Tab 1	**CS/SB 112** by **HP, Harrell (CO-INTRODUCERS) Wright**; (Identical to CS/H 00183) Step-therapy Protocols

Tab 2	**CS/CS/SB 162** by **RI, EN, Collins**; (Similar to CS/CS/H 00023) Water and Wastewater Facility Operators

801760	A	S	RCS	FP, Collins	Delete L.29 - 31:	04/13 05:30 PM

Tab 3	**CS/SB 240** by **ED, Hutson (CO-INTRODUCERS) Simon**; (Compare to CS/H 00141) Education

117816	D	S	RCS	FP, Hutson	Delete everything after	04/13 05:32 PM

Tab 4	**CS/CS/SB 280** by **ACJ, CJ, Brodeur**; (Similar to CS/CS/H 00365) Controlled Substances

773068	D	S	RS	FP, Brodeur	Delete everything after	04/13 05:42 PM
718760	SD	S	RCS	FP, Brodeur	Delete everything after	04/13 05:42 PM

Tab 5	**CS/SB 290** by **ED, Jones (CO-INTRODUCERS) Berman**; (Similar to CS/H 00223) Public School Student Progression for Students with Disabilities

Tab 6	**CS/SB 302** by **BI, Grall**; (Identical to CS/CS/H 00003) Government and Corporate Activism

Tab 7	**CS/SB 364** by **GO, Avila**; (Similar to CS/CS/H 00535) Bereavement Benefits for State Employees

921764	A	S	RCS	FP, Avila	Delete L.24:	04/13 05:47 PM

Tab 8	**CS/SB 452** by **AHS, Harrell (CO-INTRODUCERS) Avila**; (Similar to CS/CS/H 00391) Home Health Aides for Medically Fragile Children

331410	A	S	RCS	FP, Harrell	btw L.130 - 131:	04/13 05:50 PM
542768	A	S	RCS	FP, Harrell	btw L.271 - 272:	04/13 05:50 PM

Tab 9	**CS/SB 486** by **CJ, Bradley (CO-INTRODUCERS) Martin**; (Identical to CS/H 00431) Solicitation of Minors to Commit Lewd or Lascivious Acts

Tab 10	**CS/SB 594** by **CA, Martin**; (Compare to CS/CS/H 00799) Property Insurance

792748	A	S	RCS	FP, Martin	btw L.163 - 164:	04/13 05:52 PM
372918	A	S	RCS	FP, DiCeglie	btw L.163 - 164:	04/13 05:52 PM

Tab 11	**CS/SB 1188** by **GO, Boyd**; (Similar to CS/CS/H 01159) Contract Liability

899040	A	S	RCS	FP, Boyd	Delete L.20 - 87:	04/13 05:54 PM

Tab 12	**CS/SB 1258** by **TR, Trumbull (CO-INTRODUCERS) Burgess, Gruters, Ingoglia**; (Identical to CS/H 01191) Use of Phosphogypsum

894136	A	S	UNFAV	FP, Berman	Delete L.52 - 53:	04/13 06:15 PM
719398	A	S	RCS	FP, Trumbull	Delete L.57:	04/13 06:15 PM

Tab 13	**CS/SB 1320** by **ED, Yarborough (CO-INTRODUCERS) Perry**; (Similar to CS/CS/H 01069) Child Protection in Public Schools

879888	A	S	UNFAV	FP, Berman	Delete L.83 - 101:	04/13 11:07 AM

Tab 14	**SB 1456** by **Avila**; (Similar to CS/H 01465) Firearm Offenses

957060	A	S	RCS	FP, Avila	btw L.420 - 421:	04/13 06:17 PM

Tab 15	**SB 1534** by **Martin**; (Compare to CS/CS/H 01627) Pretrial Release and Detention

118746	D	S	RS	FP, Martin	Delete everything after	04/13 06:21 PM
227786	SD	S	RCS	FP, Martin	Delete everything after	04/13 06:21 PM

Tab 16	**CS/SB 1550** by **HP, Brodeur (CO-INTRODUCERS) Rodriguez, Wright, Perry**; (Similar to CS/H 01509) Prescription Drugs

