~associated with proceeding to the next stage of the project and~~  
 609 | ~~a recommendation for corrective actions required, including~~  
 610 | ~~suspension or termination of the project.~~

611 | ~~(16) If an information technology project implemented by a~~  
 612 | ~~state agency must be connected to or otherwise accommodated by~~  
 613 | ~~an information technology system administered by the Department~~  
 614 | ~~of Financial Services, the Department of Legal Affairs, or the~~  
 615 | ~~Department of Agriculture and Consumer Services, consult with~~  
 616 | ~~these departments regarding the risks and other effects of such~~  
 617 | ~~projects on their information technology systems and work~~  
 618 | ~~cooperatively with these departments regarding the connections,~~  
 619 | ~~interfaces, timing, or accommodations required to implement such~~  
 620 | ~~projects.~~

621 | (8)~~(17)~~ If adherence to standards or policies adopted by  
 622 | or established pursuant to this section causes conflict with  
 623 | federal regulations or requirements imposed on a state agency  
 624 | and results in adverse action against the state agency or  
 625 | federal funding, work with the state agency to provide

626 alternative standards, policies, or requirements that do not  
 627 conflict with the federal regulation or requirement. Each  
 628 ~~Beginning~~ July 1, ~~2015~~, the agency shall ~~annually~~ report such  
 629 alternative standards to the Governor, the President of the  
 630 Senate, and the Speaker of the House of Representatives.

631 ~~(18) In collaboration with the Department of Management~~  
 632 ~~Services:~~

633 ~~(a) Establish an information technology policy for all~~  
 634 ~~information technology related state contracts, including state~~  
 635 ~~term contracts for information technology commodities,~~  
 636 ~~consultant services, and staff augmentation services. The~~  
 637 ~~information technology policy must include:~~

- 638 ~~1. Identification of the information technology product~~  
 639 ~~and service categories to be included in state term contracts.~~
- 640 ~~2. Requirements to be included in solicitations for state~~  
 641 ~~term contracts.~~
- 642 ~~3. Evaluation criteria for the award of information~~  
 643 ~~technology related state term contracts.~~
- 644 ~~4. The term of each information technology related state~~  
 645 ~~term contract.~~
- 646 ~~5. The maximum number of vendors authorized on each state~~  
 647 ~~term contract.~~

648 ~~(b) Evaluate vendor responses for state term contract~~  
 649 ~~solicitations and invitations to negotiate.~~

650 ~~(c) Answer vendor questions on state term contract~~

651 ~~solicitations.~~

652 ~~(d) Ensure that the information technology policy~~  
 653 ~~established pursuant to paragraph (a) is included in all~~  
 654 ~~solicitations and contracts which are administratively executed~~  
 655 ~~by the department.~~

656 (9)~~(19)~~ Adopt rules to administer this section.

657 Section 17. Section 282.00515, Florida Statutes, is  
 658 amended to read:

659 282.00515 Duties of Cabinet agencies.—

660 (1) The Department of Legal Affairs, the Department of  
 661 Financial Services, and the Department of Agriculture and  
 662 Consumer Services shall adopt the standards established in s.  
 663 282.0051(3) ~~282.0051(2), (3), and (8)~~ or adopt alternative  
 664 standards based on best practices and industry standards, and  
 665 may consult ~~contract~~ with the Office of Technology and Data  
 666 Solutions for recommendations ~~Agency for State Technology to~~  
 667 ~~provide or perform any of the services and functions described~~  
 668 ~~in s. 282.0051 for the Department of Legal Affairs, the~~  
 669 ~~Department of Financial Services, or the Department of~~  
 670 ~~Agriculture and Consumer Services.~~

671 (2) Beginning January 1, 2018, and notwithstanding any  
 672 other law, the Department of Financial Services, the Department  
 673 of Legal Affairs, and the Department of Agriculture and Consumer  
 674 Services shall submit project oversight deliverables to the  
 675 Office of Technology and Data Solutions for all information

676 | technology projects with a total project cost of \$25 million or  
 677 | more and which impact one or more other agencies. Such  
 678 | information technology projects must also comply with the  
 679 | project management and oversight standards established by the  
 680 | office.

681 | Section 18. Section 282.201, Florida Statutes, is amended  
 682 | to read:

683 | 282.201 State data center.—The state data center is  
 684 | established within the Department of Management Services Agency  
 685 | ~~for State Technology~~ and shall provide data center services that  
 686 | are either hosted on premises or hosted externally through a  
 687 | commercial cloud computing third-party provider, whichever  
 688 | option meets the operational needs at the best cost and service  
 689 | levels as verified by a customer entity as an enterprise  
 690 | information technology service. The provision of services must  
 691 | comply with applicable state and federal laws, regulations, and  
 692 | policies, including all applicable security, privacy, and  
 693 | auditing requirements. The Secretary of Management Services  
 694 | shall appoint a director of the state data center who has  
 695 | experience in leading data center facilities and expertise in  
 696 | cloud computing management. The state data center shall not be  
 697 | subject to the management or control of the Office of Technology  
 698 | and Data Solutions.

699 | (1) USE OF THE STATE DATA CENTER.—

700 | (a) The following are exempt from the use of the state

701 data center: the Department of Law Enforcement, the Department  
 702 of the Lottery's gaming system, systems design and development  
 703 in the Office of Policy and Budget, the regional traffic  
 704 management centers that manage the computerized traffic systems  
 705 and control devices described in s. 335.14(2) and toll  
 706 operations of the Department of Transportation, the State Board  
 707 of Administration, state attorneys, public defenders, criminal  
 708 conflict and civil regional counsels, capital collateral  
 709 regional counsels, and the Florida Housing Finance Corporation.

710 (b) Unless exempt from use of the state data center  
 711 pursuant to this section or as authorized by the Legislature, a  
 712 state agency may not:

713 1. Create a new agency computing facility or data center  
 714 or expand the capability to support additional computer  
 715 equipment in an existing agency computing facility or data  
 716 center; or

717 2. Terminate services with the state data center without  
 718 giving written notice to the center of intent to terminate  
 719 services at least 180 days before such termination.

720 ~~(1) INTENT. The Legislature finds that the most efficient~~  
 721 ~~and effective means of providing quality utility data processing~~  
 722 ~~services to state agencies requires that computing resources be~~  
 723 ~~concentrated in quality facilities that provide the proper~~  
 724 ~~security, disaster recovery, infrastructure, and staff resources~~  
 725 ~~to ensure that the state's data is maintained reliably and~~

726 ~~safely, and is recoverable in the event of a disaster. Unless~~  
 727 ~~otherwise exempt by law, it is the intent of the Legislature~~  
 728 ~~that all agency data centers and computing facilities shall be~~  
 729 ~~consolidated into the state data center.~~

730 (2) STATE DATA CENTER DUTIES.—The state data center shall:

731 (a) Develop and implement appropriate operating guidelines  
 732 and procedures that are necessary for the state data center to  
 733 perform its duties pursuant to this subsection and that comply  
 734 with applicable state and federal laws, regulations, and  
 735 policies and that conform to generally accepted governmental  
 736 accounting and auditing standards.

737 (b) Develop and implement a cost recovery mechanism that  
 738 recovers the full direct and indirect costs of services through  
 739 charges to applicable customer entities. Such cost recovery  
 740 mechanism must comply with applicable state and federal  
 741 regulations concerning distribution and use of funds and must  
 742 ensure that, for any fiscal year, no service or customer entity  
 743 subsidizes another service or customer entity. The cost recovery  
 744 mechanism must include, but need not be limited to:

- 745 1. Implementing an annual reconciliation process.
- 746 2. Providing rebates that may be credited against future  
 747 billings to customer entities when revenues exceed costs.
- 748 3. Requiring customer entities to validate that sufficient  
 749 funds exist in the appropriate data processing appropriation  
 750 category or will be transferred into the appropriate data

751 | processing appropriation category before implementation of a  
 752 | customer entity's request for a change in the type or level of  
 753 | service provided, if such change results in a net increase to  
 754 | the customer entity's costs for that fiscal year.

755 | 4. By September 1 of each year, providing to each customer  
 756 | entity's agency head the projected costs of providing data  
 757 | center services for the following fiscal year.

758 | 5. Providing a plan for consideration by the Legislative  
 759 | Budget Commission if the cost of a service is increased for a  
 760 | reason other than a customer entity's request made pursuant to  
 761 | subparagraph 3. Such a plan is required only if the service cost  
 762 | increase results in a net increase to a customer entity for that  
 763 | fiscal year.

764 | (c) In collaboration with the Department of Law  
 765 | Enforcement, develop and implement a process for detecting,  
 766 | reporting, and responding to information technology security  
 767 | incidents, breaches, and threats.

768 | (d) Offer, develop, and support the services and  
 769 | applications defined in service-level agreements executed with  
 770 | its customer entities.

771 | (e) ~~(b)~~ Maintain performance of the state data center by  
 772 | ensuring proper data backup, data backup recovery, disaster  
 773 | recovery, and appropriate security, power, cooling, fire  
 774 | suppression, and capacity.

775 | (f) ~~(e)~~ Develop and implement a business continuity plan

776 and a disaster recovery plan, and each ~~beginning~~ July 1, 2015,  
 777 ~~and annually thereafter~~, conduct a live exercise of each plan.

778 (g) ~~(d)~~ Enter into a service-level agreement with each  
 779 customer entity to provide the required type and level of  
 780 service or services. If a customer entity fails to execute an  
 781 agreement within 60 days after commencement or change of a  
 782 service, the state data center may cease service. A service-  
 783 level agreement may not have a term exceeding 3 years and at a  
 784 minimum must:

- 785 1. Identify the parties and their roles, duties, and
- 786 responsibilities under the agreement.
- 787 2. State the duration of the contract term and specify the
- 788 conditions for renewal.
- 789 3. Identify the scope of work.
- 790 4. Identify the products or services to be delivered with
- 791 sufficient specificity to permit an external financial or
- 792 performance audit.
- 793 5. Establish the services to be provided, the business
- 794 standards that must be met for each service, the cost of each
- 795 service by agency application, and the metrics and processes by
- 796 which the business standards for each service are to be
- 797 objectively measured and reported.
- 798 6. Provide a timely billing methodology to recover the
- 799 cost of services provided to the customer entity pursuant to s.
- 800 215.422.



801           7. Provide a procedure for modifying the service-level  
802 agreement based on changes in the type, level, and cost of a  
803 service.

804           8. Include a right-to-audit clause to ensure that the  
805 parties to the agreement have access to records for audit  
806 purposes during the term of the service-level agreement.

807           9. Provide that a service-level agreement may be  
808 terminated by either party for cause only after giving the other  
809 party and the Department of Management Services ~~Agency for State~~  
810 ~~Technology~~ notice in writing of the cause for termination and an  
811 opportunity for the other party to resolve the identified cause  
812 within a reasonable period.

813           10. Provide for mediation of disputes by the Division of  
814 Administrative Hearings pursuant to s. 120.573.

815           (h) ~~(e)~~ For purposes of chapter 273, be the custodian of  
816 resources and equipment located in and operated, supported, and  
817 managed by the state data center.

818           (i) ~~(f)~~ Assume administrative access rights to resources  
819 and equipment, including servers, network components, and other  
820 devices, consolidated into the state data center.

821           1. Upon consolidating into the state data center ~~the date~~  
822 ~~of each consolidation specified in this section, the General~~  
823 ~~Appropriations Act, or any other law,~~ a state agency shall  
824 relinquish administrative rights to consolidated resources and  
825 equipment. State agencies required to comply with federal and

826 | state criminal justice information security rules and policies  
 827 | shall retain administrative access rights sufficient to comply  
 828 | with the management control provisions of those rules and  
 829 | policies; however, the state data center shall have the  
 830 | appropriate type or level of rights to allow the center to  
 831 | comply with its duties pursuant to this section. The Department  
 832 | of Law Enforcement shall serve as the arbiter of disputes  
 833 | pertaining to the appropriate type and level of administrative  
 834 | access rights pertaining to the provision of management control  
 835 | in accordance with the federal criminal justice information  
 836 | guidelines.

837 |         2. The state data center shall provide customer entities  
 838 | with access to applications, servers, network components, and  
 839 | other devices necessary for entities to perform business  
 840 | activities and functions, and as defined and documented in a  
 841 | service-level agreement.

842 |         (j) Establish a commercial cloud computing service instead  
 843 | of purchasing, financing, leasing, or upgrading state data  
 844 | center infrastructure, when a cost benefit analysis verified by  
 845 | the customer entity validates that a commercial cloud computing  
 846 | service can reduce customer entity data center costs while  
 847 | delivering the same or improved levels of service and meets or  
 848 | exceeds the applicable state and federal standards for  
 849 | information technology security.

850 |         (k) Submit a report on the use of cloud computing by state

851 agency customer entities no later than November 15 of each even-  
 852 numbered year to the Governor, the President of the Senate, the  
 853 Speaker of the House of Representatives, and the Office of  
 854 Technology and Data Solutions. The report must include cloud  
 855 computing usage by customer entity that provided cost savings  
 856 and other benefits, such as improved service levels and security  
 857 enhancements. Each state agency shall cooperate with the  
 858 department in the creation of the report by providing timely and  
 859 accurate information and any assistance required by the  
 860 department.

861 (1) Adopt rules to administer this section.

862 ~~(3) STATE AGENCY DUTIES.~~

863 ~~(a) Each state agency shall provide to the Agency for~~  
 864 ~~State Technology all requested information relating to its data~~  
 865 ~~centers and computing facilities and any other information~~  
 866 ~~relevant to the effective transition of an agency data center or~~  
 867 ~~computing facility into the state data center.~~

868 ~~(b) Each state agency customer of the state data center~~  
 869 ~~shall notify the state data center, by May 31 and November 30 of~~  
 870 ~~each year, of any significant changes in anticipated utilization~~  
 871 ~~of state data center services pursuant to requirements~~  
 872 ~~established by the state data center.~~

873 ~~(4) SCHEDULE FOR CONSOLIDATIONS OF AGENCY DATA CENTERS.~~

874 ~~(a) Consolidations of agency data centers and computing~~  
 875 ~~facilities into the state data center shall be made by the dates~~

876 ~~specified in this section and in accordance with budget~~  
 877 ~~adjustments contained in the General Appropriations Act.~~

878 ~~(b) During the 2013-2014 fiscal year, the following state~~  
 879 ~~agencies shall be consolidated by the specified date:~~

880 ~~1. By October 31, 2013, the Department of Economic~~  
 881 ~~Opportunity.~~

882 ~~2. By December 31, 2013, the Executive Office of the~~  
 883 ~~Governor, to include the Division of Emergency Management except~~  
 884 ~~for the Emergency Operation Center's management system in~~  
 885 ~~Tallahassee and the Camp Blanding Emergency Operations Center in~~  
 886 ~~Starke.~~

887 ~~3. By March 31, 2014, the Department of Elderly Affairs.~~

888 ~~4. By October 30, 2013, the Fish and Wildlife Conservation~~  
 889 ~~Commission, except for the commission's Fish and Wildlife~~  
 890 ~~Research Institute in St. Petersburg.~~

891 ~~(c) The following are exempt from state data center~~  
 892 ~~consolidation under this section: the Department of Law~~  
 893 ~~Enforcement, the Department of the Lottery's Gaming System,~~  
 894 ~~Systems Design and Development in the Office of Policy and~~  
 895 ~~Budget, the regional traffic management centers as described in~~  
 896 ~~s. 335.14(2) and the Office of Toll Operations of the Department~~  
 897 ~~of Transportation, the State Board of Administration, state~~  
 898 ~~attorneys, public defenders, criminal conflict and civil~~  
 899 ~~regional counsel, capital collateral regional counsel, and the~~  
 900 ~~Florida Housing Finance Corporation.~~

901 ~~(d) A state agency that is consolidating its agency data~~  
 902 ~~center or computing facility into the state data center must~~  
 903 ~~execute a new or update an existing service-level agreement~~  
 904 ~~within 60 days after the commencement of the service. If a state~~  
 905 ~~agency and the state data center are unable to execute a~~  
 906 ~~service-level agreement by that date, the agency shall submit a~~  
 907 ~~report to the Executive Office of the Governor within 5 working~~  
 908 ~~days after that date which explains the specific issues~~  
 909 ~~preventing execution and describing the plan and schedule for~~  
 910 ~~resolving those issues.~~

911 ~~(e) Each state agency scheduled for consolidation into the~~  
 912 ~~state data center shall submit a transition plan to the Agency~~  
 913 ~~for State Technology by July 1 of the fiscal year before the~~  
 914 ~~fiscal year in which the scheduled consolidation will occur.~~  
 915 ~~Transition plans shall be developed in consultation with the~~  
 916 ~~state data center and must include:~~

917 ~~1. An inventory of the agency data center's resources~~  
 918 ~~being consolidated, including all hardware and its associated~~  
 919 ~~life cycle replacement schedule, software, staff, contracted~~  
 920 ~~services, and facility resources performing data center~~  
 921 ~~management and operations, security, backup and recovery,~~  
 922 ~~disaster recovery, system administration, database~~  
 923 ~~administration, system programming, job control, production~~  
 924 ~~control, print, storage, technical support, help desk, and~~  
 925 ~~managed services, but excluding application development, and the~~

926 ~~agency's costs supporting these resources.~~

927 ~~2. A list of contracts in effect, including, but not~~  
 928 ~~limited to, contracts for hardware, software, and maintenance,~~  
 929 ~~which identifies the expiration date, the contract parties, and~~  
 930 ~~the cost of each contract.~~

931 ~~3. A detailed description of the level of services needed~~  
 932 ~~to meet the technical and operational requirements of the~~  
 933 ~~platforms being consolidated.~~

934 ~~4. A timetable with significant milestones for the~~  
 935 ~~completion of the consolidation.~~

936 ~~(f) Each state agency scheduled for consolidation into the~~  
 937 ~~state data center shall submit with its respective legislative~~  
 938 ~~budget request the specific recurring and nonrecurring budget~~  
 939 ~~adjustments of resources by appropriation category into the~~  
 940 ~~appropriate data processing category pursuant to the legislative~~  
 941 ~~budget request instructions in s. 216.023.~~

942 ~~(5) AGENCY LIMITATIONS.—~~

943 ~~(a) Unless exempt from data center consolidation pursuant~~  
 944 ~~to this section or authorized by the Legislature or as provided~~  
 945 ~~in paragraph (b), a state agency may not:~~

946 ~~1. Create a new agency computing facility or data center,~~  
 947 ~~or expand the capability to support additional computer~~  
 948 ~~equipment in an existing agency computing facility or data~~  
 949 ~~center;~~

950 ~~2. Spend funds before the state agency's scheduled~~

951 ~~consolidation into the state data center to purchase or modify~~  
 952 ~~hardware or operations software that does not comply with~~  
 953 ~~standards established by the Agency for State Technology~~  
 954 ~~pursuant to s. 282.0051;~~

955 ~~3. Transfer existing computer services to any data center~~  
 956 ~~other than the state data center;~~

957 ~~4. Terminate services with the state data center without~~  
 958 ~~giving written notice of intent to terminate services 180 days~~  
 959 ~~before such termination; or~~

960 ~~5. Initiate a new computer service except with the state~~  
 961 ~~data center.~~

962 ~~(b) Exceptions to the limitations in subparagraphs (a)1.,~~  
 963 ~~2., 3., and 5. may be granted by the Agency for State Technology~~  
 964 ~~if there is insufficient capacity in the state data center to~~  
 965 ~~absorb the workload associated with agency computing services,~~  
 966 ~~if expenditures are compatible with the standards established~~  
 967 ~~pursuant to s. 282.0051, or if the equipment or resources are~~  
 968 ~~needed to meet a critical agency business need that cannot be~~  
 969 ~~satisfied by the state data center. The Agency for State~~  
 970 ~~Technology shall establish requirements that a state agency must~~  
 971 ~~follow when submitting and documenting a request for an~~  
 972 ~~exception. The Agency for State Technology shall also publish~~  
 973 ~~guidelines for its consideration of exception requests. However,~~  
 974 ~~the decision of the Agency for State Technology regarding an~~  
 975 ~~exception request is not subject to chapter 120.~~

976 Section 19. Section 282.206, Florida Statutes, is created  
 977 to read:

978 282.206 Information technology management; state  
 979 agencies.-

980 (1) By May 31 and November 30 of each year, each state  
 981 agency customer entity shall notify the state data center of any  
 982 significant changes in anticipated use of state data center  
 983 services, including the status of agency applications supported  
 984 by the state data center which are planned for replacement or  
 985 migration to commercial cloud computing services, pursuant to  
 986 requirements established by the state data center.

987 (2) Each state agency customer entity shall develop a plan  
 988 to be updated annually to address its applications located at  
 989 the state data center. Each agency shall submit the plan by  
 990 November 1 of each year to the Office of Policy and Budget in  
 991 the Executive Office of the Governor and to the chair of the  
 992 appropriations committee of each house of the Legislature. For  
 993 each application, the plan must identify the appropriate  
 994 strategy for migration to a commercial cloud computing service  
 995 and evaluate options such as replacement, remediation, and  
 996 replatforming. The plan must include a high-level migration  
 997 timeline by fiscal year for each application, and, for each  
 998 application that may begin migration activities, the plan shall  
 999 include:

1000 (a) A proposed project and budget estimate to implement



1001 the migration.

1002 (b) Validation in a cost benefit analysis that a  
 1003 commercial cloud computing service can reduce customer entity  
 1004 data center costs, deliver the same or improved levels of  
 1005 service, and meet or exceed the applicable state and federal  
 1006 standards for information technology security.

1007 (3) A state agency customer entity shall use a commercial  
 1008 cloud computing service in developing, upgrading, or purchasing  
 1009 software when a cost benefit analysis confirms that a commercial  
 1010 cloud computing service can deliver the same or improved levels  
 1011 of service and meets or exceeds the applicable state and federal  
 1012 standards for information technology security.

1013 Section 20. Subsections (3), (4), (5), and (6) of section  
 1014 282.318, Florida Statutes, are amended to read:

1015 282.318 Security of data and information technology.—

1016 (3) The Office of Technology and Data Solutions ~~Agency for~~  
 1017 ~~State Technology~~ is responsible for establishing standards and  
 1018 processes consistent with generally accepted best practices for  
 1019 information technology security, to include cybersecurity, and  
 1020 adopting rules that safeguard an agency's data, information, and  
 1021 information technology resources to ensure availability,  
 1022 confidentiality, and integrity and to mitigate risks. The agency  
 1023 shall also:

1024 (a) Develop, and annually update by February 1, a  
 1025 statewide information technology security strategic plan that

1026 | includes security goals and objectives for the strategic issues  
 1027 | of information technology security policy, risk management,  
 1028 | training, incident management, and disaster recovery planning.

1029 | (b) Develop and publish for use by state agencies an  
 1030 | information technology security framework that, at a minimum,  
 1031 | includes guidelines and processes for:

1032 | 1. Establishing asset management procedures to ensure that  
 1033 | an agency's information technology resources are identified and  
 1034 | managed consistent with their relative importance to the  
 1035 | agency's business objectives.

1036 | 2. Using a standard risk assessment methodology that  
 1037 | includes the identification of an agency's priorities,  
 1038 | constraints, risk tolerances, and assumptions necessary to  
 1039 | support operational risk decisions.

1040 | 3. Completing comprehensive risk assessments and  
 1041 | information technology security audits, which may be completed  
 1042 | by a private sector vendor, and submitting completed assessments  
 1043 | and audits to the Office of Technology and Data Solutions ~~Agency~~  
 1044 | ~~for State Technology~~.

1045 | 4. Identifying protection procedures to manage the  
 1046 | protection of an agency's information, data, and information  
 1047 | technology resources.

1048 | 5. Establishing procedures for accessing information and  
 1049 | data to ensure the confidentiality, integrity, and availability  
 1050 | of such information and data.

1051           6. Detecting threats through proactive monitoring of  
 1052 events, continuous security monitoring, and defined detection  
 1053 processes.

1054           7. Establishing agency computer security incident response  
 1055 teams and describing their responsibilities for responding to  
 1056 information technology security incidents, including breaches of  
 1057 personal information containing confidential or exempt data.

1058           8. Recovering information and data in response to an  
 1059 information technology security incident. The recovery may  
 1060 include recommended improvements to the agency processes,  
 1061 policies, or guidelines.

1062           9. Establishing an information technology security  
 1063 incident reporting process that includes procedures and tiered  
 1064 reporting timeframes for notifying the Office of Technology and  
 1065 Data Solutions ~~Agency for State Technology~~ and the Department of  
 1066 Law Enforcement of information technology security incidents.  
 1067 The tiered reporting timeframes shall be based upon the level of  
 1068 severity of the information technology security incidents being  
 1069 reported.

1070           10. Incorporating information obtained through detection  
 1071 and response activities into the agency's information technology  
 1072 security incident response plans.

1073           11. Developing agency strategic and operational  
 1074 information technology security plans required pursuant to this  
 1075 section.