281818	D	S	RCS	FP, Brodeur	Delete everything after	04/13 05:03 PM

Tab 17	**CS/SB 1552** by **HP, Brodeur**; (Compare to CS/H 01509) Public Records/Pharmacy Benefit Managers

Tab 18	**CS/SB 7016** by **ACJ, CJ**; (Similar to CS/CS/CS/H 00929) Department of Corrections

855206	A	S	RCS	FP, Martin	Delete L.19 - 404:	04/13 05:06 PM

Tab 19	**SB 7044** by **RI**; Changes in Ownership of or Interest in Pari-mutuel Permits

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

FISCAL POLICY
Senator Hutson, Chair
Senator Stewart, Vice Chair

MEETING DATE: Thursday, April 13, 2023
TIME: 10:30 a.m.—4:00 p.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Hutson, Chair; Senator Stewart, Vice Chair; Senators Albritton, Berman, Boyd, Burton, Calatayud, Collins, DiCeglie, Garcia, Jones, Mayfield, Osgood, Rodriguez, Simon, Thompson, Torres, Trumbull, Wright, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**CS/SB 112** Health Policy / Harrell (Identical CS/H 183)	Step-therapy Protocols; Defining the term "serious mental illness"; requiring the Agency for Health Care Administration to approve drug products for Medicaid recipients for the treatment of serious mental illness without step-therapy prior authorization under certain circumstances, etc. HP 02/20/2023 Fav/CS AHS 03/08/2023 Favorable FP 04/13/2023 Favorable	Favorable Yeas 20 Nays 0
2	**CS/CS/SB 162** Regulated Industries / Environment and Natural Resources / Collins (Similar CS/CS/H 23)	Water and Wastewater Facility Operators; Revising legislative findings and intent; requiring the Department of Environmental Protection to issue water treatment plant operator licenses, water distribution system operator licenses, and domestic wastewater treatment plant operator licenses by reciprocity to certain applicants; providing licensure requirements; authorizing the department to issue temporary operator licenses during a declared state of emergency, etc. EN 03/20/2023 Fav/CS RI 03/29/2023 Fav/CS FP 04/13/2023 Fav/CS	Fav/CS Yeas 18 Nays 0
3	**CS/SB 240** Education Pre-K -12 / Hutson (Compare CS/H 141, CS/H 465, CS/CS/H 1537, CS/H 7051, CS/S 196, S 1430, S 2502)	Education; Requiring the Office of Reimagining Education and Career Help to work with other specified entities to provide certain information relating to workforce development boards; revising the list of credentials that must be included on the Master Credentials List; revising the entities that may be a local apprenticeship sponsor; modifying requirements for parental notification of acceleration options for students; revising the credit requirements for a high school diploma; revising which courses must be included on the CAPE Industry Certification Funding List; revising the cost factor for secondary career education programs; revising requirements for the Florida Pathways to Career Opportunities Grant Program, etc. ED 03/14/2023 Fav/CS FP 04/13/2023 Fav/CS	Fav/CS Yeas 19 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**CS/CS/SB 280** Appropriations Committee on Criminal and Civil Justice / Criminal Justice / Brodeur (Similar CS/CS/H 365)	Controlled Substances; Revising the elements that constitute the capital offense of murder in the first degree; revising the elements that constitute the offense of murder in the third degree and constitute a felony of the second degree; providing criminal penalties for adults who unlawfully distribute, deliver, sell, or dispense specified substances or mixtures and an injury or overdose of the user results; providing enhanced criminal penalties for repeat offenders, etc. CJ 02/14/2023 Fav/CS ACJ 03/21/2023 Fav/CS FP 04/13/2023 Fav/CS	Fav/CS Yeas 16 Nays 3
5	**CS/SB 290** Education Pre-K -12 / Jones (Similar CS/H 223)	Public School Student Progression for Students with Disabilities; Requiring comprehensive plans for student progression to provide for specified students with disabilities to be retained in prekindergarten at the discretion of a student's parent; authorizing certain prekindergarten students to receive instruction in early literacy skills, rather than intensive reading interventions; requiring certain prekindergarten students to receive such instruction, etc. ED 03/14/2023 Fav/CS AED 03/21/2023 Favorable FP 04/13/2023 Favorable	Favorable Yeas 18 Nays 0
6	**CS/SB 302** Banking and Insurance / Grall (Identical CS/CS/H 3)	Government and Corporate Activism; Requiring that investment decisions comply with a specified requirement related to the consideration of pecuniary factors; requiring the Department of Management Services to report certain noncompliance to the Attorney General; requiring that certain noncompliance be reported to the Attorney General, who is authorized to bring certain civil or administrative actions; prohibiting bond issuers from issuing environmental, social, and governance bonds and taking other related actions; prohibiting an awarding body from requesting certain documentation or giving preference to vendors based on their social, political, or ideological interests, etc. BI 03/29/2023 Fav/CS FP 04/13/2023 Favorable	Favorable Yeas 13 Nays 6

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	**CS/SB 364** Governmental Oversight and Accountability / Avila (Similar CS/CS/H 535)	Bereavement Benefits for State Employees; Citing this act as the "Respecting Their Sacrifice Act"; authorizing the head of a law enforcement agency to grant specified employees a certain number of hours of administrative leave for a specified purpose; authorizing the head of a law enforcement agency to deny such administrative leave under certain circumstances; authorizing travel expenses for certain members of a law enforcement agency for a specified purpose; increasing the amount to be paid toward the funeral and burial expenses of certain officers killed in the line of duty, etc. GO 03/07/2023 Fav/CS CJ 04/04/2023 Favorable FP 04/13/2023 Fav/CS	Fav/CS Yeas 19 Nays 0
8	**CS/SB 452** Appropriations Committee on Health and Human Services / Harrell (Similar CS/CS/H 391)	Home Health Aides for Medically Fragile Children; Requiring home health agencies to ensure that any tasks delegated to home health aides for medically fragile children meet specified requirements; establishing the home health aides for medically fragile children program for specified purposes; requiring the Agency for Health Care Administration, in consultation with the Board of Nursing, to approve training programs for home health aides for medically fragile children; authorizing home health aides for medically fragile children to administer certain medications under certain circumstances, etc. HP 02/20/2023 Favorable AHS 03/08/2023 Fav/CS FP 04/13/2023 Fav/CS	Fav/CS Yeas 20 Nays 0
9	**CS/SB 486** Criminal Justice / Bradley (Identical CS/H 431)	Solicitation of Minors to Commit Lewd or Lascivious Acts; Prohibiting a person 24 years of age or older from soliciting a person 16 or 17 years of age in writing to commit a lewd or lascivious act, etc. CJ 03/13/2023 Fav/CS ACJ 03/21/2023 Favorable FP 04/13/2023 Favorable	Favorable Yeas 20 Nays 0
10	**CS/SB 594** Community Affairs / Martin (Compare CS/CS/H 799, CS/H 1395, CS/CS/S 154)	Property Insurance; Adding wind uplift prevention to a list of fixtures or construction techniques for which a residential property insurance rate filing must include actuarially reasonable rate differentials or appropriate deductible reductions; revising rate change limitations for specified policies written by the Citizens Property Insurance Corporation, etc. BI 03/15/2023 Favorable CA 03/29/2023 Fav/CS FP 04/13/2023 Fav/CS	Fav/CS Yeas 20 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	**CS/SB 1188** Governmental Oversight and Accountability / Boyd (Similar CS/CS/H 1159)	Contract Liability; Requiring that certain procurement contracts contain a provision specifying a finite maximum limit of liability for a contractor; requiring maximum liability terms for such contract or purchase order to be specified as a defined monetary threshold or formula; requiring that certain procurement agreements or purchase orders include a specified provision, etc. GO 03/22/2023 Fav/CS FP 04/13/2023 Fav/CS	Fav/CS Yeas 17 Nays 0
12	**CS/SB 1258** Transportation / Trumbull (Identical CS/H 1191)	Use of Phosphogypsum; Authorizing the Department of Transportation to undertake demonstration projects using phosphogypsum in road construction aggregate material to determine its feasibility as a paving material; requiring the department to conduct a study on the suitability of using phosphogypsum as a construction aggregate material; prohibiting phosphogypsum from being regulated as solid waste if used in accordance with an allowed use under specified federal regulations and approvals, etc. TR 03/20/2023 Fav/CS EN 03/27/2023 Favorable FP 04/13/2023 Fav/CS	Fav/CS Yeas 16 Nays 2
13	**CS/SB 1320** Education Pre-K -12 / Yarborough (Similar CS/CS/H 1069, Compare CS/H 1223)	Child Protection in Public Schools; Defining the term "sex"; prohibiting an employee, contractor, or student of a public school from being required to refer to a person using personal titles or pronouns that do not correspond with that person's sex; prohibiting classroom instruction by school personnel on sexual orientation or gender identity until grade 9; providing that such prohibition applies to charter schools; providing that materials used to teach reproductive health or any disease as part of certain courses must be approved by the Department of Education; requiring district school boards to adopt and publish a specified process relating to student access to certain materials, etc. ED 03/20/2023 Fav/CS FP 04/13/2023 Favorable	Favorable Yeas 14 Nays 6