1076 |           12. Establishing the managerial, operational, and  
 1077 | technical safeguards for protecting state government data and  
 1078 | information technology resources that align with the state  
 1079 | agency risk management strategy and that protect the  
 1080 | confidentiality, integrity, and availability of information and  
 1081 | data.

1082 |           (c) Assist state agencies in complying with this section.

1083 |           (d) In collaboration with the Cybercrime Office of the  
 1084 | Department of Law Enforcement, annually provide training for  
 1085 | state agency information security managers and computer security  
 1086 | incident response team members that contains training on  
 1087 | information technology security, including cybersecurity,  
 1088 | threats, trends, and best practices.

1089 |           (e) Annually review the strategic and operational  
 1090 | information technology security plans of executive branch  
 1091 | agencies.

1092 |           (4) Each state agency head shall, at a minimum:

1093 |           (a) Designate an information security manager to  
 1094 | administer the information technology security program of the  
 1095 | state agency. This designation must be provided annually in  
 1096 | writing to the Office of Technology and Data Solutions ~~Agency~~  
 1097 | ~~for State Technology~~ by January 1. A state agency's information  
 1098 | security manager, for purposes of these information security  
 1099 | duties, shall report directly to the agency head.

1100 |           (b) In consultation with the Office of Technology and Data

1101 | Solutions ~~Agency for State Technology~~ and the Cybercrime Office  
 1102 | of the Department of Law Enforcement, establish an agency  
 1103 | computer security incident response team to respond to an  
 1104 | information technology security incident. The agency computer  
 1105 | security incident response team shall convene upon notification  
 1106 | of an information technology security incident and must comply  
 1107 | with all applicable guidelines and processes established  
 1108 | pursuant to paragraph (3)(b).

1109 | (c) Submit to the Office of Technology and Data Solutions  
 1110 | ~~Agency for State Technology~~ annually by July 31, the state  
 1111 | agency's strategic and operational information technology  
 1112 | security plans developed pursuant to rules and guidelines  
 1113 | established by the Office of Technology and Data Solutions  
 1114 | ~~Agency for State Technology~~.

1115 | 1. The state agency strategic information technology  
 1116 | security plan must cover a 3-year period and, at a minimum,  
 1117 | define security goals, intermediate objectives, and projected  
 1118 | agency costs for the strategic issues of agency information  
 1119 | security policy, risk management, security training, security  
 1120 | incident response, and disaster recovery. The plan must be based  
 1121 | on the statewide information technology security strategic plan  
 1122 | created by the Office of Technology and Data Solutions ~~Agency~~  
 1123 | ~~for State Technology~~ and include performance metrics that can be  
 1124 | objectively measured to reflect the status of the state agency's  
 1125 | progress in meeting security goals and objectives identified in

1126 the agency's strategic information security plan.

1127         2. The state agency operational information technology  
 1128 security plan must include a progress report that objectively  
 1129 measures progress made towards the prior operational information  
 1130 technology security plan and a project plan that includes  
 1131 activities, timelines, and deliverables for security objectives  
 1132 that the state agency will implement during the current fiscal  
 1133 year.

1134         (d) Conduct, and update every 3 years, a comprehensive  
 1135 risk assessment, which may be completed by a private sector  
 1136 vendor, to determine the security threats to the data,  
 1137 information, and information technology resources, including  
 1138 mobile devices and print environments, of the agency. The risk  
 1139 assessment must comply with the risk assessment methodology  
 1140 developed by the Office of Technology and Data Solutions ~~Agency~~  
 1141 ~~for State Technology~~ and is confidential and exempt from s.  
 1142 119.07(1), except that such information shall be available to  
 1143 the Auditor General, the Office of Technology and Data Solutions  
 1144 ~~Agency for State Technology~~, the Cybercrime Office of the  
 1145 Department of Law Enforcement, and, for state agencies under the  
 1146 jurisdiction of the Governor, the Chief Inspector General.

1147         (e) Develop, and periodically update, written internal  
 1148 policies and procedures, which include procedures for reporting  
 1149 information technology security incidents and breaches to the  
 1150 Cybercrime Office of the Department of Law Enforcement and the

1151 | Office of Technology and Data Solutions ~~Agency for State~~  
 1152 | ~~Technology~~. Such policies and procedures must be consistent with  
 1153 | the rules, guidelines, and processes established by the Office  
 1154 | of Technology and Data Solutions ~~Agency for State Technology~~ to  
 1155 | ensure the security of the data, information, and information  
 1156 | technology resources of the agency. The internal policies and  
 1157 | procedures that, if disclosed, could facilitate the unauthorized  
 1158 | modification, disclosure, or destruction of data or information  
 1159 | technology resources are confidential information and exempt  
 1160 | from s. 119.07(1), except that such information shall be  
 1161 | available to the Auditor General, the Cybercrime Office of the  
 1162 | Department of Law Enforcement, the Office of Technology and Data  
 1163 | Solutions ~~Agency for State Technology~~, and, for state agencies  
 1164 | under the jurisdiction of the Governor, the Chief Inspector  
 1165 | General.

1166 | (f) Implement managerial, operational, and technical  
 1167 | safeguards and risk assessment remediation plans recommended by  
 1168 | the Office of Technology and Data Solutions ~~Agency for State~~  
 1169 | ~~Technology~~ to address identified risks to the data, information,  
 1170 | and information technology resources of the agency.

1171 | (g) Ensure that periodic internal audits and evaluations  
 1172 | of the agency's information technology security program for the  
 1173 | data, information, and information technology resources of the  
 1174 | agency are conducted. The results of such audits and evaluations  
 1175 | are confidential information and exempt from s. 119.07(1),

1176 | except that such information shall be available to the Auditor  
 1177 | General, the Cybercrime Office of the Department of Law  
 1178 | Enforcement, the Office of Technology and Data Solutions Agency  
 1179 | ~~for State Technology~~, and, for agencies under the jurisdiction  
 1180 | of the Governor, the Chief Inspector General.

1181 |       (h) Recommend ~~include~~ appropriate information technology  
 1182 | security requirements in the written specifications for the  
 1183 | solicitation of information technology and information  
 1184 | technology resources and services, which are consistent with the  
 1185 | rules and guidelines established by the Office of Technology and  
 1186 | Data Solutions Agency for State Technology in collaboration with  
 1187 | the Department of Management Services.

1188 |       (i) Provide information technology security and  
 1189 | cybersecurity awareness training to all state agency employees  
 1190 | in the first 30 days after commencing employment concerning  
 1191 | information technology security risks and the responsibility of  
 1192 | employees to comply with policies, standards, guidelines, and  
 1193 | operating procedures adopted by the state agency to reduce those  
 1194 | risks. The training may be provided in collaboration with the  
 1195 | Cybercrime Office of the Department of Law Enforcement.

1196 |       (j) Develop a process for detecting, reporting, and  
 1197 | responding to threats, breaches, or information technology  
 1198 | security incidents which is consistent with the security rules,  
 1199 | guidelines, and processes established by the Office of  
 1200 | Technology and Data Solutions Agency for State Technology.



1201           1. All information technology security incidents and  
 1202 breaches must be reported to the Office of Technology and Data  
 1203 Solutions Agency for State Technology and the Cybercrime Office  
 1204 of the Department of Law Enforcement and must comply with the  
 1205 notification procedures and reporting timeframes established  
 1206 pursuant to paragraph (3) (b).

1207           2. For information technology security breaches, state  
 1208 agencies shall provide notice in accordance with s. 501.171.

1209           3. Records held by a state agency which identify  
 1210 detection, investigation, or response practices for suspected or  
 1211 confirmed information technology security incidents, including  
 1212 suspected or confirmed breaches, are confidential and exempt  
 1213 from s. 119.07(1) and s. 24(a), Art. I of the State  
 1214 Constitution, if the disclosure of such records would facilitate  
 1215 unauthorized access to or the unauthorized modification,  
 1216 disclosure, or destruction of:

1217           a. Data or information, whether physical or virtual; or

1218           b. Information technology resources, which includes:

1219           (I) Information relating to the security of the agency's  
 1220 technologies, processes, and practices designed to protect  
 1221 networks, computers, data processing software, and data from  
 1222 attack, damage, or unauthorized access; or

1223           (II) Security information, whether physical or virtual,  
 1224 which relates to the agency's existing or proposed information  
 1225 technology systems.

1226  
 1227 Such records shall be available to the Auditor General, the  
 1228 Office of Technology and Data Solutions ~~Agency for State~~  
 1229 ~~Technology~~, the Cybercrime Office of the Department of Law  
 1230 Enforcement, and, for state agencies under the jurisdiction of  
 1231 the Governor, the Chief Inspector General. Such records may be  
 1232 made available to a local government, another state agency, or a  
 1233 federal agency for information technology security purposes or  
 1234 in furtherance of the state agency's official duties. This  
 1235 exemption applies to such records held by a state agency before,  
 1236 on, or after the effective date of this exemption. This  
 1237 subparagraph is subject to the Open Government Sunset Review Act  
 1238 in accordance with s. 119.15 and shall stand repealed on October  
 1239 2, 2021, unless reviewed and saved from repeal through  
 1240 reenactment by the Legislature.

1241 (5) The portions of risk assessments, evaluations,  
 1242 external audits, and other reports of a state agency's  
 1243 information technology security program for the data,  
 1244 information, and information technology resources of the state  
 1245 agency which are held by a state agency are confidential and  
 1246 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 1247 Constitution if the disclosure of such portions of records would  
 1248 facilitate unauthorized access to or the unauthorized  
 1249 modification, disclosure, or destruction of:

1250 (a) Data or information, whether physical or virtual; or

1251 (b) Information technology resources, which include:  
 1252 1. Information relating to the security of the agency's  
 1253 technologies, processes, and practices designed to protect  
 1254 networks, computers, data processing software, and data from  
 1255 attack, damage, or unauthorized access; or  
 1256 2. Security information, whether physical or virtual,  
 1257 which relates to the agency's existing or proposed information  
 1258 technology systems.  
 1259  
 1260 Such portions of records shall be available to the Auditor  
 1261 General, the Cybercrime Office of the Department of Law  
 1262 Enforcement, the Office of Technology and Data Solutions Agency  
 1263 ~~for State Technology~~, and, for agencies under the jurisdiction  
 1264 of the Governor, the Chief Inspector General. Such portions of  
 1265 records may be made available to a local government, another  
 1266 state agency, or a federal agency for information technology  
 1267 security purposes or in furtherance of the state agency's  
 1268 official duties. For purposes of this subsection, "external  
 1269 audit" means an audit that is conducted by an entity other than  
 1270 the state agency that is the subject of the audit. This  
 1271 exemption applies to such records held by a state agency before,  
 1272 on, or after the effective date of this exemption. This  
 1273 subsection is subject to the Open Government Sunset Review Act  
 1274 in accordance with s. 119.15 and shall stand repealed on October  
 1275 2, 2021, unless reviewed and saved from repeal through

1276 reenactment by the Legislature.

1277 (6) The Office of Technology and Data Solutions ~~Agency for~~  
 1278 ~~State Technology~~ shall adopt rules relating to information  
 1279 technology security and to administer this section.

1280 Section 21. Subsection (22) of section 287.057, Florida  
 1281 Statutes, is amended to read:

1282 287.057 Procurement of commodities or contractual  
 1283 services.—

1284 (22) The department, in consultation with the Chief  
 1285 Financial Officer and the Office of Technology and Data  
 1286 Solutions ~~Agency for State Technology~~, shall maintain a program  
 1287 for online procurement of commodities and contractual services.  
 1288 To enable the state to promote open competition and leverage its  
 1289 buying power, agencies shall participate in the online  
 1290 procurement program, and eligible users may participate in the  
 1291 program. Only vendors prequalified as meeting mandatory  
 1292 requirements and qualifications criteria may participate in  
 1293 online procurement.

1294 (a) The department, ~~in consultation with the Agency for~~  
 1295 ~~State Technology and in compliance with the standards of the~~  
 1296 ~~agency~~, may contract for equipment and services necessary to  
 1297 develop and implement online procurement.

1298 (b) The department shall adopt rules to administer the  
 1299 program for online procurement. The rules must include, but not  
 1300 be limited to:

1301 1. Determining the requirements and qualification criteria  
 1302 for prequalifying vendors.

1303 2. Establishing the procedures for conducting online  
 1304 procurement.

1305 3. Establishing the criteria for eligible commodities and  
 1306 contractual services.

1307 4. Establishing the procedures for providing access to  
 1308 online procurement.

1309 5. Determining the criteria warranting any exceptions to  
 1310 participation in the online procurement program.

1311 (c) The department may impose and shall collect all fees  
 1312 for the use of the online procurement systems.

1313 1. The fees may be imposed on an individual transaction  
 1314 basis or as a fixed percentage of the cost savings generated. At  
 1315 a minimum, the fees must be set in an amount sufficient to cover  
 1316 the projected costs of the services, including administrative  
 1317 and project service costs in accordance with the policies of the  
 1318 department.

1319 2. If the department contracts with a provider for online  
 1320 procurement, the department, pursuant to appropriation, shall  
 1321 compensate the provider from the fees after the department has  
 1322 satisfied all ongoing costs. The provider shall report  
 1323 transaction data to the department each month so that the  
 1324 department may determine the amount due and payable to the  
 1325 department from each vendor.

1326           3. All fees that are due and payable to the state on a  
 1327 transactional basis or as a fixed percentage of the cost savings  
 1328 generated are subject to s. 215.31 and must be remitted within  
 1329 40 days after receipt of payment for which the fees are due. For  
 1330 fees that are not remitted within 40 days, the vendor shall pay  
 1331 interest at the rate established under s. 55.03(1) on the unpaid  
 1332 balance from the expiration of the 40-day period until the fees  
 1333 are remitted.

1334           4. All fees and surcharges collected under this paragraph  
 1335 shall be deposited in the Operating Trust Fund as provided by  
 1336 law.

1337           Section 22. Subsection (3) of section 287.0591, Florida  
 1338 Statutes, is amended to read:

1339           287.0591 Information technology.—

1340           (3) The department may execute a state term contract for  
 1341 information technology commodities, consultant services, or  
 1342 staff augmentation contractual services that exceeds the 48-  
 1343 month requirement if the Secretary of Management Services  
 1344 certifies ~~and the executive director of the Agency for State~~  
 1345 ~~Technology certify~~ to the Executive Office of the Governor that  
 1346 a longer contract term is in the best interest of the state.

1347           Section 23. Subsection (4) of section 445.011, Florida  
 1348 Statutes, is amended to read:

1349           445.011 Workforce information systems.—

1350           ~~(4) CareerSource Florida, Inc., shall coordinate~~

1351 ~~development and implementation of workforce information systems~~  
 1352 ~~with the executive director of the Agency for State Technology~~  
 1353 ~~to ensure compatibility with the state's information system~~  
 1354 ~~strategy and enterprise architecture.~~

1355 Section 24. Subsections (2) and (4) of section 445.045,  
 1356 Florida Statutes, are amended to read:

1357 445.045 Development of an Internet-based system for  
 1358 information technology industry promotion and workforce  
 1359 recruitment.—

1360 (2) CareerSource Florida, Inc., shall coordinate with ~~the~~  
 1361 ~~Agency for State Technology and~~ the Department of Economic  
 1362 Opportunity to ensure links, as feasible and appropriate, to  
 1363 existing job information websites maintained by the state and  
 1364 state agencies and to ensure that information technology  
 1365 positions offered by the state and state agencies are posted on  
 1366 the information technology website.

1367 (4) ~~(a) CareerSource Florida, Inc., shall coordinate~~  
 1368 ~~development and maintenance of the website under this section~~  
 1369 ~~with the executive director of the Agency for State Technology~~  
 1370 ~~to ensure compatibility with the state's information system~~  
 1371 ~~strategy and enterprise architecture.~~

1372 (a) ~~(b)~~ CareerSource Florida, Inc., may enter into an  
 1373 agreement with ~~the Agency for State Technology,~~ the Department  
 1374 of Economic Opportunity, or any other public agency with the  
 1375 requisite information technology expertise for the provision of

1376 design, operating, or other technological services necessary to  
 1377 develop and maintain the website.

1378 (b)~~(e)~~ CareerSource Florida, Inc., may procure services  
 1379 necessary to implement this section, if it employs competitive  
 1380 processes, including requests for proposals, competitive  
 1381 negotiation, and other competitive processes to ensure that the  
 1382 procurement results in the most cost-effective investment of  
 1383 state funds.

1384 Section 25. Paragraph (b) of subsection (18) of section  
 1385 668.50, Florida Statutes, is amended to read:

1386 668.50 Uniform Electronic Transaction Act.—

1387 (18) ACCEPTANCE AND DISTRIBUTION OF ELECTRONIC RECORDS BY  
 1388 GOVERNMENTAL AGENCIES.—

1389 (b) To the extent that a governmental agency uses  
 1390 electronic records and electronic signatures under paragraph  
 1391 (a), the Office of Technology and Data Solutions ~~Agency for~~  
 1392 ~~State Technology~~, in consultation with the governmental agency,  
 1393 giving due consideration to security, may specify:

1394 1. The manner and format in which the electronic records  
 1395 must be created, generated, sent, communicated, received, and  
 1396 stored and the systems established for those purposes.

1397 2. If electronic records must be signed by electronic  
 1398 means, the type of electronic signature required, the manner and  
 1399 format in which the electronic signature must be affixed to the  
 1400 electronic record, and the identity of, or criteria that must be



1401 met by, any third party used by a person filing a document to  
 1402 facilitate the process.

1403 3. Control processes and procedures as appropriate to  
 1404 ensure adequate preservation, disposition, integrity, security,  
 1405 confidentiality, and auditability of electronic records.

1406 4. Any other required attributes for electronic records  
 1407 which are specified for corresponding nonelectronic records or  
 1408 reasonably necessary under the circumstances.

1409 Section 26. Subsections (4) and (5) of section 943.0415,  
 1410 Florida Statutes, are amended to read:

1411 943.0415 Cybercrime Office.—There is created within the  
 1412 Department of Law Enforcement the Cybercrime Office. The office  
 1413 may:

1414 (4) Provide security awareness training and information to  
 1415 state agency employees concerning cybersecurity, online sexual  
 1416 exploitation of children, and security risks, and the  
 1417 responsibility of employees to comply with policies, standards,  
 1418 guidelines, and operating procedures adopted by the Office of  
 1419 Technology and Data Solutions ~~Agency for State Technology~~.

1420 (5) Consult with the Office of Technology and Data  
 1421 Solutions ~~Agency for State Technology~~ in the adoption of rules  
 1422 relating to the information technology security provisions in s.  
 1423 282.318.

1424 Section 27. Florida Cybersecurity Task Force.—

1425 (1) There is created the Florida Cybersecurity Task Force

1426 to review and conduct an assessment of the state's cybersecurity  
 1427 infrastructure, governance, and operations.

1428 (2) The Florida Cybersecurity Task Force shall consist of  
 1429 the following members:

1430 (a) A representative of the computer crime center of the  
 1431 Florida Department of Law Enforcement who shall be appointed by  
 1432 the executive director of the department.

1433 (b) A representative of the fusion center of the Florida  
 1434 Department of Law Enforcement who shall be appointed by the  
 1435 executive director of the department.

1436 (c) The chief information security officer of the Office  
 1437 of Technology and Data Solutions.

1438 (d) A representative of the Division of Telecommunications  
 1439 of the Department of Management Services who shall be appointed  
 1440 by the secretary of the department.

1441 (e) A representative of the Division of Emergency  
 1442 Management in the Executive Office of the Governor who shall be  
 1443 appointed by the director of the division.

1444 (f) A representative of the Office of the Chief Inspector  
 1445 General in the Executive Office of the Governor who shall be  
 1446 appointed by the Chief Inspector General.

1447 (3) The task force shall elect a chair from among its  
 1448 members.

1449 (4) The task force shall convene by October 1, 2017, and  
 1450 shall meet as necessary, but at least quarterly, at the call of

1451 | the chair. The Department of Law Enforcement shall provide  
 1452 | administrative support to the task force.

1453 | (5) The task force shall:

1454 | (a) Recommend methods to secure the state's network  
 1455 | systems and data, including standardized plans and procedures to  
 1456 | identify developing threats and to prevent unauthorized access  
 1457 | and destruction of data.

1458 | (b) Identify and recommend remediation, if necessary, of  
 1459 | high-risk cybersecurity issues facing state government.

1460 | (c) Recommend a process to regularly assess cybersecurity  
 1461 | infrastructure and activities of executive branch agencies.

1462 | (d) Identify gaps in the state's overall cybersecurity  
 1463 | infrastructure, governance, and current operations. Based on any  
 1464 | findings of gaps or deficiencies, the task force shall make  
 1465 | recommendations for improvement.

1466 | (e) Recommend cybersecurity improvements for the state's  
 1467 | emergency management and disaster response systems.

1468 | (f) Recommend cybersecurity improvements of the state data  
 1469 | center.

1470 | (g) Review and recommend improvements relating to the  
 1471 | state's current operational plans for the response,  
 1472 | coordination, and recovery from a cybersecurity attack.

1473 | (6) All executive branch departments and agencies shall  
 1474 | cooperate fully with requests for information by the task force.

1475 | (7) On or before November 1, 2018, the Florida

1476 Cybersecurity Task Force shall submit a final report of its  
 1477 findings and recommendations to the Governor, the President of  
 1478 the Senate, and the Speaker of the House of Representatives.

1479 (8) This section expires January 1, 2019.

1480 Section 28. Notwithstanding s. 216.292(4)(d), Florida  
 1481 Statutes, the transfers authorized in sections 1 and 2 of this  
 1482 act do not require Legislative Budget Commission approval.

1483 Section 29. (1) For the 2017-2018 fiscal year, the sum of  
 1484 \$1,813,664 in recurring funds is appropriated from the General  
 1485 Revenue Fund to the Office of Technology and Data Solutions  
 1486 within the Department of Management Services, and seven full-  
 1487 time equivalent positions with associated salary rate of 665,684  
 1488 are authorized.

1489 (2) The recurring general revenue funds appropriated to  
 1490 the Office of Technology and Data Solution within the Department  
 1491 of Management Services shall be allocated to specific  
 1492 appropriation categories as follows: \$890,158 in Salaries and  
 1493 Benefits; \$71,547 in Expenses; \$738,951 in Contracted Services;  
 1494 \$2,800 in Operating Capital Outlay; \$4,319 in DMS State Data  
 1495 Center; \$3,483 in Risk Management Insurance; \$2,406 in Transfer  
 1496 to Department of Management Services - Human Resources Services  
 1497 Purchased Per Statewide Contract; and \$100,000 in Administrative  
 1498 Overhead.

1499 Section 30. (1) From the funds appropriated in section  
 1500 29, \$500,000 provided in the Contracted Services appropriation

1501 category shall be used by the Office of Technology and Data  
 1502 Solutions within the Department of Management Services to  
 1503 contract with a third party consulting firm with experience in  
 1504 conducting independent verification and validation assessments  
 1505 to provide independent advisory services for the planning and  
 1506 feasibility of initiatives proposed by the Office of Technology  
 1507 and Data Solutions that may affect more than one agency. The  
 1508 contract shall require all deliverables to be simultaneously  
 1509 submitted to the state chief information officer and the Office  
 1510 of Policy and Budget in the Executive Office of the Governor,  
 1511 and shall be submitted upon request to the chair of the  
 1512 appropriations committee of each house of the Legislature.

1513 (2) From the funds appropriated in section 29, \$238,000  
 1514 provided in the Contracted Services appropriation category shall  
 1515 be used by the Office of Technology and Data Solutions within  
 1516 the Department of Management Services to contract with a third  
 1517 party consulting firm for technology research and advisory  
 1518 services.

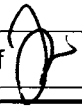
1519 Section 31. For the 2017-2018 fiscal year, the sum of  
 1520 \$100,000 in nonrecurring funds is appropriated from the General  
 1521 Revenue Fund to the Florida Department of Law Enforcement to  
 1522 cover the administrative costs associated with the Florida  
 1523 Cybersecurity Task Force provisions of this act.

1524 Section 32. This act shall take effect July 1, 2017.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 5401      PCB ANR 17-01      Pesticide Registration  
**SPONSOR(S):** Agriculture & Natural Resources Appropriations Subcommittee, Clemons, Sr.  
**TIED BILLS:**      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Agriculture & Natural Resources Appropriations Subcommittee	14 Y, 0 N	White	Pigott
1) Appropriations Committee		White <i>CCW</i>	Leznoff 

**SUMMARY ANALYSIS**

Generally, each brand of pesticide distributed, sold, or offered for sale within the state must be registered with the Department of Agriculture and Consumer Services (DACS) biennially and is subject to a registration fee. In 2009, the Legislature created a supplemental biennial registration fee (supplemental fee) for each registered brand of pesticide that contains an active ingredient for which the United States Environmental Protection Agency (EPA) has established a food tolerance limit to defray the expense of the Chemical Residue Laboratory. DACS uses the supplemental fee to support the Chemical Residue Laboratory, which performs chemical analyses of poisonous or deleterious chemical residues remaining in or on human food produced or marketed in Florida.