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
14	**SB 1456** Avila (Similar CS/H 1465)	Firearm Offenses; Adding the conviction for committing or the attempt to commit a felony offense of human trafficking to the list of offenses during the commission of which if a person possesses a firearm, destructive device, a semiautomatic firearm and its high-capacity detachable box magazine, or a machine gun, such person is subject to a specified mandatory minimum term of imprisonment; increasing the maximum number of days of detention that a minor who violates specified provisions for a first, second, or subsequent offense may serve in a secure detention facility; increasing the criminal penalties and providing that it is grand theft of the second degree if the property stolen is a firearm and the offender has previously been convicted for grand theft of a firearm under a specified provision, etc. CJ 03/27/2023 Favorable FP 04/13/2023 Fav/CS	Fav/CS Yeas 17 Nays 1
15	**SB 1534** Martin (Compare CS/CS/H 1627)	Pretrial Release and Detention; Specifying that only a judge is authorized to set, reduce, or alter a defendant's bail; authorizing the chief judge of a judicial circuit to petition the Florida Supreme Court for approval of a countywide or circuitwide bond schedule that sets a lower bond amount than required by the uniform statewide bond schedule; revising the requirements with which a defendant must comply as conditions of pretrial release imposed by the court; prohibiting persons arrested for, rather than charged with, a dangerous crime from being granted nonmonetary pretrial release at a first appearance hearing, etc. CJ 03/27/2023 Favorable FP 04/13/2023 Fav/CS	Fav/CS Yeas 19 Nays 1
16	**CS/SB 1550** Health Policy / Brodeur (Similar CS/H 1509, Linked CS/S 1552)	Prescription Drugs; Citing this act as the "Prescription Drug Reform Act"; specifying additional prohibited acts related to the Florida Drug and Cosmetic Act; requiring certain drug manufacturers to notify the Department of Business and Professional Regulation of reportable drug price increases on a specified form on the effective date of such increase; requiring the Division of Consumer Services of the Department of Financial Services to designate an employee as the primary contact for consumer complaints involving pharmacy benefit managers; providing a grandfathering provision for certain pharmacy benefit managers operating as administrators; providing requirements for certain contracts between a pharmacy benefit manager and a pharmacy benefits plan or program or a participating pharmacy, etc. HP 03/27/2023 Fav/CS FP 04/13/2023 Fav/CS	Fav/CS Yeas 18 Nays 1

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
17	**CS/SB 1552** Health Policy / Brodeur (Compare CS/H 1509, Linked CS/S 1550)	Public Records/Pharmacy Benefit Managers; Providing an exemption from public records requirements for examination and investigation reports and work papers relating to pharmacy benefit managers; expanding a public records exemption for the books and records of administrators held by the Office of Insurance Regulation for purposes of examination, audit, and inspection to incorporate the inclusion of pharmacy benefit managers as administrators under the Florida Insurance Code; providing for future legislative review and repeal of the exemption; providing statements of public necessity, etc. HP 03/27/2023 Fav/CS FP 04/13/2023 Favorable	Favorable Yeas 18 Nays 1
18	**CS/SB 7016** Appropriations Committee on Criminal and Civil Justice / Criminal Justice (Similar CS/CS/CS/H 929)	Department of Corrections; Providing criminal penalties for any volunteer or employee of a contractor or subcontractor of the Department of Corrections who engages in sexual misconduct with specified inmates or offenders; defining the terms “private correctional facility” and “volunteer”; providing for a type two transfer of private correctional facilities from the Department of Management Services to the Department of Corrections, etc. ACJ 03/21/2023 Fav/CS FP 04/13/2023 Fav/CS	Fav/CS Yeas 20 Nays 0
19	**SB 7044** Regulated Industries	Changes in Ownership of or Interest in Pari-mutuel Permits; Revising entities authorized to hold pari-mutuel wagering permits and associated licenses; specifying such entities may hold a license for the operation of a cardroom, etc. FP 04/13/2023 Favorable	Favorable Yeas 20 Nays 0
	Other Related Meeting Documents		