The bill eliminates the supplemental fee for each registered brand of pesticide that contains an active ingredient for which the EPA has established a food tolerance limit.

The Fiscal Year 2016-2017 General Appropriations Act provided \$1,801,131 in recurring funds from the General Revenue Fund to support the Chemical Residue Laboratory.

The bill will have a positive fiscal impact on individuals who distribute, sell, or offer to sell pesticides by eliminating the supplemental fee.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Pesticide Registration

Effective January 1, 2009, each brand of pesticide<sup>1</sup> distributed, sold, or offered for sale, except as otherwise provided, within the state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state, must be registered with the DACS and is subject to a biennial registration fee.<sup>2</sup> DACS assesses each pesticide registration beginning in an odd-numbered year a fee of \$700 per brand of pesticide and a fee of \$200 for each special local need label and experimental use permit.<sup>3</sup> The registration expires on December 31 of the following year.<sup>4</sup> DACS assesses each pesticide registration beginning in an even-numbered year a fee of \$350 per brand of pesticide and fee of \$100 for each special local need label and experimental use permit.<sup>5</sup> That registration expires on December 31 of that year.<sup>6</sup>

##### Supplemental Registration Fee

In 2009, the Legislature amended s. 487.041, F.S., to defray the expense of the Chemical Residue Laboratory by creating a supplemental fee for each registered brand of pesticide that contains an active ingredient for which the EPA has established a food tolerance limit in 40 C.F.R. part 180.<sup>7</sup> DACS must biennially publish by rule a list of the pesticide active ingredients for which a brand of pesticide is subject to the supplemental fee.<sup>8</sup> DACS assesses each registration beginning in an odd-numbered year a supplemental registration fee of \$630 per brand of pesticide that is subject to the supplemental fee.<sup>9</sup> DACS assesses each registration beginning in an even-numbered year a supplemental registration fee of \$315 per brand of pesticide that is subject to the supplemental fee.<sup>10</sup>

The revenue from these two fees, less those costs determined by DACS to be nonrecurring or one-time costs, must be deferred over the two-year registration period, deposited in the General Inspection Trust Fund, and used by DACS to carry out the provisions of the Florida Pesticide Law.<sup>11</sup> Revenues collected from the supplemental fee may also be used by DACS to test pesticides for food safety.<sup>12</sup>

---

<sup>1</sup> Section 487.021(49), F.S., defines the term “pesticide” to mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans or other animals, which the department by rule declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. The term does not include any article that is a “new animal drug” within the meaning of s. 201(w) of the Federal Food, Drug, and Cosmetic Act, has been determined by the Secretary of the US Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article; or is an animal feed within the meaning of s. 201(x) of the Federal Food, Drug, and Cosmetic Act.

<sup>2</sup> Section 487.041(1), F.S.

<sup>3</sup> Section 487.041(1)(c), F.S.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Section 32, ch. 2009-66, Laws of Fla.

<sup>8</sup> Section 487.041(1)(d)1., F.S.

<sup>9</sup> Section 487.041(1)(d)2., F.S.

<sup>10</sup> Id.

<sup>11</sup> Section 487.041(1)(e), F.S.

<sup>12</sup> Id.



## Chemical Residue Laboratory

For food safety purposes, the Chemical Residue Laboratory tests food for pesticides. The Chemical Residue Laboratory performs chemical analyses of poisonous or deleterious chemical residues remaining in or on human food produced or marketed in Florida.<sup>13</sup> The Bureau of Chemical Residue Laboratories uses the laboratory for the regulatory enforcement of federal pesticide and antibiotic residue tolerances and guidelines adopted by the state for raw agricultural produce.<sup>14</sup> DACS operates the Chemical Residue Laboratory in Tallahassee.<sup>15</sup> This is the only state laboratory in Florida dedicated to chemical residue analysis in foods.<sup>16</sup>

Prior to the creation of the supplemental fee in 2009, DACS received funds from the General Revenue Fund to support the Chemical Residue Laboratory.<sup>17</sup> DACS used revenues received from the supplemental fee to fund the Chemical Residue Laboratory until Fiscal Year 2016-2017. The Fiscal Year 2016-2017 General Appropriations Act provided \$1,801,131 in recurring funds from the General Revenue Fund to support the Chemical Residue Laboratory and reduced \$1,801,131 in recurring funds from the General Inspection Trust Fund for the supplemental fee revenues.<sup>18</sup>

### **Effect of the Proposed Changes**

The bill eliminates the supplemental fee for each registered brand of pesticide that contains an active ingredient for which the EPA has established a food tolerance limit in 40 C.F.R. part 180 by repealing paragraph 487.041(1)(d), F.S., and removing references to the supplemental fee throughout the section.

#### **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 487.041, F.S., relating to pesticide registration.

**Section 2.** Provides an effective date of July 1, 2017.

### **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

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<sup>13</sup> DACS, *Bureau of Chemical Residue Laboratory*, <http://www.freshfromflorida.com/Divisions-Offices/Food-Safety/Bureaus-and-Sections/Bureau-of-Chemical-Residue-Laboratory> (last visited November 17, 2015).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> DACS, *Agency Analysis of 2016 House Bill 4035*, p. 1 (November 16, 2015).

<sup>17</sup> Full Appropriations Council on General Government and Health Care, 2009 House of Representatives Staff Analysis for House Bill 5125, p. 2 (April 7, 2009).

<sup>18</sup> Specific Appropriations 1382, 1422, 1429, 1430, 1431, 1432, 1433, 1434, and 1435 in chapter 2016-66, Laws of Florida.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will have a positive fiscal impact on individuals who distribute, sell, or offer to sell pesticides by eliminating the supplemental fee for each registered brand of pesticide that contains an active ingredient for which the EPA has established a food tolerance limit in 40 C.F.R. part 180.

D. FISCAL COMMENTS:

The Fiscal Year 2016-2017 General Appropriations Act provided \$1,801,131 in recurring funds from the General Revenue Fund to support the Chemical Residue Laboratory and reduced \$1,801,131 in recurring funds from the General Inspection Trust Fund for the supplemental fee revenues. The bill eliminates the supplemental fee revenues that were deposited into the General Inspection Trust Fund.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

1                   A bill to be entitled  
 2           An act relating to pesticide registration; amending s.  
 3           487.041, F.S.; removing provisions relating to  
 4           supplemental registration fees for certain pesticides  
 5           that contain active ingredients for which the United  
 6           States Environmental Protection Agency has established  
 7           food tolerance limits; providing an effective date.

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

10  
 11           Section 1. Subsections (1) and (2) of section 487.041,  
 12   Florida Statutes, are amended to read:

13           487.041 Registration.—

14           (1)(a) Effective January 1, 2009, each brand of pesticide,  
 15   as defined in s. 487.021, which is distributed, sold, or offered  
 16   for sale, except as provided in this section, within this state  
 17   or delivered for transportation or transported in intrastate  
 18   commerce or between points within this state through any point  
 19   outside this state must be registered in the office of the  
 20   department, and such registration shall be renewed biennially.  
 21   Emergency exemptions from registration may be authorized in  
 22   accordance with the rules of the department. The registrant  
 23   shall file with the department a statement including:

24           1. The name, business mailing address, and street address  
 25   of the registrant.

26 |           2. The name of the brand of pesticide.

27 |           3. An ingredient statement and a complete current copy of  
 28 | the labeling accompanying the brand of pesticide, which must  
 29 | conform to the registration, and a statement of all claims to be  
 30 | made for it, including directions for use and a guaranteed  
 31 | analysis showing the names and percentages by weight of each  
 32 | active ingredient, the total percentage of inert ingredients,  
 33 | and the names and percentages by weight of each "added  
 34 | ingredient."

35 |           (b) Effective January 1, 2009, for the purpose of  
 36 | defraying expenses of the department in connection with carrying  
 37 | out the provisions of this part, each registrant shall pay a  
 38 | biennial registration fee for each registered brand of  
 39 | pesticide. The registration of each brand of pesticide shall  
 40 | cover a designated 2-year period beginning on January 1 of each  
 41 | odd-numbered year and expiring on December 31 of the following  
 42 | year.

43 |           (c) Each registration issued by the department to a  
 44 | registrant for a period beginning in an odd-numbered year shall  
 45 | be assessed a fee of \$700 per brand of pesticide and a fee of  
 46 | \$200 for each special local need label and experimental use  
 47 | permit, and the registration shall expire on December 31 of the  
 48 | following year. Each registration issued by the department to a  
 49 | registrant for a period beginning in an even-numbered year shall  
 50 | be assessed a fee of \$350 per brand of pesticide and fee of \$100

51 for each special local need label and experimental use permit,  
 52 and the registration shall expire on December 31 of that year.

53 ~~(d)1. Effective January 1, 2009, in addition to the fees~~  
 54 ~~assessed pursuant to paragraphs (b) and (c), for the purpose of~~  
 55 ~~defraying the expenses of the department for testing pesticides~~  
 56 ~~for food safety, each registrant shall pay a supplemental~~  
 57 ~~biennial registration fee for each registered brand of pesticide~~  
 58 ~~that contains an active ingredient for which the United States~~  
 59 ~~Environmental Protection Agency has established a food tolerance~~  
 60 ~~limit in 40 C.F.R. part 180. The department shall biennially~~  
 61 ~~publish by rule a list of the pesticide active ingredients for~~  
 62 ~~which a brand of pesticide is subject to the supplemental~~  
 63 ~~registration fee.~~

64 ~~2. Each registration issued by the department to a~~  
 65 ~~registrant for a period beginning in an odd-numbered year shall~~  
 66 ~~be assessed a supplemental registration fee of \$630 per brand of~~  
 67 ~~pesticide that is subject to the fee pursuant to subparagraph 1.~~  
 68 ~~Each registration issued by the department to a registrant for a~~  
 69 ~~period beginning in an even-numbered year shall be assessed a~~  
 70 ~~supplemental registration fee of \$315 per brand of pesticide~~  
 71 ~~that is subject to the fee pursuant to subparagraph 1. The~~  
 72 ~~department shall retroactively assess the supplemental~~  
 73 ~~registration fee for each brand of pesticide that registered on~~  
 74 ~~or after January 1, 2009, and that is subject to the fee~~  
 75 ~~pursuant to subparagraph 1.~~

76        (d)~~(e)~~ All revenues collected, less those costs determined  
 77 by the department to be nonrecurring or one-time costs, shall be  
 78 deferred over the 2-year registration period, deposited in the  
 79 General Inspection Trust Fund, and used by the department in  
 80 carrying out the provisions of this chapter. ~~Revenues collected~~  
 81 ~~from the supplemental registration fee may also be used by the~~  
 82 ~~department for testing pesticides for food safety.~~

83        (e)~~(f)~~ If the renewal of a brand of pesticide, including  
 84 the special local need label and experimental use permit, is not  
 85 filed by January 31 of the renewal year, an additional fee of  
 86 \$25 per brand of pesticide shall be assessed per month and added  
 87 to the original fee. This additional fee may not exceed \$250 per  
 88 brand of pesticide. The additional fee must be paid by the  
 89 registrant before the renewal certificate for the registration  
 90 of the brand of pesticide is issued. The additional fee shall be  
 91 deposited into the General Inspection Trust Fund.

92        (f)~~(g)~~ This subsection does not apply to distributors or  
 93 retail dealers selling brands of pesticide if such brands of  
 94 pesticide are registered by another person.

95        (g)~~(h)~~ All registration fees, including ~~supplemental fees~~  
 96 ~~and~~ late fees, are nonrefundable.

97        (h)~~(i)~~ For any currently registered pesticide product  
 98 brand that undergoes labeling revisions during the registration  
 99 period, the registrant shall submit to the department a copy of  
 100 the revised labeling along with a cover letter detailing such

101 | revisions before the sale or distribution in this state of the  
 102 | product brand with the revised labeling. If the labeling  
 103 | revisions require notification of an amendment review by the  
 104 | United States Environmental Protection Agency, the registrant  
 105 | shall submit an additional copy of the labeling marked to  
 106 | identify those revisions.

107 |        (i)~~(j)~~ Effective January 1, 2013, all payments of any  
 108 | pesticide registration fees, including ~~supplemental fees and~~  
 109 | late fees, shall be submitted electronically using the  
 110 | department's Internet website for registration of pesticide  
 111 | product brands.

112 |        (2) The department shall adopt rules governing the  
 113 | procedures for the registration of a brand of pesticide and, for  
 114 | the review of data submitted by an applicant for registration of  
 115 | the brand of pesticide, ~~and for biennially publishing the list~~  
 116 | ~~of active ingredients for which a brand of pesticide is subject~~  
 117 | ~~to the supplemental registration fee pursuant to subparagraph~~  
 118 | ~~(1)(d)1~~. The department shall determine whether the brand of  
 119 | pesticide should be registered, registered with conditions, or  
 120 | tested under field conditions in this state. The department  
 121 | shall determine whether each request for registration of a brand  
 122 | of pesticide meets the requirements of current state and federal  
 123 | law. The department, whenever it deems it necessary in the  
 124 | administration of this part, may require the manufacturer or  
 125 | registrant to submit the complete formula, quantities shipped

126 | into or manufactured in the state for distribution and sale,  
 127 | evidence of the efficacy and the safety of any pesticide, and  
 128 | other relevant data. The department may review and evaluate a  
 129 | registered pesticide if new information is made available that  
 130 | indicates that use of the pesticide has caused an unreasonable  
 131 | adverse effect on public health or the environment. Such review  
 132 | shall be conducted upon the request of the State Surgeon General  
 133 | in the event of an unreasonable adverse effect on public health  
 134 | or the Secretary of Environmental Protection in the event of an  
 135 | unreasonable adverse effect on the environment. Such review may  
 136 | result in modifications, revocation, cancellation, or suspension  
 137 | of the registration of a brand of pesticide. The department, for  
 138 | reasons of adulteration, misbranding, or other good cause, may  
 139 | refuse or revoke the registration of the brand of any pesticide  
 140 | after notice to the applicant or registrant giving the reason  
 141 | for the decision. The applicant may then request a hearing,  
 142 | pursuant to chapter 120, on the intention of the department to  
 143 | refuse or revoke registration, and, upon his or her failure to  
 144 | do so, the refusal or revocation shall become final without  
 145 | further procedure. The registration of a brand of pesticide may  
 146 | not be construed as a defense for the commission of any offense  
 147 | prohibited under this part.


148 |       Section 2. This act shall take effect July 1, 2017.





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 5403      PCB ANR 17-02      Trust Funds/Termination/Environmental Laboratory Trust Fund/DEP  
**SPONSOR(S):** Agriculture & Natural Resources Appropriations Subcommittee, Harrison  
**TIED BILLS:**                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Agriculture & Natural Resources Appropriations Subcommittee	14 Y, 0 N	White	Pigott
1) Appropriations Committee		White <i>CCW</i>	Leznoff 

**SUMMARY ANALYSIS**

The Environmental Laboratory Trust Fund, FLAIR number 20-2-050001, was created as a depository for funds to be used for the operation of the department's environmental laboratory program. Currently, the Department of Environmental Protection (DEP) administers the trust fund.

The bill terminates the Environmental Laboratory Trust Fund within the Department of Environmental Protection. The bill transfers any balances and revenues to the Grants and Donations Trust Fund and directs DEP on the procedure for paying any outstanding debts or obligations of the trust fund and the trust funds removal from the State's accounting systems.

The bill has an effective date of July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

The Environmental Laboratory Trust Fund, FLAIR number 20-2-050001, was created as a depository for funds to be used for the operation of the department's environmental laboratory program.<sup>1</sup> Currently, the Department of Environmental Protection (DEP) administers the trust fund.<sup>2</sup>

In the Fiscal Year 2015-2016 General Appropriations Act, \$5.2 million in budget authority was transferred from the Environmental Laboratory Trust Fund to the Land Acquisition Trust Fund. The Fiscal Year 2016-2017 General Appropriations Act transferred the remaining \$2.7 million in budget authority from the Environmental Laboratory Trust Fund to various other DEP trust funds. No operating budget authority remains in the Environmental Laboratory Trust Fund, so there is no longer a need for DEP to keep the fund active.

##### **Effect of Proposed Changes**

The bill terminates the Environmental Laboratory Trust Fund within the Department of Environmental Protection. The bill also transfers any balances in and revenues of the Environmental Laboratory Trust Fund to the Grants and Donations Trust Fund. The bill directs DEP on the procedure for paying any outstanding debts or obligations of the trust fund and the procedure for the trust fund's removal from the State's accounting systems.

#### B. SECTION DIRECTORY:

**Section 1.** Terminates the Environmental Laboratory Trust Fund; provides for the disposition of balances in, revenues of, and all outstanding appropriations of the trust fund; prescribes procedures for the termination of the trust fund.

**Section 2.** Repeals 20.25501(3).

**Section 3.** Provides an effective date for the bill.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

This bill requires all remaining balances in, and all revenues of the Environmental Laboratory Trust Fund to be transferred to the Grants and Donations Trust Fund within the Department of Environmental Protection.

##### 2. Expenditures:

None

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

None

<sup>1</sup> FLA. STAT. § 20.25501(3)(a) (2016).

<sup>2</sup> FLA. STAT. § 20.25501 (2016).

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This bill simply eliminates an existing trust fund.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1                   A bill to be entitled  
 2           An act relating to trust funds; terminating the  
 3           Environmental Laboratory Trust Fund within the  
 4           Department of Environmental Protection; providing for  
 5           the disposition of balances in, revenues of, and all  
 6           outstanding appropriations of the trust fund;  
 7           prescribing procedures for the termination of the  
 8           trust fund; amending s. 20.25501, F.S.; conforming  
 9           provisions to changes made by the act; providing an  
 10          effective date.

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

13  
 14           Section 1. (1) The Environmental Laboratory Trust Fund  
 15 within the Department of Environmental Protection, FLAIR number  
 16 20-2-050001, is terminated.

17           (2) All current balances remaining in, and all revenues  
 18 of, the trust fund shall be transferred to the Grants and  
 19 Donations Trust Fund within the Department of Environmental  
 20 Protection.

21           (3) The Department of Environmental Protection shall pay  
 22 any outstanding debts or obligations of the terminated trust  
 23 fund as soon as practicable, and the Chief Financial Officer  
 24 shall close out and remove the terminated trust fund from  
 25 various state accounting systems using generally accepted

26 | accounting principles concerning warrants outstanding, assets,  
27 | and liabilities.

28 | Section 2. Subsection (3) of section 20.25501, Florida  
29 | Statutes, is amended to read:

30 | 20.25501 Department of Environmental Protection; trust  
31 | funds.—The following trust funds shall be administered by the  
32 | Department of Environmental Protection:

33 | ~~(3) The Environmental Laboratory Trust Fund.~~

34 | ~~(a) The trust fund is established for use as a depository~~  
35 | ~~for funds to be used for the operation of the department's~~  
36 | ~~environmental laboratory program and is funded by program~~  
37 | ~~revenues and assessments against trust funds.~~

38 | ~~(b) Notwithstanding s. 216.301 and pursuant to s. 216.351,~~  
39 | ~~any balance in the trust fund at the end of a fiscal year shall~~  
40 | ~~remain in the trust fund and shall be available for carrying out~~  
41 | ~~the purpose of the trust fund.~~

42 | Section 3. This act shall take effect July 1, 2017.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 5501 PCB TTA 17-01 Displaced Homemakers  
**SPONSOR(S):** Transportation & Tourism Appropriations Subcommittee, Ingram  
**TIED BILLS:** IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Transportation & Tourism Appropriations Subcommittee	13 Y, 0 N	Proctor	Davis
1) Appropriations Committee		Proctor <i>TP</i>	Leznoff <i>JL</i>

### SUMMARY ANALYSIS

The Florida Displaced Homemaker Program is a state program designed to assist displaced homemakers - individuals who are not adequately employed and have been dependent on the income of another family member, but are no longer supported by such income. The services provided by the Displaced Homemaker Program are also provided through 106 CareerSource career centers statewide.

The bill amends statutes to conform to the funding decisions included in the proposed House General Appropriations Act for Fiscal Year 2017-18, relating to the Displaced Homemaker Program.

The bill eliminates the Displaced Homemaker Program and terminates the Displaced Homemaker Trust Fund. The bill further eliminates a portion of the fees that provided revenue for the program by reducing the surcharge on marriage license applications by \$7.50. The fee for the issuance of a marriage license will be reduced from \$59.50 to \$52.00. The balance of the revenue source is deposited into the General Revenue Fund. According to the Revenue Estimating Conference, which met on February 16, 2017, those redirected fees for Fiscal Year 2017-18 are estimated to be approximately \$800,000.

The bill is anticipated to have a negative recurring impact to state revenue of approximately \$1.2 million through the fee reduction on marriage license applications.

The bill provides an effective date of July, 1, 2017.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Displaced Homemaker Program**

The Florida Displaced Homemaker Program is a state program designed to assist displaced homemakers - individuals who are not adequately employed and have been dependent on the income of another family member, but are no longer supported by such income. To qualify for the Displaced Homemaker Program, the individual must be 35 years of age or older, have worked in the home providing unpaid household services for family members or been dependent on federal assistance, and has had difficulty in securing adequate employment.<sup>1</sup> The Displaced Homemaker Program is funded through the Displaced Homemaker Trust Fund within the Department of Economic Opportunity (DEO). The trust fund is a depository for a portion of fees on both marriage license applications and dissolution of marriage filings; \$7.50<sup>2</sup> and \$12.50<sup>3</sup> respectively. The Trust Fund can also receive funds from other public or private sources.<sup>4</sup>

##### **Present Situation**

During Fiscal Year 2015-16, Florida enrolled 386 participants in the Displaced Homemaker Program.<sup>5</sup> As the state fiscal entity, DEO is required to enter into contracts with public and nonprofit private entities. Those entities are then responsible for establishing multi-purpose programs aimed at enhancing self-sufficiency through employment and training. The programs assist participants in attaining independence, economic security and self-sufficiency and include counseling, career interest and assessment testing, resume and job search assistance, career planning and placement services, interviewing and skills training and case management. These services, however, are also offered to all Floridians through Florida's 24 local CareerSource Networks which have 106 career centers located throughout the state. These services include: employment and career resources; testing and assessments; employment search skills; career development seminars; resume/interview preparation; job-matching referrals; access to local, state and national salary and labor market information; education and training programs; financial aid information and screening for training programs; scholarship and training information; and computer, fax, telephone and copy services.

DEO monitors contract performance toward meeting participant enrollment, program completion and job placement numbers. In Fiscal Year 2015-16, the program met 83 percent of its projected enrollments, 77 percent of its projected program completions and 42 percent of its projected job placements.<sup>6</sup> To further enhance the program and ensure the attainment of projected goals with a focus on placement into employment, program contractors provide training on career services and assistance in leveraging the resources of their local career centers which include the local CareerSource Networks.

DEO has also been working to increase the number of program contractors throughout the state. For Fiscal Year 2014-15, there were only three contracts awarded under the Displaced Homemaker Program: the Centre for Women, Inc., Santa Fe State College and the Women's Resource Center of Sarasota County.<sup>7</sup> To increase the statewide coverage and availability of the program, DEO initiated a new procurement for Fiscal Year 2015-16. This procurement resulted in awards to two additional

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<sup>1</sup> <http://www.floridajobs.org/office-directory/division-of-workforce-services/workforce-programs/displaced-homemaker-program>

<sup>2</sup> Section 741.01, Florida Statutes

<sup>3</sup> Section 28.101, Florida Statutes

<sup>4</sup> Section 446.50, Florida Statutes

<sup>5</sup> The Department of Economic Opportunity's 2015-16 Annual Report available at [http://www.floridajobs.org/docs/default-source/reports-and-legislation/2016\\_deoannualreport.pdf?sfvrsn=4](http://www.floridajobs.org/docs/default-source/reports-and-legislation/2016_deoannualreport.pdf?sfvrsn=4)

<sup>6</sup> *Id*

<sup>7</sup> *Id*

contractors, Deaf and Hard of Hearing Services of the Emerald Coast, Inc. and South Brevard Women’s Center.<sup>8</sup>

- The Centre for Women, Inc. serves Hillsborough and Pinellas Counties. In its second year of operations, the contractor was awarded \$260,467 to enroll 187 participants and place 42 of those participants in jobs. As of June 30, 2016, the contractor had enrolled 47 percent of its projected number of participants and placed 65 percent of its planned participants in jobs.<sup>9</sup>
- Santa Fe State College serves Alachua, Bradford, Columbia, Gilchrist, Levy and Putnam Counties. In its second year of operations, the contractor was awarded \$165,915 to enroll 90 participants and place 42 of those participants in jobs. As of June 30, 2016, the contractor had enrolled 100 percent of its projected number of participants and placed 83 percent of its planned participants in jobs.<sup>10</sup>
- The Women’s Resource Center of Sarasota County serves Manatee and Sarasota Counties. In its second year of operations, the contractor was awarded \$87,136 to enroll 95 participants and place 95 of those participants in jobs. As of June 30, 2016, the contractor had enrolled 95 percent of its projected number of participants and placed 11 percent of its planned participants in jobs.<sup>11</sup>
- Deaf and Hard of Hearing Services of the Emerald Coast, Inc. serve Escambia, Okaloosa, Santa Rosa and Walton Counties. In its first year of operations, the contractor was awarded \$102,012 to enroll 50 participants and place 26 of those participants in jobs. As of June 30, 2016, the contractor had enrolled 102 percent of its projected number of participants and placed four percent of its planned participants in jobs.<sup>12</sup>
- South Brevard Women’s Center serves Brevard County. In its first year of operations, the contractor was awarded \$54,000 to enroll 45 participants and place 15 of those participants in jobs. As of June 30, 2016, the contractor had enrolled 149 percent of its projected number of participants and placed 93 percent of its planned participants in jobs.<sup>13</sup>

**Recent Displaced Homemaker Program Funding History**

Fiscal Year	Appropriation	Funds Expended
2014-15	\$2,000,000	\$7,766
2015-16	\$2,000,000	\$452,723
2016-17*	\$2,000,000	\$379,997

\*Fiscal Year is not yet complete and additional expenditures may take place.

As indicated in DEO’s Fiscal Year 2015-16 Annual Report, the department has been working to increase the number of program contractors throughout the state to provide services. However, DEO continues to face challenges in receiving bids from entities to provide services through this program, and is unable to fully utilize annual appropriations. One observation offered by the department for this challenge is the population served through the Displaced Homemaker Program is also served through the local career centers of the CareerSource Networks, which highlights the duplication and overlap of services being offered to the targeted population.<sup>14</sup> The CareerSource Networks, through the Regional Workforce Boards, are provided a recurring annual appropriation through the General Appropriations Act of \$283,359,445.

<sup>8</sup> The Department of Economic Opportunity’s 2015-16 Annual Report available at [http://www.floridajobs.org/docs/default-source/reports-and-legislation/2016\\_deoannualreport.pdf?sfvrsn=4](http://www.floridajobs.org/docs/default-source/reports-and-legislation/2016_deoannualreport.pdf?sfvrsn=4)

<sup>9</sup> *Id*

<sup>10</sup> *Id*

<sup>11</sup> *Id*

<sup>12</sup> *Id*

<sup>13</sup> *Id*

<sup>14</sup> Proctor, Cissy. “FY 2017-18 Priority Listing of Agency Budget Issues for Possible Reduction” Presentation at the House Transportation & Tourism Appropriations Subcommittee, Tallahassee, FL, January 25, 2017. Accessed February 24, 2017.

## **Effect of Proposed Changes**

The bill repeals the Displaced Homemaker Program.

Eligible program participants may still access services through any of the 106 CareerSource centers located throughout the state that are already utilized by the contracting entities under the Displaced Homemaker Program. The centers will continue to offer these same services: employment and career resources; testing and assessments; employment search skills; career development seminars; resume/interview preparation; job-matching referrals; access to local, state and national salary and labor market information; education and training programs; financial aid information and screening for training programs; scholarship and training information; and computer, fax, telephone and copy services.

The bill terminates the Displaced Homemaker Trust Fund. The bill further eliminates a portion of fees that provided revenue for the program by reducing the surcharge on marriage license applications by \$7.50. The fee for the issuance of a marriage license will be reduced from \$59.50<sup>15</sup> to \$52.00.

The bill redirects \$12.50 of the fees on dissolution of marriage filings to be deposited in the General Revenue Fund instead of the Displaced Homemaker Trust Fund, which is being terminated. According to the Revenue Estimating Conference, which met on February 16, 2017, those redirected fees for Fiscal Year 2017-18 are estimated to be \$800,000.

### **B. SECTION DIRECTORY:**

Section 1: Disposition of the Displaced Homemaker Trust Fund balance.

Section 2: Repeals s. 446.50, F.S.

Section 3: Repeals s. 446.51, F.S.

Section 4: Repeals s. 446.52, F.S.

Section 5: Repeals s. 1010.84, F.S.

Section 6: Amends s. 20.60, F.S.

Section 7: Amends s. 28.101, F.S.

Section 8: Amends s. 187.201, F.S.

Section 9: Amends s. 445.003, F.S.

Section 10: Amends s. 445.004, F.S.

Section 11: Amends s. 741.01, F.S.

Section 12: Amends s. 741.011, F.S.

Section 13: Provides for an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

The reduction of the fee under s. 741.01, F.S., for the issuance of a marriage license from \$59.50 to \$52.00, is anticipated to have a negative recurring impact to state revenue of approximately \$1.2 million.

See fiscal comments.

#### **2. Expenditures:**

The bill amends statutes to conform to the funding decisions included in the proposed House General Appropriations Act for Fiscal Year 2017-18, relating to the Displaced Homemaker Program, which reflects an elimination of a \$2 million recurring appropriation.

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<sup>15</sup> Section 741.01, Florida Statutes  
**STORAGE NAME:** h5501.APC.DOCX  
**DATE:** 4/3/2017

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None

2. Expenditures:

None

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The entities currently contracting with DEO to provide services through the Displaced Homemaker Program will no longer receive funding from the state under the program. These same services may be obtained through existing local CareerSource Centers.

**D. FISCAL COMMENTS:**

The bill redirects \$12.50 of the fees on dissolution of marriage filings to be deposited in the General Revenue Fund instead of the Displaced Homemaker Trust Fund, which is being terminated. According to the Revenue Estimating Conference, which met on February 16, 2017, those redirected fees for Fiscal Year 2017-18 are estimated to be \$800,000.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

**B. RULE-MAKING AUTHORITY:**

None

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

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A bill to be entitled  
An act relating to displaced homemakers; terminating  
the Displaced Homemaker Trust Fund within the  
Department of Economic Opportunity; providing for the  
disposition of balances in and revenues of such trust  
fund; provides procedures for the termination of the  
trust fund; repealing ss. 446.50, 446.51, 446.52, and  
1010.84, F.S., relating to displaced homemaker  
programs, prohibited discrimination and  
confidentiality of information related to such  
programs, and the Displaced Homemaker Trust Fund,  
respectively; amending ss. 20.60, 28.101, 187.201,  
445.003, 445.004, 741.01, and 741.011, F.S.;  
conforming provisions to changes made by the act;  
providing an effective date.

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

Section 1. (1) The Displaced Homemaker Trust Fund, FLAIR  
number 40-2-160, within the Department of Economic Opportunity  
is terminated.

(2) All current balances remaining in, and all revenues  
of, the trust fund shall be transferred to the General Revenue  
Fund.

(3) The Department of Economic Opportunity shall pay any

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

26 outstanding debts and obligations of the terminated fund as soon  
 27 as practicable, and the Chief Financial Officer shall close out  
 28 and remove the terminated fund from various state accounting  
 29 systems using generally accepted accounting principles  
 30 concerning warrants outstanding, assets, and liabilities.

31 Section 2. Section 446.50, Florida Statutes, is repealed.

32 Section 3. Section 446.51, Florida Statutes, is repealed.

33 Section 4. Section 446.52, Florida Statutes, is repealed.

34 Section 5. Section 1010.84, Florida Statutes, is repealed.

35 Section 6. Paragraph (b) of subsection (10) of section  
 36 20.60, Florida Statutes, is amended to read:

37 20.60 Department of Economic Opportunity; creation; powers  
 38 and duties.—

39 (10) The department, with assistance from Enterprise  
 40 Florida, Inc., shall, by November 1 of each year, submit an  
 41 annual report to the Governor, the President of the Senate, and  
 42 the Speaker of the House of Representatives on the condition of  
 43 the business climate and economic development in the state.

44 (b) The report must incorporate annual reports of other  
 45 programs, including:

46 ~~1. The displaced homemaker program established under s.~~  
 47 ~~446.50.~~

48 1.2. Information provided by the Department of Revenue  
 49 under s. 290.014.

50 2.3. Information provided by enterprise zone development

51 agencies under s. 290.0056 and an analysis of the activities and  
 52 accomplishments of each enterprise zone.

53 3.4. The Economic Gardening Business Loan Pilot Program  
 54 established under s. 288.1081 and the Economic Gardening  
 55 Technical Assistance Pilot Program established under s.  
 56 288.1082.

57 4.5. A detailed report of the performance of the Black  
 58 Business Loan Program and a cumulative summary of quarterly  
 59 report data required under s. 288.714.

60 5.6. The Rural Economic Development Initiative established  
 61 under s. 288.0656.

62 6.7. The Florida Unique Abilities Partner Program.

63 Section 7. Subsection (1) of section 28.101, Florida  
 64 Statutes, is amended to read:

65 28.101 Petitions and records of dissolution of marriage;  
 66 additional charges.—

67 (1) When a party petitions for a dissolution of marriage,  
 68 in addition to the filing charges in s. 28.241, the clerk shall  
 69 collect and receive:

70 (a) A charge of \$5. On a monthly basis, the clerk shall  
 71 transfer the moneys collected pursuant to this paragraph to the  
 72 Department of Revenue for deposit in the Child Welfare Training  
 73 Trust Fund created in s. 402.40.

74 ~~(b) A charge of \$5. On a monthly basis, the clerk shall~~  
 75 ~~transfer the moneys collected pursuant to this paragraph to the~~

76 ~~Department of Revenue for deposit in the Displaced Homemaker~~  
 77 ~~Trust Fund created in s. 446.50. If a petitioner does not have~~  
 78 ~~sufficient funds with which to pay this fee and signs an~~  
 79 ~~affidavit so stating, all or a portion of the fee shall be~~  
 80 ~~waived subject to a subsequent order of the court relative to~~  
 81 ~~the payment of the fee.~~

82 (b)~~(e)~~ A charge of \$55. On a monthly basis, the clerk  
 83 shall transfer the moneys collected pursuant to this paragraph  
 84 to the Department of Revenue for deposit in the Domestic  
 85 Violence Trust Fund. Such funds which are generated shall be  
 86 directed to the Department of Children and Families for the  
 87 specific purpose of funding domestic violence centers.

88 (c)~~(d)~~ A charge of \$37.50 ~~32.50~~. On a monthly basis, the  
 89 clerk shall transfer the moneys collected pursuant to this  
 90 paragraph ~~as follows:~~

91 ~~1. An amount of \$7.50 to the Department of Revenue for~~  
 92 ~~deposit in the Displaced Homemaker Trust Fund.~~

93 ~~2. An amount of \$25 to the Department of Revenue for~~  
 94 ~~deposit in the General Revenue Fund.~~

95 Section 8. Paragraph (b) of subsection (2) of section  
 96 187.201, Florida Statutes, is amended to read:

97 187.201 State Comprehensive Plan adopted.—The Legislature  
 98 hereby adopts as the State Comprehensive Plan the following  
 99 specific goals and policies:

100 (2) FAMILIES.—



101 (b) Policies.—

102 1. Eliminate state policies which cause voluntary family

103 separations.

104 2. Promote concepts to stabilize the family unit to

105 strengthen bonds between parents and children.

106 3. Promote home care services for the sick and disabled.

107 4. Provide financial support for alternative child care

108 services.

109 5. Increase direct parental involvement in K-12 education

110 programs.

111 6. Promote family dispute resolution centers.

112 ~~7. Support displaced homemaker programs.~~

113 7.8. Provide increased assurance that child support

114 payments will be made.

115 8.9. Actively develop job opportunities, community work

116 experience programs, and job training programs for persons

117 receiving governmental financial assistance.

118 ~~9.10.~~ Direct local law enforcement authorities and

119 district mental health councils to increase efforts to prevent

120 family violence and to adequately punish the guilty party.

121 10.11. Provide financial, mental health, and other support

122 for victims of family violence.

123 Section 9. Paragraph (a) of subsection (3) of section

124 445.003, Florida Statutes, is amended to read:

125 445.003 Implementation of the federal Workforce Innovation

126 and Opportunity Act.—

127 (3) FUNDING.—

128 (a) Title I, Workforce Innovation and Opportunity Act  
 129 funds; Wagner-Peyser funds; and NAFTA/Trade Act funds will be  
 130 expended based on the 4-year plan of CareerSource Florida, Inc.  
 131 The plan must outline and direct the method used to administer  
 132 and coordinate various funds and programs that are operated by  
 133 various agencies. The following provisions apply to these funds:

134 1. At least 50 percent of the Title I funds for Adults and  
 135 Dislocated Workers which are passed through to local workforce  
 136 development boards shall be allocated to and expended on  
 137 Individual Training Accounts unless a local workforce  
 138 development board obtains a waiver from CareerSource Florida,  
 139 Inc. Tuition, books, and fees of training providers and other  
 140 training services prescribed and authorized by the Workforce  
 141 Innovation and Opportunity Act qualify as Individual Training  
 142 Account expenditures.

143 2. Fifteen percent of Title I funding shall be retained at  
 144 the state level and dedicated to state administration and shall  
 145 be used to design, develop, induce, and fund innovative  
 146 Individual Training Account pilots, demonstrations, and  
 147 programs. Of such funds retained at the state level, \$2 million  
 148 shall be reserved for the Incumbent Worker Training Program  
 149 created under subparagraph 3. Eligible state administration  
 150 costs include the costs of funding for the board and staff of

151 CareerSource Florida, Inc.; operating fiscal, compliance, and  
 152 management accountability systems through CareerSource Florida,  
 153 Inc.; conducting evaluation and research on workforce  
 154 development activities; and providing technical and capacity  
 155 building assistance to local workforce development areas at the  
 156 direction of CareerSource Florida, Inc. Notwithstanding s.  
 157 445.004, such administrative costs may not exceed 25 percent of  
 158 these funds. An amount not to exceed 75 percent of these funds  
 159 shall be allocated to Individual Training Accounts and other  
 160 workforce development strategies for other training designed and  
 161 tailored by CareerSource Florida, Inc., including, but not  
 162 limited to, programs for incumbent workers, ~~displaced~~  
 163 ~~homemakers,~~ nontraditional employment, and enterprise zones.  
 164 CareerSource Florida, Inc., shall design, adopt, and fund  
 165 Individual Training Accounts for distressed urban and rural  
 166 communities.

167 3. The Incumbent Worker Training Program is created for  
 168 the purpose of providing grant funding for continuing education  
 169 and training of incumbent employees at existing Florida  
 170 businesses. The program will provide reimbursement grants to  
 171 businesses that pay for preapproved, direct, training-related  
 172 costs.

173 a. The Incumbent Worker Training Program will be  
 174 administered by CareerSource Florida, Inc., which may, at its  
 175 discretion, contract with a private business organization to

176 | serve as grant administrator.

177 |       b. The program shall be administered pursuant to s.  
 178 | 134(d)(4) of the Workforce Innovation and Opportunity Act.  
 179 | Priority for funding shall be given to businesses with 25  
 180 | employees or fewer, businesses in rural areas, businesses in  
 181 | distressed inner-city areas, businesses in a qualified targeted  
 182 | industry, businesses whose grant proposals represent a  
 183 | significant upgrade in employee skills, or businesses whose  
 184 | grant proposals represent a significant layoff avoidance  
 185 | strategy.

186 |       c. All costs reimbursed by the program must be preapproved  
 187 | by CareerSource Florida, Inc., or the grant administrator. The  
 188 | program may not reimburse businesses for trainee wages, the  
 189 | purchase of capital equipment, or the purchase of any item or  
 190 | service that may possibly be used outside the training project.  
 191 | A business approved for a grant may be reimbursed for  
 192 | preapproved, direct, training-related costs including tuition,  
 193 | fees, books and training materials, and overhead or indirect  
 194 | costs not to exceed 5 percent of the grant amount.

195 |       d. A business that is selected to receive grant funding  
 196 | must provide a matching contribution to the training project,  
 197 | including, but not limited to, wages paid to trainees or the  
 198 | purchase of capital equipment used in the training project; must  
 199 | sign an agreement with CareerSource Florida, Inc., or the grant  
 200 | administrator to complete the training project as proposed in

201 the application; must keep accurate records of the project's  
 202 implementation process; and must submit monthly or quarterly  
 203 reimbursement requests with required documentation.

204 e. All Incumbent Worker Training Program grant projects  
 205 shall be performance-based with specific measurable performance  
 206 outcomes, including completion of the training project and job  
 207 retention. CareerSource Florida, Inc., or the grant  
 208 administrator shall withhold the final payment to the grantee  
 209 until a final grant report is submitted and all performance  
 210 criteria specified in the grant contract have been achieved.

211 f. CareerSource Florida, Inc., may establish guidelines  
 212 necessary to implement the Incumbent Worker Training Program.

213 g. No more than 10 percent of the Incumbent Worker  
 214 Training Program's total appropriation may be used for overhead  
 215 or indirect purposes.

216 4. At least 50 percent of Rapid Response funding shall be  
 217 dedicated to Intensive Services Accounts and Individual Training  
 218 Accounts for dislocated workers and incumbent workers who are at  
 219 risk of dislocation. CareerSource Florida, Inc., shall also  
 220 maintain an Emergency Preparedness Fund from Rapid Response  
 221 funds, which will immediately issue Intensive Service Accounts,  
 222 Individual Training Accounts, and other federally authorized  
 223 assistance to eligible victims of natural or other disasters. At  
 224 the direction of the Governor, these Rapid Response funds shall  
 225 be released to local workforce development boards for immediate

226 use after events that qualify under federal law. Funding shall  
 227 also be dedicated to maintain a unit at the state level to  
 228 respond to Rapid Response emergencies and to work with state  
 229 emergency management officials and local workforce development  
 230 boards. All Rapid Response funds must be expended based on a  
 231 plan developed by CareerSource Florida, Inc., and approved by  
 232 the Governor.

233 Section 10. Paragraph (b) of subsection (5) of section  
 234 445.004, Florida Statutes, is amended to read:

235 445.004 CareerSource Florida, Inc.; creation; purpose;  
 236 membership; duties and powers.—

237 (5) CareerSource Florida, Inc., shall have all the powers  
 238 and authority not explicitly prohibited by statute which are  
 239 necessary or convenient to carry out and effectuate its purposes  
 240 as determined by statute, Pub. L. No. 113-128, and the Governor,  
 241 as well as its functions, duties, and responsibilities,  
 242 including, but not limited to, the following:

243 (b) Providing oversight and policy direction to ensure  
 244 that the following programs are administered by the department  
 245 in compliance with approved plans and under contract with  
 246 CareerSource Florida, Inc.:

247 1. Programs authorized under Title I of the Workforce  
 248 Innovation and Opportunity Act, Pub. L. No. 113-128, with the  
 249 exception of programs funded directly by the United States  
 250 Department of Labor under Title I, s. 167.

251 2. Programs authorized under the Wagner-Peyser Act of  
 252 1933, as amended, 29 U.S.C. ss. 49 et seq.

253 3. Activities authorized under Title II of the Trade Act  
 254 of 2002, as amended, 19 U.S.C. ss. 2272 et seq., and the Trade  
 255 Adjustment Assistance Program.

256 4. Activities authorized under 38 U.S.C. chapter 41,  
 257 including job counseling, training, and placement for veterans.

258 5. Employment and training activities carried out under  
 259 funds awarded to this state by the United States Department of  
 260 Housing and Urban Development.

261 6. Welfare transition services funded by the Temporary  
 262 Assistance for Needy Families Program, created under the  
 263 Personal Responsibility and Work Opportunity Reconciliation Act  
 264 of 1996, as amended, Pub. L. No. 104-193, and Title IV, s. 403,  
 265 of the Social Security Act, as amended.

266 ~~7. Displaced homemaker programs, provided under s. 446.50.~~

267 7.8. The Florida Bonding Program, provided under Pub. L.  
 268 No. 97-300, s. 164(a)(1).

269 8.9. The Food Assistance Employment and Training Program,  
 270 provided under the Food and Nutrition Act of 2008, 7 U.S.C. ss.  
 271 2011-2032; the Food Security Act of 1988, Pub. L. No. 99-198;  
 272 and the Hunger Prevention Act, Pub. L. No. 100-435.

273 9.10. The Quick-Response Training Program, provided under  
 274 ss. 288.046-288.047. Matching funds and in-kind contributions  
 275 that are provided by clients of the Quick-Response Training

276 Program shall count toward the requirements of s. 288.904,  
 277 pertaining to the return on investment from activities of  
 278 Enterprise Florida, Inc.

279 10.11. The Work Opportunity Tax Credit, provided under the  
 280 Tax and Trade Relief Extension Act of 1998, Pub. L. No. 105-277,  
 281 and the Taxpayer Relief Act of 1997, Pub. L. No. 105-34.

282 11.12. Offender placement services, provided under ss.  
 283 944.707-944.708.

284 Section 11. Subsections (3), (4), and (5) of section  
 285 741.01, Florida Statutes, are amended to read:

286 741.01 County court judge or clerk of the circuit court to  
 287 issue marriage license; fee.-

288 ~~(3) Further, the fee charged for each marriage license~~  
 289 ~~issued in the state shall be increased by an additional sum of~~  
 290 ~~\$7.50 to be collected upon receipt of the application for the~~  
 291 ~~issuance of a marriage license. The clerk shall transfer such~~  
 292 ~~funds monthly to the Department of Revenue for deposit in the~~  
 293 ~~Displaced Homemaker Trust Fund created in s. 446.50.~~

294 (3)(4) An additional fee of \$25 shall be paid to the clerk  
 295 upon receipt of the application for issuance of a marriage  
 296 license. The moneys collected shall be remitted by the clerk to  
 297 the Department of Revenue, monthly, for deposit in the General  
 298 Revenue Fund.

299 (4)(5) The fee charged for each marriage license issued in  
 300 the state shall be reduced by a sum of \$25 ~~32.50~~ for all couples



301 | who present valid certificates of completion of a premarital  
 302 | preparation course from a qualified course provider registered  
 303 | under s. 741.0305(5) for a course taken no more than 1 year  
 304 | prior to the date of application for a marriage license. For  
 305 | each license issued that is subject to the fee reduction of this  
 306 | subsection, the clerk is not required to transfer the sum of  
 307 | ~~\$7.50 to the Department of Revenue for deposit in the Displaced~~  
 308 | ~~Homemaker Trust Fund pursuant to subsection (3) or to transfer~~  
 309 | ~~the sum of \$25 to the Department of Revenue for deposit in the~~  
 310 | General Revenue Fund.

311 |       Section 12. Section 741.011, Florida Statutes, is amended  
 312 | to read:

313 |       741.011 Installment payments.—An applicant for a marriage  
 314 | license who is unable to pay the fees required under s. 741.01  
 315 | in a lump sum may make payment in not more than three  
 316 | installments over a period of 90 days. The clerk shall accept  
 317 | installment payments upon receipt of an affidavit that the  
 318 | applicant is unable to pay the fees in a lump-sum payment. Upon  
 319 | receipt of the third or final installment payment, the marriage  
 320 | license application shall be deemed filed, and the clerk shall  
 321 | issue the marriage license to the applicant and distribute the  
 322 | fees as provided in s. 741.01. In the event that the marriage  
 323 | license fee is paid in installments, the clerk shall retain \$1  
 324 | from the additional fee imposed pursuant to s. 741.01(3)  
 325 | ~~741.01(4)~~, as a processing fee.

326 Section 13. This act shall take effect July 1, 2017.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB APC 17-02 Implementing the 2017-18 General Appropriations Act  
**SPONSOR(S):** Appropriations Committee  
**TIED BILLS:**                   **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Appropriations Committee		Kramer <i>TK</i>	Leznoff <i>[Signature]</i>

**SUMMARY ANALYSIS**

This bill provides the statutory authority necessary to implement and execute the General Appropriations Act (GAA) for Fiscal Year 2017-2018. The statutory changes are effective for only one year and either expire on July 1, 2017 or revert to the language as it existed before the changes made by the bill.

Because this bill implements provisions of the General Appropriations Act for Fiscal Year 2017-2018, there are no direct fiscal impacts created by this bill.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background:**

Section 12 of Article III of the Florida Constitution states that “[l]aws making appropriations for salaries of public officers and other current expenses of the state shall contain provisions on no other subject”. This language has been interpreted to defeat proviso language attached to appropriations that have the effect of amending general law. For this reason, when general law changes are required to effectuate appropriations, those changes are placed in a general bill implementing the appropriations act instead of in the GAA. The statutory changes are effective for only one year and either expire on July 1 of the next fiscal year or revert to the language as it existed before the changes made by the bill.

##### **Provisions of bill:**

Section 1 provides legislative intent that the implementing and administering provisions of this act apply to the General Appropriations Act for Fiscal Year 2017-2018.

Section 2 incorporates the Florida Education Finance Program (FEFP) work papers by reference for the purpose of displaying the calculations used by the Legislature.

Section 3 provides that any district school board that generates less than \$2 million in revenue from one mill of ad valorem tax shall contribute 0.75 mill, rather than 1.5 mills, for Fiscal Year 2017-2018, to the cost of funded special facilities projects.

Section 4 amends s. 1012.731, F.S. relating to the Florida Best and Brightest Teacher Scholarship Program to award highly effective teachers who have demonstrated a high level of academic achievement based on their SAT, ACT, GRE, LSAT, GMAT or MCAT score being at or above the 77th percentile.