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/SB 112
INTRODUCER:	Health Policy Committee and Senator Harrell and others
SUBJECT:	Step-therapy Protocols
DATE:	April 12, 2023
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Brown	HP	**Fav/CS**
2.	McKnight	Money	AHS	**Favorable**
3.	Brown	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 112 creates an exception from step-therapy prior authorization requirements within the Florida Medicaid program for a drug product that is prescribed for the treatment of a serious mental illness, as that term is defined in the bill, or a medication of a similar drug class if prior authorization was previously granted for the prescribed drug and the medication was dispensed to the patient during the previous 12 months.

The bill directs the Agency for Health Care Administration (AHCA) to include the bill's rate impact on new managed care plan payment rates within Statewide Medicaid Managed Care that take effect October 1, 2023.

The bill has a significant negative fiscal impact on the Florida Medicaid program. *See* Section V of this analysis.

The bill takes effect on October 1, 2023.

II. Present Situation:

Florida Medicaid Program

Florida Medicaid is the health care safety net for low-income Floridians. The national Medicaid program is a partnership of federal and state governments established to provide coverage for

health services for eligible persons. Florida's program is administered by the Agency for Health Care Administration (AHCA) and financed through state and federal funds.[1]

A Medicaid state plan is an agreement between a state and the federal government describing how the state administers its Medicaid programs. The state plan establishes groups of individuals covered under the Medicaid program, services that are provided, payment methodologies, and other administrative and organizational requirements.

In order to participate in Medicaid, federal law requires states to cover certain population groups (mandatory eligibility groups) and gives states the flexibility to cover other population groups (optional eligibility groups). States set individual eligibility criteria within federal minimum standards. The AHCA may seek an amendment to the state plan as necessary to comply with federal or state laws or to implement program changes.

In Florida, the majority of Medicaid recipients receive their services through a managed care plan contracted with the AHCA under the Statewide Medicaid Managed Care (SMMC) program.[2] The SMMC program has three components, the Managed Medical Assistance (MMA) program, the Long-term Care program, and dental plans. Florida's SMMC offers a health care package covering acute, preventive, behavioral health, prescribed drugs, long-term care, and dental services.[3] The SMMC benefits are authorized by federal authority and are specifically required in ss. 409.973 and 409.98, F.S.

The AHCA contracts with managed care plans on a regional basis to provide services to eligible recipients. The MMA program, which covers most medical and acute care services for managed care plan enrollees, was fully implemented in 2014 and was re-procured for a period beginning December 2018 and ending in 2023.[4] In 2020, the Legislature extended the allowable term of the SMMC contracts from five to six years.[5] As a result, the AHCA's current contracts will end in December 2024. The AHCA is currently conducting its next procurement for implementation in the 2025 plan year.

Coverage of Prescribed Drugs

Section 409.91195, F.S., establishes the Pharmaceutical and Therapeutics Committee within the AHCA and tasks it with developing a Florida Medicaid Preferred Drug List (PDL). The Governor appoints the eleven committee members, including five pharmacists, five physicians, and one consumer representative.[6] The committee must meet quarterly and must review all drug classes included in the PDL at least every 12 months.[7] The committee may recommend additions to and deletions from the PDL, such that the PDL provides for medically appropriate drug