Section 5 creates s. 1012.732, F.S. relating to the Florida Best and Brightest Principal Scholarship Program to award highly effective principals whose school facility has a high percentage of best and brightest teachers.

Sections 6 and 7 extend the date by which Florida Polytechnic University must meet statutory deadlines relating to accreditation by one year.

Section 8 prohibits state universities and colleges from allowing personal services of the university or college to be used by university or college direct support organizations. The section also prohibits the direct support organizations of state universities and colleges from giving gifts to political action committees.

Section 9 provides that the calculations of the Medicaid Low-Income Pool, Disproportionate Share Hospital, and hospital reimbursement programs for the 2017-2018 fiscal year contained in the document titled “Medicaid Hospital Funding Programs,” dated March 30, 2017, and filed with the Clerk of the House of Representatives, are incorporated by reference for the purpose of displaying the calculations used by the Legislature, consistent with the requirements of state law, in making appropriations for the Medicaid Low-Income Pool, Disproportionate Share Hospital, and Hospital Reimbursement programs.

Section 10 authorizes AHCA & DOH to submit a budget amendment to realign funding within and between agencies based on the implementation of the Statewide Medicaid Managed Care Medical Assistance Program for Children’s Medical Services within the Department of Health. The funding

realignment must reflect the actual enrollment changes due to the transfer of beneficiaries from fee-for-service to the capitated Children's Medical Services Network. The section also authorizes AHCA to submit a request for non-operating budget authority to transfer the federal funds to the Department of Health, pursuant to s. 216.181(12), Florida Statutes.

Section 11 provides that if the Agency for Persons with Disabilities ceases to have an algorithm and allocation methodology adopted by valid rule, each client's iBudget amounts will remain unchanged until a new allocation algorithm is prescribed by Rule. The section also provides a method of determining the iBudget for each client newly enrolled in the home and community based services waiver program.

Section 12 authorizes agencies to submit 14-day budget amendment rather than being required to obtain Legislative Budget Commission approval for increased budget authority if legislation eliminating the federal refugee settlement program fails to become law.

Section 13 amends s. 893.055, F.S. to prohibit the Attorney General from using settlement funds to administer the prescription drug monitoring program.

Section 14 amends s. 216.262, F.S., to allow the Executive Office of the Governor (EOG) to request additional positions and appropriations from unallocated general revenue funds during the 2017-2018 fiscal year for the Department of Corrections (DOC) if the actual inmate population of the DOC exceeds certain Criminal Justice Estimating Conference forecasts. The additional positions and appropriations may be used for essential staff, fixed capital improvements, and other resources to provide classification, security, food services, health services, and other variable expenses within the institutions to accommodate the estimated increase in the inmate population, and are subject to Legislative Budget Commission review and approval.

Section 15 amends s. 215.18, F.S., to provide the Chief Justice the authority to request a trust fund loan.

Section 16 authorizes the DOC to transfer funds from categories other than fixed capital outlay into the Inmate Health Services category subject to the notice, review and objection procedures of s. 216.177, F.S.

Section 17 requires the Department of Juvenile Justice to ensure that counties are fulfilling their financial responsibilities and to report any deficiencies to the Department of Revenue. If the Department of Juvenile Justice determines that a county has not met its obligations, it must direct the Department of Revenue to deduct the amount owed to the Department of Juvenile Justice from shared revenue funds provided to the county under s. 218.23, F.S. The section also includes procedures to provide assurance to holders of bonds for which shared revenue fund distributions are pledged.

Section 18 requires the Department of Management Services (DMS) and agencies to utilize a tenant broker to renegotiate private lease agreements, in excess of 2,000 square feet, expiring before June 30, 2020.

Section 19 provides that the online procurement system transaction fee authorized in ss. 287.042(1)(h)1 and 287.057(22)(c), F.S., will remain at 0.7 percent for the 2017-2018 fiscal year only.

Section 20 provides that the EOG is authorized to transfer funds appropriated in any appropriation category used to pay for data processing in the General Appropriations Act between agencies, in order to align the budget authority granted with the utilization rate of each department.

Section 21 notwithstanding s. 216.292(2)(a), F.S., which authorizes agency budget transfers of up to 5 percent of approved budget between categories. Except for transfers approved pursuant to section 20

of the Implementing Bill, agencies are prohibited from transferring funds from a data center appropriation category to a category other than a data center appropriation category.

Section 22 authorizes the EOG to transfer funds in the appropriation category "Special Categories-Risk Management Insurance" between departments in order to align the budget authority granted with the premiums paid by each department for risk management insurance.

Section 23 authorizes the EOG to transfer funds in the appropriation category "Special Categories-Transfer to DMS-Human Resources Services Purchased Per Statewide Contract" of the 2017-2018 General Appropriations Act between departments, in order to align the budget authority granted with the assessments that must be paid by each agency to the DMS for human resources management services.

Section 24 defines the components of the Florida Accounting Information Resource subsystem (FLAIR) and Cash Management System (CMS) included in the Department of Financial Services Planning Accounting and Ledger Management (PALM) system. This section also provides the executive steering committee (ESC) membership and the process for ESC meetings and decisions.

Section 25 amends s. 216.181(11)(d), F.S., to authorize the Legislative Budget Commission to increase amounts appropriated to the Fish and Wildlife Conservation Commission (FWC) or the Department of Environmental Protection (DEP) for fixed capital outlay projects. The increase in fixed capital outlay budget authority is authorized for funds provided to the state from the Gulf Environmental Benefit Fund administered by the National Fish and Wildlife Foundation, the Gulf Coast Restoration Trust Fund related to the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast Act of 2012 (RESTORE Act), or from British Petroleum Corporation (BP) for natural resources damage assessment early restoration projects. Any continuing commitment for future appropriations by the Legislature must be specifically identified.

Section 26 amends s. 215.18(3), F.S., to authorize the Governor to temporarily transfer moneys, from one or more of the trust funds in the State Treasury, to a land acquisition trust fund (LATF) within the Department of Agriculture and Consumer Services (DACS), the DEP, the Department of State, or the FWC, whenever there is a deficiency that would render the LATF temporarily insufficient to meet its just requirements, including the timely payment of appropriations from that trust fund. These funds must be expended solely and exclusively in accordance with Art. X, s. 28 of the Florida Constitution. This transfer is a temporary loan and the funds must be repaid to the trust funds from which the moneys were loaned by the end of the 2017-2018 fiscal year. Any action proposed pursuant to this subsection is subject to the notice, review, and objection procedures of s. 216.177, F.S., and the Governor shall provide notice of such action at least seven days before the effective date of the transfer of trust funds.

Section 27 provides that, in order to implement specific appropriations from the land acquisition trust funds within the DACS, the DEP, the FWC, and the Department of State, the DEP will transfer a proportionate share of revenues in the Land Acquisition Trust Fund within the DEP on a monthly basis, after subtracting required debt service payments, to each agency and retain a proportionate share within the Land Acquisition Trust Fund within the DEP. Total distributions to a land acquisition trust fund within the other agencies may not exceed the total appropriations for the fiscal year.

Sections 28 and 29 amends 373.470(6)(a), F.S. relating to match requirements of the South Florida Water Management District (SFWMD) for Everglades Restoration funded from the Save Our Everglades Trust Fund. This section will require the match from SFWMD for Everglades Restoration funded from the Land Acquisition Trust Fund.

Section 30 amends s. 375.041(3)(b)3, F.S. relating to the Land Acquisition Trust fund to remove requirement for funding for restoration of Lake Apopka and for springs restoration.

Sections 31 and 32 amends s. 339.135(7)(e), F.S., by making an exception to the work program amendment approval process for certain projects when an emergency exists.

Sections 33 and 34 reenact amendments to s. 216.292(2)(a), F.S., that remove language limiting scope of legislative review of "five percent" budget transfers. The Legislature would continue to be able to object that a proposed action exceeds delegated authority or is contrary to legislative policy and intent.

Section 35 provides that no state agency may initiate a competitive solicitation for a product or service if the completion of such competitive solicitation would require a change in law or require a change to the agency's budget other than a transfer authorized in s. 216.292(2) or (3), F.S., unless the initiation of such competitive solicitation is specifically authorized in law or in the General Appropriations Act or by the Legislative Budget Commission.

Section 36 amends s. 112.24, F.S., to provide that the reassignment of an employee of a state agency may be made if recommended by the Governor or Chief Justice, as appropriate, and approved by the chairs of the Senate and House budget committees. Such actions shall be deemed approved if neither chair provides written notice of objection within 14 days after receiving notice of the action, pursuant to s. 216.177, F.S. This requirement applies to state employee reassignments regardless of which agency (sending or receiving) is responsible for pay and benefits of assigned employee.

Section 37 maintains legislative salaries at the July 1, 2010, level.

Sections 38 and 39 amend s. 215.32(2)(b), F.S., in order to implement the transfer of moneys to the General Revenue Fund from trust funds in the 2017-2018 General Appropriations Act.

Section 40 provides that funds appropriated for travel by state employees be limited to travel for activities that are critical to each state agency's mission. The section prohibits funds from being used to travel to foreign countries, other states, conferences, staff-training, or other administrative functions unless the agency head approves in writing. The agency head is required to consider the use of teleconferencing and electronic communication to meet needs of activity before approving travel.

Section 41 provides that, notwithstanding s. 112.061, F.S., costs for lodging associated with a meeting, conference or convention organized or sponsored in whole or in part by a state agency or the judicial branch may not exceed 150 dollars per day. The section provides that a meeting does not include travel activities for conducting an audit, examination, inspection or investigation or travel activities related to litigation or emergency response. An employee may expend his or her own funds for any lodging expenses in excess of 150 dollars per day.

Section 42 directs the executive branch agencies and judicial branch agencies to collaborate with the EOG to implement a statewide travel management system and utilize the system.

Sections 43 and 44 reenact amendments to s. 110.12315, F.S., that: modify copayments associated with the state employees' group health insurance program consistent with decisions that have been made in the General Appropriations Act; authorize the Department of Management Services, for the state employees' prescription drug program, to negotiate the pharmacy dispensing fee, to implement a 90-day supply limit program for certain maintenance drugs at retail pharmacies for state employees under certain circumstances, and to maintain a list of maintenance drugs and preferred brand name drugs; and provide that copayments for state employees for a 90-day supply of prescription drugs at a retail pharmacy will be the same as a 90-day supply through mail order. The section also requires the department to implement formulary management measures by which prescription drugs and supplies will be subject to formulary inclusion and exclusion.

Section 45 provides that a state agency may not enter into a contract containing a nondisclosure clause that prohibits a contractor from disclosing to members or staff of the Legislature information relevant to the performance of the contract.



Section 46 specifies that no section of the bill shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 47 provides that a permanent change made by another law to any of the same statutes amended by this bill will take precedence over the provision in this bill.

Section 48 provides a severability clause.

Section 49 provides an effective date.

**B. SECTION DIRECTORY:**

See EFFECT OF PROPOSED CHANGES.

**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:**

Because this bill implements provisions of the General Appropriations Act for Fiscal Year 2017-2018, there are no direct fiscal impacts created by this bill.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**



26 component of the Statewide Medicaid Managed Care  
 27 program of the Department of Health; requiring the  
 28 funding realignment to meet certain criteria;  
 29 authorizing the Agency for Health Care administration  
 30 to submit a request to transfer federal funds to the  
 31 Department of Health; requiring the Agency for Persons  
 32 with Disabilities to use specified methodologies if it  
 33 ceases to have an algorithm and allocation methodology  
 34 adopted by valid rule; authorizing increases in  
 35 iBudget funding under certain circumstances;  
 36 authorizing agencies, for 1 year, to submit budget  
 37 amendments, subject to notice, review, and objection  
 38 procedures, to implement the Federal Refugee  
 39 Resettlement Program under certain circumstances;  
 40 amending s. 216.262, F.S.; extending for 1 fiscal year  
 41 the authority of the Department of Corrections to  
 42 submit a budget amendment for additional positions and  
 43 appropriations under certain circumstances; amending  
 44 s. 215.18, F.S.; extending for 1 fiscal year the  
 45 authority and related repayment requirements for  
 46 temporary trust fund loans to the state court system  
 47 which are sufficient to meet the system's  
 48 appropriation; authorizing the Department of  
 49 Corrections to submit certain budget amendments to  
 50 transfer funds into the Inmate Health Services

51 category; providing that such transfers are subject to  
 52 notice, review, and objection procedures; requiring  
 53 the Department of Juvenile Justice to review county  
 54 juvenile detention payments to determine if the county  
 55 has met specified financial responsibilities;  
 56 requiring amounts owed by the county for such  
 57 financial responsibilities to be deducted from certain  
 58 county funds; requiring the Department of Revenue to  
 59 transfer funds withheld to specified trust funds;  
 60 requiring the Department of Revenue to ensure that  
 61 such reductions in amounts distributed do not reduce  
 62 distributions below amounts necessary for certain  
 63 payments due on bonds and comply with bond covenants;  
 64 requiring the Department of Revenue to notify the  
 65 Department of Juvenile Justice if bond payment  
 66 requirements require a reduction in deductions for  
 67 amounts owed by a county; requiring the Department of  
 68 Management Services to use tenant broker services to  
 69 renegotiate or reprocore certain private lease  
 70 agreements for office or storage space; requiring the  
 71 Department of Management Services to provide a report  
 72 to the Governor and Legislature by a specified date;  
 73 specifying the amount of the transaction fee to be  
 74 collected for use of an online procurement system;  
 75 authorizing the Executive Office of the Governor,

76        subject to notice, review, and objection procedures,  
 77        to transfer funds appropriated for certain data  
 78        processing services between departments for a  
 79        specified purpose; prohibiting an agency from  
 80        transferring funds from a data processing category to  
 81        another category that is not a data processing  
 82        category; authorizing the Executive Office of the  
 83        Governor, subject to notice, review, and objection  
 84        procedures, to transfer funds between departments for  
 85        purposes of aligning amounts paid for risk management  
 86        insurance and for human resource management services;  
 87        providing for replacement of the Florida Accounting  
 88        Information Resource Subsystem; providing for project  
 89        governance structure; amending s. 216.181, F.S.;  
 90        extending by 1 fiscal year the authority for the  
 91        Legislative Budget Commission to increase amounts  
 92        appropriated to the Fish and Wildlife Conservation  
 93        Commission or the Department of Environmental  
 94        Protection for certain fixed capital outlay projects  
 95        from specified sources; amending s. 215.18, F.S.;  
 96        authorizing the Governor, if there is a specified  
 97        deficiency in a land acquisition trust fund in the  
 98        Department of Agriculture and Consumer Services, the  
 99        Department of Environmental Protection, the Department  
 100        of State, or the Fish and Wildlife Conservation

101 Commission, to transfer funds from other trust funds  
 102 in the State Treasury as a temporary loan to such  
 103 trust fund for a specified period; providing  
 104 procedures for the transfer and repayment of the loan;  
 105 requiring the Department of Environmental Protection  
 106 to transfer designated proportions of the revenues  
 107 deposited in the Land Acquisition Trust Fund within  
 108 the department to land acquisition trust funds in the  
 109 Department of Agriculture and Consumer Services, the  
 110 Department of State, and the Fish and Wildlife  
 111 Conservation Commission according to specified  
 112 parameters and calculations; requiring the department  
 113 to retain a proportionate share of revenues;  
 114 specifying a limit on distributions; amending s.  
 115 373.470, F.S.; requiring distribution of funds to the  
 116 South Florida Water Management District from the Land  
 117 Acquisition Trust Fund to be equally matched by  
 118 cumulative district contributions for certain  
 119 Everglades restoration efforts; providing for the  
 120 future expiration and reversion of statutory text  
 121 related to distribution of funds to the South Florida  
 122 Water Management District; amending s. 375.041, F.S.;  
 123 specifying that certain funds for spring restoration,  
 124 protection, and management projects and certain  
 125 projects dedicated to restoring Lake Apopka shall be

126 appropriated under the General Appropriations Act;  
 127 amending s. 339.135, F.S.; authorizing the Department  
 128 of Transportation to request the Executive Office of  
 129 the Governor to amend the adopted work program for  
 130 emergencies for certain projects, or phases thereof;  
 131 providing for the future expiration and reversion of  
 132 specified statutory text; reenacting s. 216.292(2)(a),  
 133 F.S., relating to exceptions for nontransferable  
 134 appropriations; providing for the future expiration  
 135 and reversion of statutory text related to  
 136 nontransferable appropriations; prohibiting a state  
 137 agency from initiating a competitive solicitation for  
 138 a product or service under certain circumstances;  
 139 providing an exception; amending s. 112.24, F.S.;  
 140 extending by 1 fiscal year the authorization, subject  
 141 to specified requirements, for the assignment of an  
 142 employee of a state agency under an employee  
 143 interchange agreement; providing that the annual  
 144 salaries of the members of the Legislature shall be  
 145 maintained at a specified level; reenacting s.  
 146 215.32(2)(b), F.S., relating to the source and use of  
 147 certain trust funds; providing for the future  
 148 expiration and reversion of statutory text related to  
 149 the source and use of specified trust funds; limiting  
 150 the use of travel funds to activities that are



151 critical to an agency's mission; providing exceptions;  
 152 placing a monetary cap on the amount of money  
 153 available for state employee travel to certain  
 154 meetings organized or sponsored by a state agency or  
 155 the judicial branch; authorizing employees to expend  
 156 their own funds for lodging expenses in excess of the  
 157 monetary caps; requiring executive branch state  
 158 agencies and the judicial branch to collaborate with  
 159 the Executive Office of the Governor regarding the  
 160 statewide travel management system and to use such  
 161 system; reenacting s. 110.12315, F.S., relating to the  
 162 state employees' prescription drug program; providing  
 163 for the future expiration and reversion of statutory  
 164 text related to the state employees' prescription drug  
 165 program; prohibiting agencies from entering into  
 166 contracts containing certain nondisclosure agreements;  
 167 providing conditions under which the veto of certain  
 168 appropriations or proviso language in the General  
 169 Appropriations Act voids language that implements such  
 170 appropriation; providing for the continued operation  
 171 of certain provisions notwithstanding a future repeal  
 172 or expiration provided by the act; providing  
 173 severability; providing an effective date.

174  
 175 Be It Enacted by the Legislature of the State of Florida:

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Section 1. It is the intent of the Legislature that the implementing and administering provisions of this act apply to the General Appropriations Act for the 2017-2018 fiscal year.

Section 2. In order to implement Specific Appropriations 7, 8, 9, 91, and 92 of the 2017-2018 General Appropriations Act, the calculations of the Florida Education Finance Program for the 2017-2018 fiscal year in the document titled "Public School Funding: The Florida Education Finance Program," dated March 30, 2017, and filed with the Clerk of the House of Representatives, are incorporated by reference for the purpose of displaying the calculations used by the Legislature, consistent with the requirements of state law, in making appropriations for the Florida Education Finance Program. This section expires July 1, 2018.

Section 3. In order to implement Specific Appropriation 22 of the 2017-2018 General Appropriations Act and notwithstanding s. 1013.64(2), Florida Statutes, any district school board that generates less than \$2 million in revenue from a 1-mill levy of ad valorem tax shall contribute 0.75 mills for the 2017-2018 fiscal year toward the cost of funded special facilities construction projects. This section expires July 1, 2018.

Section 4. In order to implement Specific Appropriation 100A of the 2017-2018 General Appropriations Act, section 1012.731, Florida Statutes, is reenacted and amended to read:

201           1012.731 The Florida Best and Brightest Teacher  
202 Scholarship Program.—

203           (1) The Legislature recognizes that, second only to  
204 parents, teachers play the most critical role within schools in  
205 preparing students to achieve a high level of academic  
206 performance. The Legislature further recognizes that research  
207 has linked student outcomes to a teacher's own academic  
208 achievement. Therefore, it is the intent of the Legislature to  
209 designate teachers who have achieved high academic standards  
210 during their own education as Florida's best and brightest  
211 teacher scholars.

212           (2) There is created the Florida Best and Brightest  
213 Teacher Scholarship Program to be administered by the Department  
214 of Education. The scholarship program shall provide categorical  
215 funding for scholarships to be awarded to classroom teachers, as  
216 defined in s. 1012.01(2)(a), who have demonstrated a high level  
217 of academic achievement.

218           (3)(a) To be eligible for a scholarship, a classroom  
219 teacher must:

220           1. Have achieved a composite score at or above the 77th  
221 ~~80th~~ percentile on either the SAT, ~~or the~~ ACT, GRE, LSAT, GMAT,  
222 or MCAT based on the National Percentile Ranks in effect when  
223 the classroom teacher took the assessment.

224           2. ~~and~~ Have been evaluated as highly effective pursuant to  
225 s. 1012.34, or have been evaluated as highly effective based on

226 a commissioner-approved student learning growth formula pursuant  
 227 to s. 1012.34(8), in the school year immediately preceding the  
 228 year in which the scholarship will be awarded, unless the  
 229 classroom teacher is newly hired by the district school board  
 230 and has not been evaluated pursuant to s. 1012.34.

231 (b) In order to demonstrate eligibility for an award, an  
 232 eligible classroom teacher must submit to the school district,  
 233 no later than November 1, an official record of his or her  
 234 qualifying assessment ~~SAT or ACT~~ score demonstrating that the  
 235 classroom teacher scored at or above the 77th ~~80th~~ percentile  
 236 based on the National Percentile Ranks in effect when the  
 237 teacher took the assessment. Once a classroom teacher is deemed  
 238 eligible by the school district, ~~including teachers deemed~~  
 239 ~~eligible in the 2015-2016 fiscal year~~, the teacher shall remain  
 240 eligible as long as he or she remains employed by the school  
 241 district as a classroom teacher at the time of the award and  
 242 receives an annual performance evaluation rating of highly  
 243 effective pursuant to s. 1012.34 or is evaluated as highly  
 244 effective based on a commissioner-approved student learning  
 245 growth formula pursuant to s. 1012.34(8).

246 (4) Annually, by December 1, each school district shall  
 247 submit to the department:

248 (a) The number of eligible classroom teachers who qualify  
 249 for the scholarship.

250 (b) The name and master school identification number

251 (MSID) of each school in the district to which an eligible  
 252 classroom teacher is assigned.

253 (c) The name of the school principal of each eligible  
 254 classroom teacher's school if he or she has served as the  
 255 school's principal for at least 2 consecutive school years  
 256 including the current school year.

257 (5) Annually, by February 1, the department shall disburse  
 258 scholarship funds to each school district for each eligible  
 259 classroom teacher to receive a scholarship as provided in the  
 260 General Appropriations Act. A scholarship in the amount provided  
 261 in the General Appropriations Act shall be awarded to every  
 262 eligible classroom teacher. If the number of eligible classroom  
 263 teachers exceeds the total appropriation authorized in the  
 264 General Appropriations Act, the department shall prorate the  
 265 per-teacher scholarship amount.

266 (6) Annually, by April 1, each school district shall award  
 267 the scholarship to each eligible classroom teacher.

268 (7) For purposes of this section, the term "school  
 269 district" includes the Florida School for the Deaf and the Blind  
 270 and charter school governing boards.

271 (8) This section expires July 1, 2018 ~~2017~~.

272 Section 5. In order to implement Specific Appropriation  
 273 100A of the 2017-2018 General Appropriations Act, Section  
 274 1012.732, Florida Statutes, is created to read:

275 1012.732 The Florida Best and Brightest Principal

276 Scholarship Program.—

277 (1) The Legislature recognizes that the most effective  
 278 school principals establish a safe and supportive school  
 279 environment for students and faculty. Research shows that these  
 280 principals increase student learning by providing opportunities  
 281 for the professional growth, collaboration, and autonomy that  
 282 classroom teachers need to become and remain highly effective  
 283 educational professionals. As a result, these principals are  
 284 able to recruit and retain more of the best classroom teachers  
 285 and improve student outcomes at their schools, including schools  
 286 serving low-income and high-need student populations. Therefore,  
 287 it is the intent of the Legislature to designate school  
 288 principals whose school faculty has a high percentage of  
 289 classroom teachers who are designated as Florida's best and  
 290 brightest teacher scholars pursuant to s. 1012.731 as Florida's  
 291 best and brightest principals.

292 (2) There is created the Florida Best and Brightest  
 293 Principal Scholarship Program to be administered by the  
 294 Department of Education. The program shall provide categorical  
 295 funding for scholarships to be awarded to school principals, as  
 296 defined in s. 1012.01(3)(c)1., who have recruited and retained a  
 297 high percentage of best and brightest teachers.

298 (3) A school principal identified pursuant to s.  
 299 1012.731(4)(c) is eligible to receive a scholarship under this  
 300 section if he or she has served as school principal at his or

301 her school for at least 2 consecutive school years including the  
 302 current school year and his or her school has a ratio of best  
 303 and brightest teachers to other classroom teachers that is at  
 304 the 80th percentile or higher for schools within the same grade  
 305 group, statewide, including elementary schools, middle schools,  
 306 high schools, and schools with a combination of grade levels.