[1] Section 20.42, F.S.
[2] Agency for Health Care Administration, *Senate Bill 534 Analysis* (Nov. 11, 2021) (on file with Senate Committee on Health Policy).
[3] *Id.*
[4] Agency for Health Care Administration, *Statewide Medicaid Managed Care: Overview*, *available at* https://ahca.myflorida.com/medicaid/statewide_mc/pdf/mma/SMMC_Overview_12042018.pdf (last visited Feb. 20, 2023).
[5] Chapter 2020-156, s. 44, Laws of Florida
[6] Section 409.91195(1), F.S.
[7] Section 409.91195(3), F.S.

therapies for Medicaid patients which achieve cost savings contained in the General Appropriations Act.[8]

The committee considers the amount of rebates drug manufacturers are offering if their drug is placed on the PDL.[9] These state-negotiated supplemental rebates, along with federally negotiated rebates, can reduce the per-prescription cost of a brand name drug to below the cost of its generic equivalent.[10] Florida currently collects over $2 billion per year in federal and supplemental rebates for drugs dispensed to Medicaid recipients.[11] These funds are used to offset the cost of Medicaid services.[12]

Medicaid managed care plans are required by the AHCA to provide all prescription drugs listed on the AHCA's PDL.[13] Because of this, the managed care plans have not implemented their own plan-specific formularies or PDLs. Medicaid managed care plans are required to provide a link to the AHCA's PDL on their websites.[14] Florida Medicaid covers all Food and Drug Administration (FDA) approved prescription medications.[15] Those not included on the PDL must be prior-approved by Medicaid or the health plans.[16]

The AHCA also manages the federally required Florida Medicaid Drug Utilization Review Board, which meets quarterly and develops and reviews clinical prior authorization criteria, including step-therapy protocols, for certain drugs that are not on the AHCA's Medicaid PDL.[17]

Prescribed Drug Prior Authorization Requirements, Step-Therapy Protocols

Prior authorization means a process by which a health care provider must qualify for payment coverage by obtaining advance approval from an insurer before a specific service is delivered to the patient.[18] Within the Florida Medicaid program, only care, goods, and services that are medically necessary will obtain prior authorization. The AHCA must respond to prior authorization requests for prescribed drugs within 24 hours of receipt of the request.[19] Medicaid managed care plans are contractually required to respond to prior authorization requests for prescribed drugs within 24 hours of receipt of the request.

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[8] Section 409.91195(4), F.S.
[9] Section 409.91195(7), F.S.
[10] Agency for Health Care Administration, *Senate Bill 534 Analysis* (Nov. 11, 2021) (on file with Senate Committee on Health Policy).
[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] Section 409.967(2)(c)2, F.S.
[15] *Supra* note 10.
[16] *Id.*
[17] *Id.*
[18] Riley, Hannah, Gistia Healthcare, *Making Sense of Prior Authorization, What is it?* (Apr. 21, 2020) *available at* https://f.hubspotusercontent00.net/hubfs/6718559/downloadables/Making%20Sense%20of%20Prior%20Authorization%20What%20is%20it%20_Gistia%20Healthcare.pdf (last visited Feb. 20, 2023).
[19] Section 409.912(5)(a)1.a., F.S.

Section 409.912(5)(a)14., F.S. requires the AHCA to implement a step-therapy[20] prior authorization process for prescribed drugs excluded from the PDL. The recipient must try the prescribed drug on the PDL within the 12 months before a non-PDL drug is approved. However, a non-PDL drug may be approved without meeting the step-therapy prior authorization criteria if the prescribing physician provides additional written medical documentation that the non-PDL product is medically necessary because:

- There is not a drug on the PDL to treat the disease or medical condition which is an acceptable clinical alternative;
- The alternative drugs have been ineffective in the treatment of the recipient's disease;
- The drug product or medication of a similar drug class is prescribed for the treatment of schizophrenia or schizotypal or delusional disorders; prior authorization has been granted previously for the prescribed drug; and the medication was dispensed to the patient during the previous 12 months; or
- Based on historic evidence and known characteristics of the patient and the drug, the drug is likely to be ineffective, or the number of doses has been ineffective.