307 (4) Annually, by February 1, the department shall identify  
 308 eligible school principals and disburse funds to each school  
 309 district for each eligible school principal to receive a  
 310 scholarship as provided in the General Appropriations Act. A  
 311 scholarship must be awarded to every eligible school principal,  
 312 with a greater scholarship amount awarded to school principals  
 313 who are assigned to a Title I school. If the number of eligible  
 314 school principals exceeds the total appropriation authorized in  
 315 the General Appropriations Act, the department shall prorate  
 316 each school principal's scholarship in a manner consistent with  
 317 this subsection.

318 (5) Annually, by April 1, each school district must award  
 319 a scholarship to each eligible school principal.

320 (6) A school district must provide a best and brightest  
 321 principal with the additional authority and responsibilities  
 322 provided in s. 1012.28(8) for a minimum of 2 years.

323 (7) For purposes of this section, the term "school  
 324 district" includes the Florida School for the Deaf and the Blind  
 325 and charter school governing boards.

326           (8) This section expires July 1, 2018.

327           Section 6. In order to implement Specific Appropriation  
328 141 of the 2017-2018 General Appropriations Act, subsection (1)  
329 of section 1004.345, Florida Statutes, is amended to read:

330           1004.345 The Florida Polytechnic University.—

331           (1) By December 31, 2018 ~~2017~~, the Florida Polytechnic  
332 University shall meet the following criteria as established by  
333 the Board of Governors:

334           (a) Achieve accreditation from the Commission on Colleges  
335 of the Southern Association of Colleges and Schools;

336           (b) Initiate the development of the new programs in the  
337 fields of science, technology, engineering, and mathematics;

338           (c) Seek discipline-specific accreditation for programs;

339           (d) Attain a minimum FTE of 1,244, with a minimum 50  
340 percent of that FTE in the fields of science, technology,  
341 engineering, and mathematics and 20 percent in programs related  
342 to those fields;

343           (e) Complete facilities and infrastructure, including the  
344 Science and Technology Building, Phase I of the Wellness Center,  
345 and a residence hall or halls containing no fewer than 190 beds;  
346 and

347           (f) Have the ability to provide, either directly or where  
348 feasible through a shared services model, administration of  
349 financial aid, admissions, student support, information  
350 technology, and finance and accounting with an internal audit



351 function.

352 Section 7. The amendment made by this act to s. 1004.345,  
353 Florida Statutes, expires July 1, 2018, and the text of that  
354 section shall revert to that in existence on June 30, 2016,  
355 except that any amendments to such text enacted other than by  
356 this act shall be preserved and continue to operate to the  
357 extent that such amendments are not dependent upon the portions  
358 of text which expire pursuant to this section.

359 Section 8. In order to implement Specific Appropriation  
360 141 of the 2017-2018 General Appropriations Act:

361 (1) Notwithstanding s. 1004.70, Florida Statutes, the  
362 board of trustees of a Florida College System institution may  
363 not allow the use of personal services of the institution by an  
364 institution direct-support organization. A Florida College  
365 System institution direct-support organization may not give,  
366 either directly or indirectly, any gift to a political committee  
367 as defined in s. 106.011, Florida Statutes.

368 (2) Notwithstanding s. 1004.28, Florida Statutes, the  
369 board of trustees of a state university may not allow the use of  
370 personal services of the university by a university direct-  
371 support organization. A state university direct-support  
372 organization may not give, either directly or indirectly, any  
373 gift to a political committee as defined in s. 106.011, Florida  
374 Statutes.

375 (3) This section expires July 1, 2018.

376           Section 9. In order to implement Specific Appropriations  
 377 198, 199, and 203 of the 2017-2018 General Appropriations Act,  
 378 the calculations for the Medicaid, Disproportionate Share  
 379 Hospital, and Hospital Reimbursement programs for the 2017-2018  
 380 fiscal year contained in the document titled "Medicaid Hospital  
 381 Funding Programs," dated March 30, 2017, and filed with the  
 382 Clerk of the House of Representatives, are incorporated by  
 383 reference for the purpose of displaying the calculations used by  
 384 the Legislature, consistent with the requirements of state law,  
 385 in making appropriations for the Medicaid Low-Income Pool,  
 386 Disproportionate Share Hospital, and Hospital Reimbursement  
 387 programs. This section expires July 1, 2018.

388           Section 10. In order to implement Specific Appropriations  
 389 191 through 212A and 522 of the 2017-2018 General Appropriations  
 390 Act and notwithstanding ss. 216.181 and 216.292, Florida  
 391 Statutes, the Agency for Health Care Administration, in  
 392 consultation with the Department of Health, may submit a budget  
 393 amendment, subject to the notice, review, and objection  
 394 procedures of s. 216.177, Florida Statutes, to realign funding  
 395 within and between agencies based on implementation of the  
 396 Managed Medical Assistance component of the Statewide Medicaid  
 397 Managed Care program for the Children's Medical Services program  
 398 of the Department of Health. The funding realignment shall  
 399 reflect the actual enrollment changes due to the transfer of  
 400 beneficiaries from fee-for-service to the capitated Children's

401 Medical Services Network. The Agency for Health Care  
 402 Administration may submit a request for nonoperating budget  
 403 authority to transfer the federal funds to the Department of  
 404 Health pursuant to s. 216.181(12), Florida Statutes. This  
 405 section expires July 1, 2018.

406 Section 11. In order to implement Specific Appropriation  
 407 241 of the 2017-2018 General Appropriations Act:

408 (1) If, during the 2017-2018 fiscal year, the Agency for  
 409 Persons with Disabilities ceases to have an algorithm and  
 410 allocation methodology adopted by valid rule pursuant to s.  
 411 393.0662, Florida Statutes, the agency shall use the following  
 412 until it adopts a new algorithm and allocation methodology:

413 (a) Each client's iBudget shall remain at that funding  
 414 level in effect as of the date the agency ceases to have an  
 415 algorithm and allocation methodology adopted by valid rule  
 416 pursuant to s. 393.0662, Florida Statutes.

417 (b) The Agency for Persons with Disabilities shall  
 418 determine the iBudget for each client newly enrolled in the home  
 419 and community-based services waiver program using the same  
 420 algorithm and allocation methodology used for the iBudgets  
 421 determined between January 1, 2017, and June 30, 2017.

422 (2) After a new algorithm and allocation methodology is  
 423 adopted by final rule, a client's new iBudget shall be  
 424 determined based on the new algorithm and allocation methodology  
 425 and shall take effect as of the client's next support plan

426 update.

427 (3) Funding allocated under subsections (1) and (2) may be  
 428 increased under s. 393.0662(1)(b), Florida Statutes, or as  
 429 necessary to comply with federal regulations.

430 (4) This section expires July 1, 2018.

431 Section 12. In order to implement Specific Appropriations  
 432 191 through 220A, 338 through 358A and 481 through 493 of the  
 433 2017-2018 General Appropriations Act and notwithstanding ss.  
 434 216.181 and 216.292, Florida Statutes, in the event that CS/HB  
 435 427 or similar legislation fails to become law, agencies are  
 436 authorized to submit budget amendments, subject to the notice,  
 437 review, and objection procedures of s. 216.177, Florida  
 438 Statutes, to fully implement the Federal Refugee Resettlement  
 439 Program. This section expires July 1, 2018.

440 Section 13. In order to implement Specific Appropriations  
 441 532-542 of the 2017-2018 General Appropriations Act subsection  
 442 (18) of section 893.055, Florida Statutes, is created to read:  
 443 893.055 Prescription drug monitoring program.-

444 (18) For the 2017-2018 fiscal year only, neither the  
 445 Attorney General nor the department may use funds received as  
 446 part of a settlement agreement to administer the prescription  
 447 drug monitoring program. This subsection expires July 1, 2018.

448 Section 14. In order to implement Specific Appropriations  
 449 582 through 706 and 722 through 756 of the 2017-2018 General  
 450 Appropriations Act, subsection (4) of section 216.262, Florida

451 Statutes, is amended to read:

452 216.262 Authorized positions.—

453 (4) Notwithstanding the provisions of this chapter  
 454 relating to increasing the number of authorized positions, and  
 455 for the 2017-2018 ~~2016-2017~~ fiscal year only, if the actual  
 456 inmate population of the Department of Corrections exceeds the  
 457 inmate population projections of the February 23, 2017 ~~December~~  
 458 ~~17, 2015~~, Criminal Justice Estimating Conference by 1 percent  
 459 for 2 consecutive months or 2 percent for any month, the  
 460 Executive Office of the Governor, with the approval of the  
 461 Legislative Budget Commission, shall immediately notify the  
 462 Criminal Justice Estimating Conference, which shall convene as  
 463 soon as possible to revise the estimates. The Department of  
 464 Corrections may then submit a budget amendment requesting the  
 465 establishment of positions in excess of the number authorized by  
 466 the Legislature and additional appropriations from unallocated  
 467 general revenue sufficient to provide for essential staff, fixed  
 468 capital improvements, and other resources to provide  
 469 classification, security, food services, health services, and  
 470 other variable expenses within the institutions to accommodate  
 471 the estimated increase in the inmate population. All actions  
 472 taken pursuant to this subsection are subject to review and  
 473 approval by the Legislative Budget Commission. This subsection  
 474 expires July 1, 2018 ~~2017~~.

475 Section 15. In order to implement Specific Appropriations

476 3145 through 3212 of the 2017-2018 General Appropriations Act,  
 477 subsection (2) of section 215.18, Florida Statutes, is amended  
 478 to read:

479       215.18 Transfers between funds; limitation.—

480       (2) The Chief Justice of the Supreme Court may receive one  
 481 or more trust fund loans to ensure that the state court system  
 482 has funds sufficient to meet its appropriations in the 2017-2018  
 483 ~~2016-2017~~ General Appropriations Act. If the Chief Justice  
 484 accesses the loan, he or she must notify the Governor and the  
 485 chairs of the legislative appropriations committees in writing.  
 486 The loan must come from other funds in the State Treasury which  
 487 are for the time being or otherwise in excess of the amounts  
 488 necessary to meet the just requirements of such last-mentioned  
 489 funds. The Governor shall order the transfer of funds within 5  
 490 days after the written notification from the Chief Justice. If  
 491 the Governor does not order the transfer, the Chief Financial  
 492 Officer shall transfer the requested funds. The loan of funds  
 493 from which any money is temporarily transferred must be repaid  
 494 by the end of the 2017-2018 ~~2016-2017~~ fiscal year. This  
 495 subsection expires July 1, 2018 ~~2017~~.

496       Section 16. In order to implement Specific Appropriation  
 497 727 of the 2017-2018 General Appropriations Act and  
 498 notwithstanding s. 216.292, Florida Statutes, the Department of  
 499 Corrections is authorized to submit budget amendments to  
 500 transfer funds from categories within the department other than

501 fixed capital outlay categories into the Inmate Health Services  
 502 category in order to continue the current level of care in the  
 503 provision of health services. Such transfers are subject to the  
 504 notice, review, and objection procedures of s. 216.177, Florida  
 505 Statutes. This section expires July 1, 2018.

506       Section 17. (1) In order to implement Specific  
 507 Appropriations 1104 through 1116 of the 2017-2018 General  
 508 Appropriations Act, the Department of Juvenile Justice is  
 509 required to review county juvenile detention payments to ensure  
 510 that counties fulfill their financial responsibilities required  
 511 in s. 985.6865, Florida Statutes. If the Department of Juvenile  
 512 Justice determines that a county has not met its obligations,  
 513 the department shall direct the Department of Revenue to deduct  
 514 the amount owed to the Department of Juvenile Justice from the  
 515 funds provided to the county under s. 218.23, Florida Statutes.  
 516 The Department of Revenue shall transfer the funds withheld to  
 517 the Shared County/State Juvenile Detention Trust Fund.

518       (2) As an assurance to holders of bonds issued by counties  
 519 before July 1, 2017, for which distributions made pursuant to s.  
 520 218.23, Florida Statutes, are pledged, or bonds issued to refund  
 521 such bonds which mature no later than the bonds they refunded  
 522 and which result in a reduction of debt service payable in each  
 523 fiscal year, the amount available for distribution to a county  
 524 shall remain as provided by law and continue to be subject to  
 525 any lien or claim on behalf of the bondholders. The Department

526 of Revenue must ensure, based on information provided by an  
 527 affected county, that any reduction in amounts distributed  
 528 pursuant to subsection (1) does not reduce the amount of  
 529 distribution to a county below the amount necessary for the  
 530 timely payment of principal and interest when due on the bonds  
 531 and the amount necessary to comply with any covenant under the  
 532 bond resolution or other documents relating to the issuance of  
 533 the bonds. If a reduction to a county's monthly distribution  
 534 must be decreased in order to comply with this subsection, the  
 535 Department of Revenue must notify the Department of Juvenile  
 536 Justice of the amount of the decrease, and the Department of  
 537 Juvenile Justice must send a bill for payment of such amount to  
 538 the affected county.

539 (3) This section expires July 1, 2018.

540 Section 18. In order to implement appropriations used to  
 541 pay existing lease contracts for private lease space in excess  
 542 of 2,000 square feet in the 2017-2018 General Appropriations  
 543 Act, the Department of Management Services, with the cooperation  
 544 of the agencies having the existing lease contracts for office  
 545 or storage space, shall use tenant broker services to  
 546 renegotiate or reprocure all private lease agreements for office  
 547 or storage space expiring between July 1, 2018 and June 30,  
 548 2020, in order to reduce costs in future years. The department  
 549 shall incorporate this initiative into its 2017 master leasing  
 550 report required under s. 255.249(7), Florida Statutes, and may



551 use tenant broker services to explore the possibilities of  
 552 collocating office or storage space, to review the space needs  
 553 of each agency, and to review the length and terms of potential  
 554 renewals or renegotiations. The department shall provide a  
 555 report to the Executive Office of the Governor, the President of  
 556 the Senate, and the Speaker of the House of Representatives by  
 557 November 1, 2017, which lists each lease contract for private  
 558 office or storage space, the status of renegotiations, and the  
 559 savings achieved. This section expires July 1, 2018.

560 Section 19. In order to implement Specific Appropriations  
 561 2768 through 2780A of the 2017-2018 General Appropriations Act  
 562 and notwithstanding rule 60A-1.031, Florida Administrative Code,  
 563 the transaction fee collected for use of the online procurement  
 564 system authorized in ss. 287.042(1)(h)1. and 287.057(22)(c),  
 565 Florida Statutes, shall be seven-tenths of 1 percent for the  
 566 2017-2018 fiscal year. This section expires July 1, 2018.

567 Section 20. In order to implement the appropriation of  
 568 funds in the appropriation category "Data Processing Services-  
 569 State Data Center" in the 2017-2018 General Appropriations Act,  
 570 and pursuant to the notice, review, and objection procedures of  
 571 s. 216.177, Florida Statutes, the Executive Office of the  
 572 Governor may transfer funds appropriated in that category  
 573 between departments in order to align the budget authority  
 574 granted based on the estimated billing cycle and methodology  
 575 used by the State Data Center for data processing services. This

576 section expires July 1, 2018.

577 Section 21. In order to implement appropriations  
 578 authorized in the 2017-2018 General Appropriations Act for data  
 579 center services, and notwithstanding s. 216.292(2)(a), Florida  
 580 Statutes, except as authorized in section 20, an agency may not  
 581 transfer funds from a data processing category to a category  
 582 other than another data processing category. This section  
 583 expires July 1, 2018.

584 Section 22. In order to implement the appropriation of  
 585 funds in the appropriation category "Special Categories-Risk  
 586 Management Insurance" in the 2017-2018 General Appropriations  
 587 Act, and pursuant to the notice, review, and objection  
 588 procedures of s. 216.177, Florida Statutes, the Executive Office  
 589 of the Governor may transfer funds appropriated in that category  
 590 between departments in order to align the budget authority  
 591 granted with the premiums paid by each department for risk  
 592 management insurance. This section expires July 1, 2018.

593 Section 23. In order to implement the appropriation of  
 594 funds in the appropriation category "Special Categories-Transfer  
 595 to Department of Management Services-Human Resources Services  
 596 Purchased per Statewide Contract" in the 2017-2018 General  
 597 Appropriations Act, and pursuant to the notice, review, and  
 598 objection procedures of s. 216.177, Florida Statutes, the  
 599 Executive Office of the Governor may transfer funds appropriated  
 600 in that category between departments in order to align the

601 budget authority granted with the assessments that must be paid  
 602 by each agency to the Department of Management Services for  
 603 human resource management services. This section expires July 1,  
 604 2018.

605       Section 24. In order to implement Specific Appropriation  
 606 2334 of the 2017-2018 General Appropriations Act:

607       (1) The Department of Financial Services shall replace the  
 608 four main components of the Florida Accounting Information  
 609 Resource Subsystem (FLAIR), which include central FLAIR,  
 610 departmental FLAIR, payroll, and information warehouse, and  
 611 shall replace the cash management and accounting management  
 612 components of the Cash Management Subsystem (CMS) with an  
 613 integrated enterprise system that allows the state to organize,  
 614 define, and standardize its financial management business  
 615 processes and that complies with ss. 215.90-215.96, Florida  
 616 Statutes. The department shall not include in the replacement of  
 617 FLAIR and CMS:

618       (a) Functionality that duplicates any of the other  
 619 information subsystems of the Florida Financial Management  
 620 Information System; or

621       (b) Agency business processes related to any of the  
 622 functions included in the Personnel Information System, the  
 623 Purchasing Subsystem, or the Legislative Appropriations  
 624 System/Planning and Budgeting Subsystem.

625       (2) For purposes of replacing FLAIR and CMS, the

626 Department of Financial Services shall:

627       (a) Take into consideration the cost and implementation  
 628 data identified for Option 3 as recommended in the March 31,  
 629 2014, Florida Department of Financial Services FLAIR Study,  
 630 version 031.

631       (b) Ensure that all business requirements and technical  
 632 specifications have been provided to all state agencies for  
 633 their review and input and approved by the executive steering  
 634 committee established in paragraph (c).

635       (c) Implement a project governance structure that includes  
 636 an executive steering committee composed of:

637           1. The Chief Financial Officer or the executive sponsor of  
 638 the project.

639           2. A representative of the Division of Treasury of the  
 640 Department of Financial Services appointed by the Chief  
 641 Financial Officer.

642           3. A representative of the Division of Information Systems  
 643 of the Department of Financial Services appointed by the Chief  
 644 Financial Officer.

645           4. Four employees from the Division of Accounting and  
 646 Auditing of the Department of Financial Services appointed by  
 647 the Chief Financial Officer. Each employee must have experience  
 648 relating to at least one of the four main components that  
 649 comprise FLAIR.

650           5. Two employees from the Executive Office of the Governor

651 appointed by the Governor. One employee must have experience  
 652 relating to the Legislative Appropriations System/Planning and  
 653 Budgeting Subsystem.

654 6. One employee from the Department of Revenue appointed  
 655 by the executive director of the department who has experience  
 656 relating to the department's SUNTAX system.

657 7. Two employees from the Department of Management  
 658 Services appointed by the Secretary of Management Services. One  
 659 employee must have experience relating to the department's  
 660 personnel information subsystem and one employee must have  
 661 experience relating to the department's purchasing subsystem.

662 8. Three state agency administrative services directors  
 663 appointed by the Governor. One director must represent a  
 664 regulatory and licensing state agency and one director must  
 665 represent a health care-related state agency.

666 (3) The Chief Financial Officer or the executive sponsor  
 667 of the project shall serve as chair of the executive steering  
 668 committee, and the committee shall take action by a vote of at  
 669 least eight affirmative votes with the Chief Financial Officer  
 670 or the executive sponsor of the project voting on the prevailing  
 671 side. A quorum of the executive steering committee consists of  
 672 at least ten members.

673 (4) The executive steering committee has the overall  
 674 responsibility for ensuring that the project to replace FLAIR  
 675 and CMS meets its primary business objectives and shall:

676           (a) Identify and recommend to the Executive Office of the  
 677 Governor, the President of the Senate, and the Speaker of the  
 678 House of Representatives any statutory changes needed to  
 679 implement the replacement subsystem that will standardize to the  
 680 fullest extent possible the state's financial management  
 681 business processes.

682           (b) Review and approve any changes to the project's scope,  
 683 schedule, and budget that do not conflict with the requirements  
 684 of subsection (1).

685           (c) Ensure that adequate resources are provided throughout  
 686 all phases of the project.

687           (d) Approve all major project deliverables.

688           (e) Approve all solicitation-related documents associated  
 689 with the replacement of FLAIR and CMS.

690           (5) This section expires July 1, 2018.

691           Section 25. In order to implement Specific Appropriations  
 692 1603A, 1603B, 1604, and 1743 of the 2017-2018 General  
 693 Appropriations Act, paragraph (d) of subsection (11) of section  
 694 216.181, Florida Statutes, is amended to read:

695           216.181 Approved budgets for operations and fixed capital  
 696 outlay.—

697           (11)

698           (d) Notwithstanding paragraph (b) and paragraph (2) (b),  
 699 and for the 2017-2018 ~~2016-2017~~ fiscal year only, the  
 700 Legislative Budget Commission may increase the amounts

701 appropriated to the Fish and Wildlife Conservation Commission or  
 702 the Department of Environmental Protection for fixed capital  
 703 outlay projects, including additional fixed capital outlay  
 704 projects, using funds provided to the state from the Gulf  
 705 Environmental Benefit Fund administered by the National Fish and  
 706 Wildlife Foundation; funds provided to the state from the Gulf  
 707 Coast Restoration Trust Fund related to the Resources and  
 708 Ecosystems Sustainability, Tourist Opportunities, and Revived  
 709 Economies of the Gulf Coast Act of 2012 (RESTORE Act); or funds  
 710 provided by the British Petroleum Corporation (BP) for natural  
 711 resource damage assessment restoration projects. Concurrent with  
 712 submission of an amendment to the Legislative Budget Commission  
 713 pursuant to this paragraph, any project that carries a  
 714 continuing commitment for future appropriations by the  
 715 Legislature must be specifically identified, together with the  
 716 projected amount of the future commitment associated with the  
 717 project and the fiscal years in which the commitment is expected  
 718 to commence. This paragraph expires July 1, 2018 ~~2017~~.

719  
 720 The provisions of this subsection are subject to the notice and  
 721 objection procedures set forth in s. 216.177.

722 Section 26. In order to implement specific appropriations  
 723 from the land acquisition trust funds within the Department of  
 724 Agriculture and Consumer Services, the Department of  
 725 Environmental Protection, the Department of State, and the Fish

726 and Wildlife Conservation Commission which are contained in the  
 727 2017-2018 General Appropriations Act, subsection (3) of section  
 728 215.18, Florida Statutes, is reenacted and amended to read:

729 215.18 Transfers between funds; limitation.—

730 (3) Notwithstanding subsection (1) and only with respect  
 731 to a land acquisition trust fund in the Department of  
 732 Agriculture and Consumer Services, the Department of  
 733 Environmental Protection, the Department of State, or the Fish  
 734 and Wildlife Conservation Commission, whenever there is a  
 735 deficiency in a land acquisition trust fund which would render  
 736 that trust fund temporarily insufficient to meet its just  
 737 requirements, including the timely payment of appropriations  
 738 from that trust fund, and other trust funds in the State  
 739 Treasury have moneys that are for the time being or otherwise in  
 740 excess of the amounts necessary to meet the just requirements,  
 741 including appropriated obligations, of those other trust funds,  
 742 the Governor may order a temporary transfer of moneys from one  
 743 or more of the other trust funds to a land acquisition trust  
 744 fund in the Department of Agriculture and Consumer Services, the  
 745 Department of Environmental Protection, the Department of State,  
 746 or the Fish and Wildlife Conservation Commission. Any action  
 747 proposed pursuant to this subsection is subject to the notice,  
 748 review, and objection procedures of s. 216.177, and the Governor  
 749 shall provide notice of such action at least 7 days before the  
 750 effective date of the transfer of trust funds, except that



751 during July 2017 ~~2016~~, notice of such action shall be provided  
 752 at least 3 days before the effective date of a transfer unless  
 753 such 3-day notice is waived by the chair and vice-chair of the  
 754 Legislative Budget Commission. Any transfer of trust funds to a  
 755 land acquisition trust fund in the Department of Agriculture and  
 756 Consumer Services, the Department of Environmental Protection,  
 757 the Department of State, or the Fish and Wildlife Conservation  
 758 Commission must be repaid to the trust funds from which the  
 759 moneys were loaned by the end of the 2017-2018 ~~2016-2017~~ fiscal  
 760 year. The Legislature has determined that the repayment of the  
 761 other trust fund moneys temporarily loaned to a land acquisition  
 762 trust fund in the Department of Agriculture and Consumer  
 763 Services, the Department of Environmental Protection, the  
 764 Department of State, or the Fish and Wildlife Conservation  
 765 Commission pursuant to this subsection is an allowable use of  
 766 the moneys in a land acquisition trust fund because the moneys  
 767 from other trust funds temporarily loaned to a land acquisition  
 768 trust fund shall be expended solely and exclusively in  
 769 accordance with s. 28, Art. X of the State Constitution. This  
 770 subsection expires July 1, 2018 ~~2017~~.

771 Section 27. (1) In order to implement specific  
 772 appropriations from the land acquisition trust funds within the  
 773 Department of Agriculture and Consumer Services, the Department  
 774 of Environmental Protection, the Department of State, and the  
 775 Fish and Wildlife Conservation Commission which are contained in

776 the 2017-2018 General Appropriations Act, the Department of  
 777 Environmental Protection shall transfer revenues from the Land  
 778 Acquisition Trust Fund within the department to the land  
 779 acquisition trust funds within the Department of Agriculture and  
 780 Consumer Services, the Department of State, and the Fish and  
 781 Wildlife Conservation Commission, as provided in this section.  
 782 As used in this section, the term "department" means the  
 783 Department of Environmental Protection.

784 (2) After subtracting any required debt service payments,  
 785 the proportionate share of revenues to be transferred to each  
 786 land acquisition trust fund shall be calculated by dividing the  
 787 appropriations from each of the land acquisition trust funds for  
 788 the fiscal year by the total appropriations from the Land  
 789 Acquisition Trust Fund within the department and the land  
 790 acquisition trust funds within the Department of Agriculture and  
 791 Consumer Services, the Department of State, and the Fish and  
 792 Wildlife Commission for the fiscal year. The department shall  
 793 transfer the proportionate share of the revenues in the Land  
 794 Acquisition Trust Fund within the department on a monthly basis  
 795 to the appropriate land acquisition trust funds within the  
 796 Department of Agriculture and Consumer Services, the Department  
 797 of State, and the Fish and Wildlife Commission and shall retain  
 798 its proportionate share of the revenues in the Land Acquisition  
 799 Trust Fund within the department. Total distributions to a land  
 800 acquisition trust fund within the Department of Agriculture and

801 Consumer Services, the Department of State, and the Fish and  
 802 Wildlife Commission may not exceed the total appropriations from  
 803 such trust fund for the fiscal year.

804 (3) This section expires July 1, 2018.

805 Section 28. In order to implement Specific Appropriation  
 806 1594 of the 2017-2018 General Appropriations Act, paragraph (a)  
 807 of subsection (6) of section 373.470, Florida Statutes, is  
 808 amended to read:

809 373.470 Everglades restoration.—

810 (6) DISTRIBUTIONS FROM SAVE OUR EVERGLADES TRUST FUND.—

811 (a) Except as provided in paragraphs (d) and (e) and for  
 812 funds appropriated for debt service, the department shall  
 813 distribute funds in the Save Our Everglades Trust Fund to the  
 814 district in accordance with a legislative appropriation and s.  
 815 373.026(8)(b). Distribution of funds to the district from the  
 816 Save Our Everglades Trust Fund or the Land Acquisition Trust  
 817 Fund shall be equally matched by the cumulative contributions  
 818 from the district by fiscal year 2019-2020 by providing funding  
 819 or credits toward project components. The dollar value of in-  
 820 kind project design and construction work by the district in  
 821 furtherance of the comprehensive plan and existing interest in  
 822 public lands needed for a project component are credits towards  
 823 the district's contributions.

824 Section 29. The amendment made by this act to s.  
 825 373.470(6)(a), Florida Statutes, expires July 1, 2018, and the

826 text of that paragraph shall revert to that in existence on June  
 827 30, 2017, except that any amendments to such text enacted other  
 828 than by this act shall be preserved and continue to operate to  
 829 the extent that such amendments are not dependent upon the  
 830 portions of text which expire pursuant to this section.

831 Section 30. In order to implement Specific Appropriation  
 832 1606 of the 2017-2018 General Appropriations Act, paragraph (b)  
 833 of subsection (3) of section 375.041, Florida Statutes, is  
 834 amended to read:

835 375.041 Land Acquisition Trust Fund.—

836 (3) Funds distributed into the Land Acquisition Trust Fund  
 837 pursuant to s. 201.15 shall be applied:

838 (b) Of the funds remaining after the payments required  
 839 under paragraph (a), but before funds may be appropriated,  
 840 pledged, or dedicated for other uses:

841 1. A minimum of the lesser of 25 percent or \$200 million  
 842 shall be appropriated annually for Everglades projects that  
 843 implement the Comprehensive Everglades Restoration Plan as set  
 844 forth in s. 373.470, including the Central Everglades Planning  
 845 Project subject to Congressional authorization; the Long-Term  
 846 Plan as defined in s. 373.4592(2); and the Northern Everglades  
 847 and Estuaries Protection Program as set forth in s. 373.4595.  
 848 From these funds, \$32 million shall be distributed each fiscal  
 849 year through the 2023-2024 fiscal year to the South Florida  
 850 Water Management District for the Long-Term Plan as defined in

851 s. 373.4592(2). After deducting the \$32 million distributed  
 852 under this subparagraph, from the funds remaining, a minimum of  
 853 the lesser of 76.5 percent or \$100 million shall be appropriated  
 854 each fiscal year through the 2025-2026 fiscal year for the  
 855 planning, design, engineering, and construction of the  
 856 Comprehensive Everglades Restoration Plan as set forth in s.  
 857 373.470, including the Central Everglades Planning Project  
 858 subject to Congressional authorization. The Department of  
 859 Environmental Protection and the South Florida Water Management  
 860 District shall give preference to those Everglades restoration  
 861 projects that reduce harmful discharges of water from Lake  
 862 Okeechobee to the St. Lucie or Caloosahatchee estuaries in a  
 863 timely manner. For the purpose of performing the calculation  
 864 provided in this subparagraph, the amount of debt service paid  
 865 pursuant to paragraph (a) for bonds issued after July 1, 2016,  
 866 for the purposes set forth under paragraph (b) shall be added to  
 867 the amount remaining after the payments required under paragraph  
 868 (a). The amount of the distribution calculated shall then be  
 869 reduced by an amount equal to the debt service paid pursuant to  
 870 paragraph (a) on bonds issued after July 1, 2016, for the  
 871 purposes set forth under this subparagraph.

872 2. A minimum of the lesser of 7.6 percent or \$50 million  
 873 shall be appropriated annually for spring restoration,  
 874 protection, and management projects. For the purpose of  
 875 performing the calculation provided in this subparagraph, the

876 amount of debt service paid pursuant to paragraph (a) for bonds  
 877 issued after July 1, 2016, for the purposes set forth under  
 878 paragraph (b) shall be added to the amount remaining after the  
 879 payments required under paragraph (a). The amount of the  
 880 distribution calculated shall then be reduced by an amount equal  
 881 to the debt service paid pursuant to paragraph (a) on bonds  
 882 issued after July 1, 2016, for the purposes set forth under this  
 883 subparagraph.

884 3. The sum of \$5 million shall be appropriated annually  
 885 each fiscal year through the 2025-2026 fiscal year to the St.  
 886 Johns River Water Management District for projects dedicated to  
 887 the restoration of Lake Apopka. This distribution shall be  
 888 reduced by an amount equal to the debt service paid pursuant to  
 889 paragraph (a) on bonds issued after July 1, 2016, for the  
 890 purposes set forth in this subparagraph.

891 4. Notwithstanding subparagraphs 2 and 3, for the 2017-  
 892 2018 fiscal year, funds shall be appropriated as provided in the  
 893 General Appropriations Act. This subparagraph expires July 1,  
 894 2018.

895 Section 31. In order to implement Specific Appropriations  
 896 1869 through 1882, 1888 through 1891, 1905 through 1925, and  
 897 1964 through 1976 of the 2017-2018 General Appropriations Act,  
 898 paragraph (e) of subsection (7) of section 339.135, Florida  
 899 Statutes, is amended to read:

900 339.135 Work program; legislative budget request;

901 definitions; preparation, adoption, execution, and amendment.—

902 (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

903 (e) Notwithstanding paragraphs (d), ~~and (g)~~, and (h) and  
 904 ss. 216.177(2) and 216.351, the secretary may request the  
 905 Executive Office of the Governor to amend the adopted work  
 906 program when an emergency exists, as defined in s. 252.34, and  
 907 the emergency relates to the repair or rehabilitation of any  
 908 state transportation facility. The Executive Office of the  
 909 Governor may approve the amendment to the adopted work program  
 910 and amend that portion of the department's approved budget if a  
 911 delay incident to the notification requirements in paragraph (d)  
 912 would be detrimental to the interests of the state. However, the  
 913 department shall immediately notify the parties specified in  
 914 paragraph (d) and provide such parties written justification for  
 915 the emergency action within 7 days after approval by the  
 916 Executive Office of the Governor of the amendment to the adopted  
 917 work program and the department's budget. The adopted work  
 918 program may not be amended under this subsection without  
 919 certification by the comptroller of the department that there  
 920 are sufficient funds available pursuant to the 36-month cash  
 921 forecast and applicable statutes.

922 Section 32. The amendment made by this act to s.  
 923 339.135(7), Florida Statutes, expires July 1, 2018, and the text  
 924 of that section shall revert to that in existence on June 30,  
 925 2017, except that any amendments to such text enacted other than

926 by this act shall be preserved and continue to operate to the  
 927 extent that such amendments are not dependent upon the portions  
 928 of text which expire pursuant to this section.

929 Section 33. In order to implement the salaries and  
 930 benefits, expenses, other personal services, contracted  
 931 services, special categories, and operating capital outlay  
 932 categories of the 2017-2018 General Appropriations Act,  
 933 paragraph (a) of subsection (2) of section 216.292, Florida  
 934 Statutes, is reenacted to read:

935 216.292 Appropriations nontransferable; exceptions.—

936 (2) The following transfers are authorized to be made by  
 937 the head of each department or the Chief Justice of the Supreme  
 938 Court whenever it is deemed necessary by reason of changed  
 939 conditions:

940 (a) The transfer of appropriations funded from identical  
 941 funding sources, except appropriations for fixed capital outlay,  
 942 and the transfer of amounts included within the total original  
 943 approved budget and plans of releases of appropriations as  
 944 furnished pursuant to ss. 216.181 and 216.192, as follows:

945 1. Between categories of appropriations within a budget  
 946 entity, if no category of appropriation is increased or  
 947 decreased by more than 5 percent of the original approved budget  
 948 or \$250,000, whichever is greater, by all action taken under  
 949 this subsection.

950 2. Between budget entities within identical categories of



951 appropriations, if no category of appropriation is increased or  
 952 decreased by more than 5 percent of the original approved budget  
 953 or \$250,000, whichever is greater, by all action taken under  
 954 this subsection.

955 3. Any agency exceeding salary rate established pursuant  
 956 to s. 216.181(8) on June 30th of any fiscal year shall not be  
 957 authorized to make transfers pursuant to subparagraphs 1. and 2.  
 958 in the subsequent fiscal year.

959 4. Notice of proposed transfers under subparagraphs 1. and  
 960 2. shall be provided to the Executive Office of the Governor and  
 961 the chairs of the legislative appropriations committees at least  
 962 3 days prior to agency implementation in order to provide an  
 963 opportunity for review.

964 Section 34. The amendment to s. 216.292(2)(a), Florida  
 965 Statutes, as carried forward by this act from chapter 2015-222,  
 966 Laws of Florida, expires July 1, 2018, and the text of that  
 967 paragraph shall revert to that in existence on June 30, 2014,  
 968 except that any amendments to such text enacted other than by  
 969 this act shall be preserved and continue to operate to the  
 970 extent that such amendments are not dependent upon the portions  
 971 of text which expire pursuant to this section.

972 Section 35. In order to implement the appropriation of  
 973 funds in the special categories, contracted services, and  
 974 expenses categories of the 2017-2018 General Appropriations Act,  
 975 a state agency may not initiate a competitive solicitation for a

976 product or service if the completion of such competitive  
 977 solicitation would:  
 978 (1) Require a change in law; or  
 979 (2) Require a change to the agency's budget other than a  
 980 transfer authorized in s. 216.292(2) or (3), Florida Statutes,  
 981 unless the initiation of such competitive solicitation is  
 982 specifically authorized in law, in the General Appropriations  
 983 Act, or by the Legislative Budget Commission.

984  
 985 This section does not apply to a competitive solicitation for  
 986 which the agency head certifies that a valid emergency exists.  
 987 This section expires July 1, 2018.

988 Section 36. In order to implement appropriations for  
 989 salaries and benefits in the 2017-2018 General Appropriations  
 990 Act, subsection (6) of section 112.24, Florida Statutes, is  
 991 amended to read:

992 112.24 Intergovernmental interchange of public employees.—  
 993 To encourage economical and effective utilization of public  
 994 employees in this state, the temporary assignment of employees  
 995 among agencies of government, both state and local, and  
 996 including school districts and public institutions of higher  
 997 education is authorized under terms and conditions set forth in  
 998 this section. State agencies, municipalities, and political  
 999 subdivisions are authorized to enter into employee interchange  
 1000 agreements with other state agencies, the Federal Government,

1001 another state, a municipality, or a political subdivision  
 1002 including a school district, or with a public institution of  
 1003 higher education. State agencies are also authorized to enter  
 1004 into employee interchange agreements with private institutions  
 1005 of higher education and other nonprofit organizations under the  
 1006 terms and conditions provided in this section. In addition, the  
 1007 Governor or the Governor and Cabinet may enter into employee  
 1008 interchange agreements with a state agency, the Federal  
 1009 Government, another state, a municipality, or a political  
 1010 subdivision including a school district, or with a public  
 1011 institution of higher learning to fill, subject to the  
 1012 requirements of chapter 20, appointive offices which are within  
 1013 the executive branch of government and which are filled by  
 1014 appointment by the Governor or the Governor and Cabinet. Under  
 1015 no circumstances shall employee interchange agreements be  
 1016 utilized for the purpose of assigning individuals to participate  
 1017 in political campaigns. Duties and responsibilities of  
 1018 interchange employees shall be limited to the mission and goals  
 1019 of the agencies of government.

1020 (6) For the 2017-2018 ~~2016-2017~~ fiscal year only, the  
 1021 assignment of an employee of a state agency as provided in this  
 1022 section may be made if recommended by the Governor or Chief  
 1023 Justice, as appropriate, and approved by the chairs of the  
 1024 legislative appropriations committees. Such actions shall be  
 1025 deemed approved if neither chair provides written notice of

1026 objection within 14 days after receiving notice of the action  
 1027 pursuant to s. 216.177. This subsection expires July 1, 2018  
 1028 ~~2017~~.

1029 Section 37. In order to implement Specific Appropriations  
 1030 2681 and 2682 of the 2017-2018 General Appropriations Act and  
 1031 notwithstanding s. 11.13(1), Florida Statutes, the authorized  
 1032 salaries for members of the Legislature for the 2017-2018 fiscal  
 1033 year shall be set at the same level in effect on July 1, 2010.  
 1034 This section expires July 1, 2018.

1035 Section 38. In order to implement the transfer of funds to  
 1036 the General Revenue Fund from trust funds in the 2017-2018  
 1037 General Appropriations Act, paragraph (b) of subsection (2) of  
 1038 section 215.32, Florida Statutes, is reenacted to read:

1039 215.32 State funds; segregation.--

1040 (2) The source and use of each of these funds shall be as  
 1041 follows:

1042 (b)1. The trust funds shall consist of moneys received by  
 1043 the state which under law or under trust agreement are  
 1044 segregated for a purpose authorized by law. The state agency or  
 1045 branch of state government receiving or collecting such moneys  
 1046 is responsible for their proper expenditure as provided by law.  
 1047 Upon the request of the state agency or branch of state  
 1048 government responsible for the administration of the trust fund,  
 1049 the Chief Financial Officer may establish accounts within the  
 1050 trust fund at a level considered necessary for proper

1051 | accountability. Once an account is established, the Chief  
 1052 | Financial Officer may authorize payment from that account only  
 1053 | upon determining that there is sufficient cash and releases at  
 1054 | the level of the account.

1055 |         2. In addition to other trust funds created by law, to the  
 1056 | extent possible, each agency shall use the following trust funds  
 1057 | as described in this subparagraph for day-to-day operations:

1058 |         a. Operations or operating trust fund, for use as a  
 1059 | depository for funds to be used for program operations funded by  
 1060 | program revenues, with the exception of administrative  
 1061 | activities when the operations or operating trust fund is a  
 1062 | proprietary fund.

1063 |         b. Operations and maintenance trust fund, for use as a  
 1064 | depository for client services funded by third-party payors.

1065 |         c. Administrative trust fund, for use as a depository for  
 1066 | funds to be used for management activities that are departmental  
 1067 | in nature and funded by indirect cost earnings and assessments  
 1068 | against trust funds. Proprietary funds are excluded from the  
 1069 | requirement of using an administrative trust fund.

1070 |         d. Grants and donations trust fund, for use as a  
 1071 | depository for funds to be used for allowable grant or donor  
 1072 | agreement activities funded by restricted contractual revenue  
 1073 | from private and public nonfederal sources.

1074 |         e. Agency working capital trust fund, for use as a  
 1075 | depository for funds to be used pursuant to s. 216.272.

1076 f. Clearing funds trust fund, for use as a depository for  
 1077 funds to account for collections pending distribution to lawful  
 1078 recipients.

1079 g. Federal grant trust fund, for use as a depository for  
 1080 funds to be used for allowable grant activities funded by  
 1081 restricted program revenues from federal sources.

1082  
 1083 To the extent possible, each agency must adjust its internal  
 1084 accounting to use existing trust funds consistent with the  
 1085 requirements of this subparagraph. If an agency does not have  
 1086 trust funds listed in this subparagraph and cannot make such  
 1087 adjustment, the agency must recommend the creation of the  
 1088 necessary trust funds to the Legislature no later than the next  
 1089 scheduled review of the agency's trust funds pursuant to s.  
 1090 215.3206.

1091 3. All such moneys are hereby appropriated to be expended  
 1092 in accordance with the law or trust agreement under which they  
 1093 were received, subject always to the provisions of chapter 216  
 1094 relating to the appropriation of funds and to the applicable  
 1095 laws relating to the deposit or expenditure of moneys in the  
 1096 State Treasury.

1097 4.a. Notwithstanding any provision of law restricting the  
 1098 use of trust funds to specific purposes, unappropriated cash  
 1099 balances from selected trust funds may be authorized by the  
 1100 Legislature for transfer to the Budget Stabilization Fund and

1101 General Revenue Fund in the General Appropriations Act.  
 1102       b. This subparagraph does not apply to trust funds  
 1103 required by federal programs or mandates; trust funds  
 1104 established for bond covenants, indentures, or resolutions whose  
 1105 revenues are legally pledged by the state or public body to meet  
 1106 debt service or other financial requirements of any debt  
 1107 obligations of the state or any public body; the Division of  
 1108 Licensing Trust Fund in the Department of Agriculture and  
 1109 Consumer Services; the State Transportation Trust Fund; the  
 1110 trust fund containing the net annual proceeds from the Florida  
 1111 Education Lotteries; the Florida Retirement System Trust Fund;  
 1112 trust funds under the management of the State Board of Education  
 1113 or the Board of Governors of the State University System, where  
 1114 such trust funds are for auxiliary enterprises, self-insurance,  
 1115 and contracts, grants, and donations, as those terms are defined  
 1116 by general law; trust funds that serve as clearing funds or  
 1117 accounts for the Chief Financial Officer or state agencies;  
 1118 trust funds that account for assets held by the state in a  
 1119 trustee capacity as an agent or fiduciary for individuals,  
 1120 private organizations, or other governmental units; and other  
 1121 trust funds authorized by the State Constitution.

1122       Section 39. The amendment to s. 215.32(2)(b), Florida  
 1123 Statutes, as carried forward by this act from chapter 2011-47,  
 1124 Laws of Florida, expires July 1, 2018, and the text of that  
 1125 paragraph shall revert to that in existence on June 30, 2011,

1126 except that any amendments to such text enacted other than by  
 1127 this act shall be preserved and continue to operate to the  
 1128 extent that such amendments are not dependent upon the portions  
 1129 of text which expire pursuant to this section.

1130 Section 40. In order to implement appropriations in the  
 1131 2017-2018 General Appropriations Act for state employee travel,  
 1132 the funds appropriated to each state agency which may be used  
 1133 for travel by state employees shall be limited during the 2017-  
 1134 2018 fiscal year to travel for activities that are critical to  
 1135 each state agency's mission. Funds may not be used for travel by  
 1136 state employees to foreign countries, other states, conferences,  
 1137 staff training activities, or other administrative functions  
 1138 unless the agency head has approved, in writing, that such  
 1139 activities are critical to the agency's mission. The agency head  
 1140 shall consider using teleconferencing and other forms of  
 1141 electronic communication to meet the needs of the proposed  
 1142 activity before approving mission-critical travel. This section  
 1143 does not apply to travel for law enforcement purposes, military  
 1144 purposes, emergency management activities, or public health  
 1145 activities. This section expires July 1, 2018.

1146 Section 41. In order to implement appropriations in the  
 1147 2017-2018 General Appropriations Act for state employee travel  
 1148 and notwithstanding s. 112.061, Florida Statutes, costs for  
 1149 lodging associated with a meeting, conference, or convention  
 1150 organized or sponsored in whole or in part by a state agency or



1151 the judicial branch may not exceed \$150 per day. An employee may  
 1152 expend his or her own funds for any lodging expenses in excess  
 1153 of \$150 per day. For purposes of this section, a meeting does  
 1154 not include travel activities for conducting an audit,  
 1155 examination, inspection, or investigation or travel activities  
 1156 related to a litigation or emergency response. This section  
 1157 expires July 1, 2018.

1158 Section 42. In order to implement appropriations in the  
 1159 2017-2018 General Appropriations Act for executive branch and  
 1160 judicial branch employee travel, the executive branch state  
 1161 agencies and the judicial branch must collaborate with the  
 1162 Executive Office of the Governor and the Department of  
 1163 Management Services to implement the statewide travel management  
 1164 system funded in Specific Appropriation 2718A in the 2017-2018  
 1165 General Appropriations Act. For the purpose of complying with s.  
 1166 112.061, Florida Statutes, all executive branch state agencies  
 1167 and the judicial branch must use the statewide travel management  
 1168 system. This section expires July 1, 2018.

1169 Section 43. In order to implement section 8 of the 2017-  
 1170 2018 General Appropriations Act, section 110.12315, Florida  
 1171 Statutes, is reenacted and a new subsection (12) is added to  
 1172 read:

1173 110.12315 Prescription drug program.—The state employees'  
 1174 prescription drug program is established. This program shall be  
 1175 administered by the Department of Management Services, according

1176 to the terms and conditions of the plan as established by the  
 1177 relevant provisions of the annual General Appropriations Act and  
 1178 implementing legislation, subject to the following conditions:

1179 (1) The department shall allow prescriptions written by  
 1180 health care providers under the plan to be filled by any  
 1181 licensed pharmacy pursuant to contractual claims-processing  
 1182 provisions. Nothing in this section may be construed as  
 1183 prohibiting a mail order prescription drug program distinct from  
 1184 the service provided by retail pharmacies.

1185 (2) In providing for reimbursement of pharmacies for  
 1186 prescription medicines dispensed to members of the state group  
 1187 health insurance plan and their dependents under the state  
 1188 employees' prescription drug program:

1189 (a) Retail pharmacies participating in the program must be  
 1190 reimbursed at a uniform rate and subject to uniform conditions,  
 1191 according to the terms and conditions of the plan.

1192 (b) There shall be a 30-day supply limit for prescription  
 1193 card purchases, a 90-day supply limit for maintenance  
 1194 prescription drug purchases, and a 90-day supply limit for mail  
 1195 order or mail order prescription drug purchases.

1196 (c) The pharmacy dispensing fee shall be negotiated by the  
 1197 department.

1198 (3) Pharmacy reimbursement rates shall be as follows:

1199 (a) For mail order and specialty pharmacies contracting  
 1200 with the department, reimbursement rates shall be as established

1201 in the contract.

1202 (b) For retail pharmacies, the reimbursement rate shall be  
 1203 at the same rate as mail order pharmacies under contract with  
 1204 the department.

1205 (4) The department shall maintain the preferred brand name  
 1206 drug list to be used in the administration of the state  
 1207 employees' prescription drug program.

1208 (5) The department shall maintain a list of maintenance  
 1209 drugs.

1210 (a) Preferred provider organization health plan members  
 1211 may have prescriptions for maintenance drugs filled up to three  
 1212 times as a 30-day supply through a retail pharmacy; thereafter,  
 1213 prescriptions for the same maintenance drug must be filled as a  
 1214 90-day supply either through the department's contracted mail  
 1215 order pharmacy or through a retail pharmacy.

1216 (b) Health maintenance organization health plan members  
 1217 may have prescriptions for maintenance drugs filled as a 90-day  
 1218 supply either through a mail order pharmacy or through a retail  
 1219 pharmacy.

1220 (6) Copayments made by health plan members for a 90-day  
 1221 supply through a retail pharmacy shall be the same as copayments  
 1222 made for a 90-day supply through the department's contracted  
 1223 mail order pharmacy.

1224 (7) The department shall establish the reimbursement  
 1225 schedule for prescription pharmaceuticals dispensed under the

1226 program. Reimbursement rates for a prescription pharmaceutical  
 1227 must be based on the cost of the generic equivalent drug if a  
 1228 generic equivalent exists, unless the physician, advanced  
 1229 registered nurse practitioner, or physician assistant  
 1230 prescribing the pharmaceutical clearly states on the  
 1231 prescription that the brand name drug is medically necessary or  
 1232 that the drug product is included on the formulary of drug  
 1233 products that may not be interchanged as provided in chapter  
 1234 465, in which case reimbursement must be based on the cost of  
 1235 the brand name drug as specified in the reimbursement schedule  
 1236 adopted by the department.

1237 (8) The department shall conduct a prescription  
 1238 utilization review program. In order to participate in the state  
 1239 employees' prescription drug program, retail pharmacies  
 1240 dispensing prescription medicines to members of the state group  
 1241 health insurance plan or their covered dependents, or to  
 1242 subscribers or covered dependents of a health maintenance  
 1243 organization plan under the state group insurance program, shall  
 1244 make their records available for this review.

1245 (9) The department shall implement such additional cost-  
 1246 saving measures and adjustments as may be required to balance  
 1247 program funding within appropriations provided, including a  
 1248 trial or starter dose program and dispensing of long-term-  
 1249 maintenance medication in lieu of acute therapy medication.

1250 (10) Participating pharmacies must use a point-of-sale

1251 device or an online computer system to verify a participant's  
 1252 eligibility for coverage. The state is not liable for  
 1253 reimbursement of a participating pharmacy for dispensing  
 1254 prescription drugs to any person whose current eligibility for  
 1255 coverage has not been verified by the state's contracted  
 1256 administrator or by the department.

1257 (11) Under the state employees' prescription drug program  
 1258 copayments must be made as follows:

1259 (a) Effective January 1, 2013, for the State Group Health  
 1260 Insurance Standard Plan:

- 1261 1. For generic drug with card .....\$7.
- 1262 2. For preferred brand name drug with card .....\$30.
- 1263 3. For nonpreferred brand name drug with card .....\$50.
- 1264 4. For generic mail order drug .....\$14.
- 1265 5. For preferred brand name mail order drug .....\$60.
- 1266 6. For nonpreferred brand name mail order drug .....\$100.

1267 (b) Effective January 1, 2006, for the State Group Health  
 1268 Insurance High Deductible Plan:

- 1269 1. Retail coinsurance for generic drug with card ..... 30%.
- 1270 2. Retail coinsurance for preferred brand name drug with  
 1271 card 30%.
- 1272 3. Retail coinsurance for nonpreferred brand name drug  
 1273 with card ..... 50%.
- 1274 4. Mail order coinsurance for generic drug ..... 30%.
- 1275 5. Mail order coinsurance for preferred brand name drug30%.

1276 6. Mail order coinsurance for nonpreferred brand name drug 50%.

1277 (c) The department shall create a preferred brand name  
 1278 drug list to be used in the administration of the state  
 1279 employees' prescription drug program.

1280 (12) Notwithstanding section 8 of chapter 99-255, Laws of  
 1281 Florida, the department shall implement formulary management  
 1282 measures by which prescription drugs and supplies shall be  
 1283 subject to formulary inclusion and exclusion. Prescription  
 1284 drugs and supplies that are excluded may be made available to an  
 1285 individual member of the state employee prescription drug  
 1286 program or their covered independents for inclusion by medical  
 1287 necessity review. This subsection expires July 1, 2018.

1288 Section 44. (1) The amendment to s. 110.12315(2)(b),  
 1289 Florida Statutes, as carried forward by this act from chapter  
 1290 2014-53, Laws of Florida, expires July 1, 2018, and the text of  
 1291 that paragraph shall revert to that in existence on June 30,  
 1292 2012, except that any amendments to such text enacted other than  
 1293 by this act shall be preserved and continue to operate to the  
 1294 extent that such amendments are not dependent upon the portions  
 1295 of text which expire pursuant to this section.

1296 (2) The amendments to s. 110.12315(2)(c) and (3)-(6),  
 1297 Florida Statutes, as carried forward by this act from chapter  
 1298 2014-53, Laws of Florida, expire July 1, 2018, and the text and  
 1299 numbering of those provisions shall revert to that in existence  
 1300 on June 30, 2014, except that any amendments to such text

1301 enacted other than by this act shall be preserved and continue  
 1302 to operate to the extent that such amendments are not dependent  
 1303 upon the portions of text that expire pursuant to this section.

1304 (3) The amendment to s. 110.12315(7), Florida Statutes, as  
 1305 carried forward by this act from chapter 2014-53, Laws of  
 1306 Florida, expires July 1, 2018, and shall revert to the text of  
 1307 that subsection in existence on December 31, 2010, except that  
 1308 any amendments to such text enacted other than by this act shall  
 1309 be preserved and continue to operate to the extent that such  
 1310 amendments are not dependent upon the portions of text which  
 1311 expire pursuant to this section.

1312 Section 45. In order to implement the appropriation of  
 1313 funds in the special categories, contracted services, and  
 1314 expenses categories of the 2017-2018 General Appropriations Act,  
 1315 a state agency may not enter into a contract containing a  
 1316 nondisclosure clause that prohibits the contractor from  
 1317 disclosing information relevant to the performance of the  
 1318 contract to members or staff of the Senate or the House of  
 1319 Representatives. This section expires July 1, 2018.

1320 Section 46. Any section of this act which implements a  
 1321 specific appropriation or specifically identified proviso  
 1322 language in the 2017-2018 General Appropriations Act is void if  
 1323 the specific appropriation or specifically identified proviso  
 1324 language is vetoed. Any section of this act which implements  
 1325 more than one specific appropriation or more than one portion of

1326 specifically identified proviso language in the 2017-2018  
 1327 General Appropriations Act is void if all the specific  
 1328 appropriations or portions of specifically identified proviso  
 1329 language are vetoed.

1330 Section 47. If any other act passed during the 2017  
 1331 Regular Session of the Legislature contains a provision that is  
 1332 substantively the same as a provision in this act, but that  
 1333 removes or is otherwise not subject to the future repeal applied  
 1334 to such provision by this act, the Legislature intends that the  
 1335 provision in the other act takes precedence and continues to  
 1336 operate, notwithstanding the future repeal provided by this act.

1337 Section 48. If any provision of this act or its  
 1338 application to any person or circumstance is held invalid, the  
 1339 invalidity does not affect other provisions or applications of  
 1340 the act which can be given effect without the invalid provision  
 1341 or application, and to this end the provisions of this act are  
 1342 severable.

1343 Section 49. Except as otherwise expressly provided in this  
 1344 act and except for this section, which shall take effect upon  
 1345 becoming a law, this act shall take effect July 1, 2017; or, if  
 1346 this act fails to become a law until after that date, it shall  
 1347 take effect upon becoming a law and shall operate retroactively  
 1348 to July 1, 2017.





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB APC 17-04 Collective Bargaining  
**SPONSOR(S):** Appropriations Committee  
**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Appropriations Committee		Delaney <i>LD</i>	Leznoff <i>[Signature]</i>

**SUMMARY ANALYSIS**

The bill directs that the resolution of collective bargaining issues at impasse for the 2017-2018 fiscal year regarding state employees will ultimately be resolved based on the spending decisions included in the General Appropriations Act or legislation implemented for that Act for the 2017-18 fiscal year.

The bill has an effective date of July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### *Background:*

Chapter 447, F.S., specifies the process for collective bargaining for public employees. The bargaining agent and the negotiator for the state must bargain collectively in the determination of the wages, hours, and terms and conditions of employment of the employees within the bargaining unit. Any collective bargaining agreement reached must be reduced to writing, signed by the chief executive officer for the state and the bargaining agent for the union, and submitted to the members of the bargaining unit for ratification.

Upon execution of the collective bargaining agreement, the Governor must request the legislative body to appropriate amounts sufficient to fund the provisions of the agreement. If the Legislature appropriates funds that are not sufficient to fund the agreement, the agreement must be administered on the basis of the amounts actually appropriated.

Typically, at the state level, an agreement is not reached on all issues. In that instance, and pursuant to s. 216.163(6), F.S., an impasse is declared on all unresolved issues when the Governor's Budget Recommendations are released. Within five days of the start of the impasse period, each party is required to notify the presiding officers of the Legislature of the unresolved issues. A joint select committee of members of the Florida House of Representatives and the Senate is appointed to review the positions of the parties. The committee's recommendation is provided to the presiding officers no later than ten days before the start of the regular legislative session. During the session, the Legislature shall take action to resolve all issues remaining at impasse. Any actions taken by the Legislature are binding on the parties.

Following the resolution of the impasse issues, the parties are required to reduce to writing an agreement that includes those issues agreed to by the parties as well as those issues resolved by the Legislature. As noted above, the agreement must be signed by the chief executive officer and the bargaining agent and presented to the members of the bargaining unit for ratification.

If the members ratify the agreement, all the provisions of the agreement take effect. If the members do not ratify the agreement, the issues resolved by the Legislature take effect for the next fiscal year which was the subject of the negotiations.

The certified bargaining units for state employees and the respective bargaining agents include:

#### **American Federation of State, County and Municipal Employees, Council 79**

- Administrative and Clerical Unit
- Operational Services Unit
- Human Services Unit
- Professional Unit

#### **Florida Nurses Association**

- Professional Health Care Unit

### **Police Benevolent Association**

- Special Agent Unit
- Law Enforcement Unit
- Florida Highway Patrol Unit
- Lottery Law Enforcement Unit
- Security Services Unit

### **Florida State Fire Service Association**

- Fire Service Unit

### **Federation of Physicians and Dentists**

- Supervisory Non-professional Unit
- Physicians Unit

### **State Employees Attorneys Guild**

- Attorneys Unit

### **Federation of Public Employees**

- Lottery Administrative and Support Unit

#### *Provisions of the bill:*

The bill provides that all economic issues at impasse for the 2017-2018 fiscal year regarding state employees will be resolved pursuant to instructions provided in the General Appropriations Act for the 2017-2018 fiscal year and the relevant provisions of any legislation enacted to implement the General Appropriations Act.

#### **B. SECTION DIRECTORY:**

Section 1: Provides for resolution of collective bargaining issues at impasse between the State of Florida and certified collective bargaining units pursuant to specified instructions.

Section 2: Provides effective date of July 1, 2017.

## **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:

None

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None. This bill does not appear to affect county or municipal government.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1                   A bill to be entitled  
 2           An act relating to collective bargaining; providing  
 3           for the resolution of collective bargaining issues at  
 4           impasse between the State of Florida and certified  
 5           bargaining units for state employees pursuant to  
 6           specified instructions; providing an effective date.

7

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

9


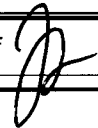
10           Section 1. All collective bargaining issues for which  
 11 negotiations have reached an impasse for the 2017-2018 fiscal  
 12 year between the State of Florida and the legal representatives  
 13 of the certified bargaining units for state employees shall be  
 14 resolved pursuant to the instructions provided in the General  
 15 Appropriations Act and the relevant provisions of any  
 16 legislation enacted to implement the General Appropriations Act  
 17 for the 2017-2018 fiscal year.

18           Section 2. This act shall take effect July 1, 2017.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB APC 17-05 Higher Education  
**SPONSOR(S):** Appropriations Committee  
**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Appropriations Committee		Lloyd 	Leznoff 

**SUMMARY ANALYSIS**

The proposed committee bill conforms statutes to the funding decisions included in the House proposed General Appropriations Act (GAA) for Fiscal Year 2017-18.

The proposed committee bill amends ss. 1004.28 and 1004.70, F.S., removing the provision that allows a college or university direct support organization (DSO) to use personal services from the college or university. This will result in a cost savings for the colleges and universities. The proposed committee bill prohibits a college or university DSO from giving, either directly or indirectly, any gift to a political committee and removes any exceptions. The proposed committee bill narrows the provisions of current law relating to the confidentiality of records of a university or college DSO. Pursuant to the proposed committee bill, only records relating to the identity of donors who wish to remain anonymous will be confidential.

The House proposed General Appropriations Act removes \$9.9 million in recurring general revenue funds from the Florida College System and \$53.2 million in recurring general revenue funds from the State University System as a result of cost savings realized from the proposed committee bill.

The effective date of the proposed committee bill is July 1, 2017.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

A direct support organization (DSO) for a college or university is a Florida corporation not for profit, incorporated under the provisions of chapter 617, F.S. and approved by the Department of State<sup>1</sup>. Each of the 28 state colleges, and each of the 12 state universities have at least one direct support organization. The DSO's are organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to, or for the benefit of, a Florida College System institution or a state university<sup>2</sup>. Each DSO has been reviewed and certified by the college or university board of trustees to be operating in a manner consistent with the goals of the college or university and in the best interest of the state<sup>3</sup>.

The college or university boards of trustees are currently authorized to permit the use of property, facilities, and personal services at their college or university by the DSO<sup>4</sup>. "Personal services" includes full-time or part-time personnel as well as payroll processing<sup>5</sup>. Currently, 10 of the state universities and 21 of the state colleges allow their DSO's to use personal services which are funded through university and college funds.

The college and university DSO's are currently prohibited from giving, either directly or indirectly, any gift to a political committee for any purpose other than those certified by a majority roll call vote of the governing board of the DSO at a regularly scheduled meeting as being directly related to the educational mission of the university.<sup>6</sup>

Currently, all records of the University DSO's other than the auditor's report, management letter, and any supplemental data requested by the Board of Governors, university board of trustees, the Auditor General, and the Office of Program Policy Analysis and Government Accountability are confidential.<sup>7</sup> All records of the college DSO's, other than the auditor's report, any information necessary for the auditor's report, any information related to the expenditure of funds, and any supplemental data requested by the board of trustees, the auditor General, and the Office of Program Policy Analysis and Government Accountability is confidential.<sup>8</sup>

##### Effect of Proposed Changes

The proposed committee bill removes the provisions that allow a college or university DSO to use personal services from the college or university. The DSO's will be required to use other funds to pay for staff.

The proposed committee bill prohibits a college or university DSO from giving, either directly or indirectly, any gift to a political committee and removes any exceptions.

<sup>1</sup> s. 1004.70(1)(a)(1), F.S.; s. 1004.28(1)(a)(1), F.S.

<sup>2</sup> s. 1004.70(1)(a)(2), F.S.; s. 1004.28(1)(a)(2), F.S.

<sup>3</sup> s. 1004.70(1)(a)(3), F.S.; s. 1004.28(1)(a)(3), F.S.

<sup>4</sup> s. 1004.70(3)(a), F.S.; s. 1004.28(2)(a), F.S.

<sup>5</sup> s. 1004.70(1)(b), F.S.; s. 1004.28(1)(b), F.S.

<sup>6</sup> s. 1004.70(4)(d), F.S.; s. 1004.28(4), F.S.

<sup>7</sup> s. 1004.28(5)(b), F.S.

<sup>8</sup> s. 1004.70(6), F.S.

The proposed committee bill narrows the provisions of current law relating to the confidentiality of records of a university or college DSO. Pursuant to the proposed committee bill, only records relating to the identity of donors who wish to remain anonymous will be confidential.

**B. SECTION DIRECTORY:**

Section 1. Amends s. 1004.28, F.S. relating to Direct-support organizations; use of property; board of directors activities; audits; facilities.

Section 2. Amends s. 1004.70, F.S. relating to Florida College System institution direct-support organizations.

Section 3. Provides an effective date of July 1, 2017.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

There are 21 Florida college DSO's that are using personal services from their college. The college DSO's reported \$9.9 million of college funds transferred to the DSO's. See table below.

<b>College Foundation</b>	<b>College Funds spent on Personal Services</b>
Broward College Foundation	\$1,119,874
Chipola College	\$159,546
College of Central Florida	\$369,239
Daytona State College	\$379,291
Florida Gateway College	\$173,512
Florida SouthWestern State College Foundation	\$562,334
Florida State College at Jacksonville	\$555,874
Hillsborough Community College Foundation	\$570,712
Lake Sumter State College	\$283,841
North Florida Community College	\$189,391
Northwest Florida State College	\$210,448
Palm Beach State College	\$476,237
Pasco Hernando State College Foundation, Inc.	\$334,785
Pensacola State College	\$581,196
Polk State College	\$615,076
Seminole State College of Florida Foundation	\$654,803
St. Johns River State College Foundation	\$225,912
St. Petersburg College Foundation, Inc.	\$692,808
State College of Florida - Manatee-Sarasota	\$374,124
Tallahassee Community College	\$668,781
Valencia College	\$669,113
<b>Total</b>	<b>\$9,866,896</b>

There are 10 state university DSO's that are using personal services from their university. The university DSO's reported \$53.2 million of university funds transferred to the DSO's. See table below.

<b>University Foundation</b>	<b>University Funds spent of Personal Services</b>
University of Central Florida Foundation, Inc.	\$10,130,148
University of North Florida Foundation, Inc.	\$1,862,750
Florida Polytechnic University Foundation, Inc.	\$212,422
Florida State University Foundation, Inc.	\$7,346,942
USF Foundation	\$9,650,121
Florida International University, Inc.	\$6,997,249
University of Florida Foundation, Inc.	\$11,752,369
Florida Agricultural & Mechanical University Foundation, Inc.	\$235,340
Florida Atlantic University Foundation, Inc	\$4,250,975
University of West Florida Foundation, Inc.	\$773,000
<b>Total</b>	<b>\$53,211,316</b>

The proposed committee bill removes the provision that allows a college or university DSO to use personal services from the college or university. This will result in a cost savings for the colleges and universities. The DSO's will be required to use other funds to pay for staff. The DSO's revenues can come from alumni and community contributions, student housing income, investment gains, license tag revenues, as well as other revenue sources.

The House proposed General Appropriations Act removes \$9.9 million in recurring general revenue from the Florida College System and \$53.2 million in recurring general revenue from the State University System as a result of cost savings realized from this proposed committee bill.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to higher education; amending s.  
 3           1004.28, F.S.; removing provisions authorizing a  
 4           university direct-support organization to use the  
 5           personal services of a state university; prohibiting a  
 6           university direct-support organization from giving any  
 7           gift to a political entity; providing that only  
 8           specified records of a university direct-support  
 9           organization are confidential and exempt from  
 10          specified provisions; amending s. 1004.70, F.S.;  
 11          removing provisions authorizing a direct-support  
 12          organization to use the personal services of a Florida  
 13          College System institution; prohibiting a Florida  
 14          College System institution direct-support organization  
 15          from giving any gift to a political entity; providing  
 16          that only specified records of a Florida College  
 17          System institution direct-support organization are  
 18          confidential and exempt from specified provisions;  
 19          providing an effective date.

20  
 21 Be It Enacted by the Legislature of the State of Florida:  
 22

23           Section 1. Paragraph (b) of subsection (1), subsections  
 24           (2) and (4), and paragraph (b) of subsection (5) of section  
 25           1004.28, Florida Statutes, are amended to read:

26 1004.28 Direct-support organizations; use of property;  
 27 board of directors; activities; audit; facilities.—

28 (1) DEFINITIONS.—For the purposes of this section:

29 ~~(b) "Personal services" includes full time or part time~~  
 30 ~~personnel as well as payroll processing.~~

31 (2) USE OF PROPERTY.—

32 (a) Each state university board of trustees is authorized  
 33 to permit the use of property and, facilities, ~~and personal~~  
 34 ~~services~~ at any state university by any university direct-  
 35 support organization, and, subject to the provisions of this  
 36 section, direct-support organizations may establish accounts  
 37 with the State Board of Administration for investment of funds  
 38 pursuant to part IV of chapter 218.

39 (b) The board of trustees, in accordance with rules and  
 40 guidelines of the Board of Governors, shall prescribe by rule  
 41 conditions with which a university direct-support organization  
 42 must comply in order to use property or, facilities, ~~or personal~~  
 43 ~~services~~ at any state university. Such rules shall provide for  
 44 budget and audit review and oversight by the board of trustees.

45 (c) The board of trustees shall not permit the use of  
 46 property or, facilities, ~~or personal services~~ at any state  
 47 university by any university direct-support organization that  
 48 does not provide equal employment opportunities to all persons  
 49 regardless of race, color, religion, gender, age, or national  
 50 origin.

51 (4) ACTIVITIES; RESTRICTION.—A university direct-support  
 52 organization is prohibited from giving, either directly or  
 53 indirectly, any gift to a political committee as defined in s.  
 54 106.011 ~~for any purpose other than those certified by a majority~~  
 55 ~~roll call vote of the governing board of the direct support~~  
 56 ~~organization at a regularly scheduled meeting as being directly~~  
 57 ~~related to the educational mission of the university.~~

58 (5) ANNUAL AUDIT; PUBLIC RECORDS EXEMPTION; PUBLIC  
 59 MEETINGS EXEMPTION.—

60 (b) All records of the organization relating to the  
 61 identity of donors who desire to remain anonymous ~~other than the~~  
 62 ~~auditor's report, management letter, and any supplemental data~~  
 63 ~~requested by the Board of Governors, the university board of~~  
 64 ~~trustees, the Auditor General, and the Office of Program Policy~~  
 65 ~~Analysis and Government Accountability~~ shall be confidential and  
 66 exempt from s. 119.07(1).

67 Section 2. Subsections (1) and (3), paragraph (d) of  
 68 subsection (4), and subsection (6) of section 1004.70, Florida  
 69 Statutes, are amended to read:

70 1004.70 Florida College System institution direct-support  
 71 organizations.—

72 (1) DEFINITION ~~DEFINITIONS~~.—For the purposes of this  
 73 section a—

74 ~~(a)~~ "Florida College System institution direct-support  
 75 organization" means an organization that is:

76        (a)1. A Florida corporation not for profit, incorporated  
 77 under the provisions of chapter 617 and approved by the  
 78 Department of State.

79        (b)2- Organized and operated exclusively to receive, hold,  
 80 invest, and administer property and to make expenditures to, or  
 81 for the benefit of, a Florida College System institution in this  
 82 state.

83        (c)3- An organization that the Florida College System  
 84 institution board of trustees, after review, has certified to be  
 85 operating in a manner consistent with the goals of the Florida  
 86 College System institution and in the best interest of the  
 87 state. Any organization that is denied certification by the  
 88 board of trustees may not use the name of the Florida College  
 89 System institution that it serves.

90        ~~(b) "Personal services" includes full time or part time~~  
 91 ~~personnel as well as payroll processing.~~

92        (3) USE OF PROPERTY.-

93        (a) The board of trustees is authorized to permit the use  
 94 of property and, facilities, ~~and personal services~~ at any  
 95 Florida College System institution by any Florida College System  
 96 institution direct-support organization, subject to the  
 97 provisions of this section.

98        (b) The board of trustees is authorized to prescribe by  
 99 rule any condition with which a Florida College System  
 100 institution direct-support organization must comply in order to



101 use property or, facilities, ~~or personal services~~ at any Florida  
 102 College System institution.

103 (c) The board of trustees may not permit the use of  
 104 property or, facilities, ~~or personal services~~ at any Florida  
 105 College System institution by any Florida College System  
 106 institution direct-support organization that does not provide  
 107 equal employment opportunities to all persons regardless of  
 108 race, color, national origin, gender, age, or religion.

109 (4) ACTIVITIES; RESTRICTIONS.—

110 (d) A Florida College System institution direct-support  
 111 organization is prohibited from giving, either directly or  
 112 indirectly, any gift to a political committee as defined in s.  
 113 106.011 ~~for any purpose other than those certified by a majority~~  
 114 ~~roll call vote of the governing board of the direct support~~  
 115 ~~organization at a regularly scheduled meeting as being directly~~  
 116 ~~related to the educational mission of the Florida College System~~  
 117 ~~institution.~~

118 (6) ANNUAL AUDIT.—Each direct-support organization shall  
 119 provide for an annual financial audit in accordance with rules  
 120 adopted by the Auditor General pursuant to s. 11.45(8). The  
 121 annual audit report must be submitted, within 9 months after the  
 122 end of the fiscal year, to the Auditor General, the State Board  
 123 of Education, and the board of trustees for review. The board of  
 124 trustees, the Auditor General, and the Office of Program Policy  
 125 Analysis and Government Accountability may require and receive

126 from the organization or from its independent auditor any detail  
 127 or supplemental data relative to the operation of the  
 128 organization. The identity of donors who desire to remain  
 129 anonymous shall be protected, and that anonymity shall be  
 130 maintained in the auditor's report. All records of the  
 131 organization relating to the identity of donors who desire to  
 132 remain anonymous, ~~other than the auditor's report, any~~  
 133 ~~information necessary for the auditor's report, any information~~  
 134 ~~related to the expenditure of funds, and any supplemental data~~  
 135 ~~requested by the board of trustees, the Auditor General, and the~~  
 136 ~~Office of Program Policy Analysis and Government Accountability,~~  
 137 shall be confidential and exempt from the provisions of s.  
 138 119.07(1).

139 Section 3. This act shall take effect July 1, 2017.