The AHCA must work with the physician to determine the best alternative for the recipient.[21]

Regardless of whether a drug is listed on the PDL, a Medicaid managed care plan's prior authorization criteria and protocols related to prescribed drugs cannot be more restrictive than the criteria established by the AHCA for Fee-for-Service Delivery System prior authorizations.[22] Medicaid managed care plans must ensure that the prior authorization process for prescribed drugs is readily accessible to health care providers and must provide timely responses to providers.[23]

Coverage of Prescription Drugs for Serious Mental Illnesses

Drugs treating serious mental illness accounted for over $131 million in paid claims in the Medicaid program during 2022. Antidepressants compose one of the largest drug classes and are responsible for over $30 million in paid claims per year.[24]

Tricyclic Antidepressants

As of March 2022, 99.9 percent of the paid claims in this class were for preferred drugs. The net cost of non-preferred drugs can be 10 times greater than the net cost of preferred drugs with the same mechanism of action.[25]

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[20] Step therapy means trying less expensive options before "stepping up" to drugs that cost more. Blue Cross Blue Shield Blue Care Network of Michigan, *How does step therapy work?, available at* https://www.bcbsm.com/index/health-insurance-help/faqs/plan-types/pharmacy/what-is-step-therapy.html (last visited Feb. 20, 2023).
[21] Section 409.912(5)(a)14., F.S.
[22] Agency for Health Care Administration, *Senate Bill 534 Analysis* (Nov. 11, 2021) (on file with Senate Committee on Health Policy)..
[23] Section 409.967(2)(c)2, F.S.
[24] Agency for Health Care Administration, *2023 Agency Legislative Bill Analysis: SB 112,* Feb. 17, 2023 (on file with the Senate Committee on Health Policy).
[25] *Id.*

Selective Serotonin Reuptake Inhibitors (SSRI) Antidepressants:

As of June 2022, 99.3 percent of the paid claims in this class were for preferred drugs. The cost of non-preferred drugs can be 22 times greater than the cost of preferred drugs within the same therapeutic class.[26]

Other Antidepressants

As of June 2022, 99.9 percent of the paid claims in this class were for preferred drugs. This class contains oral and injectable antidepressant drugs. The cost of oral non-preferred drugs can be 17 times greater than the cost of preferred drugs within the review class, which includes all oral antidepressants that are not tricyclic or SSRIs.[27]

Antipsychotics

As of September 2022, 98.3 percent of the paid claims in this class were for preferred drugs. PDL compliance results in significant savings annually in the antipsychotic class.[28]

The Medicaid PDL includes numerous generic and brand name drugs for the treatment of serious mental illness.[29] If a drug is not on the PDL, the prescriber must obtain prior authorization before dispensing the medication. The AHCA and Medicaid managed care plans are required to respond to prior authorization requests within 24 hours of receipt. Prior authorization requests for mental health medications are reviewed using the Psychotherapeutic Medication Guidelines established by the University of South Florida.[30]

The AHCA maintains prior authorization criteria and automated edits.[31]

Prescription Drugs Used in the Treatment of Schizophrenia for Medicaid Recipients

In the 2022 Regular Legislative Session, the Legislature enacted SB 534,[32] which amended s. 409.912, F.S., to create an exception from step-therapy prior authorization requirements within the Florida Medicaid program for a drug product if the prescribing physician provides the AHCA with written medical or clinical documentation that the product is medically necessary. Under SB 534, medical necessity is created when the drug product or a medication of a similar drug class is being prescribed for the treatment of schizophrenia or schizotypal or delusional disorders, prior authorization has previously been granted to the patient for the prescribed drug, and the medication had been dispensed to the patient during the previous 12 months.

After the step therapy requirement was mitigated by the enactment of SB 534 in 2022 for the schizophrenia-related medications, the PDL compliance decreased 0.1 percent in the

[26] *Id.*
[27] *Id.*
[28] *Id.*
[29] See the PDL at https://ahca.myflorida.com/medicaid/Prescribed_Drug/preferred_drug.shtml (last visited Feb. 20, 2023).
[30] See the guidelines at https://floridabhcenter.org/ (last visited Feb. 20, 2023).
[31] See the criteria at https://ahca.myflorida.com/medicaid/Prescribed_Drug/drug_criteria.shtml (last visited Feb. 20, 2023).
[32] See Chapter 2022-27, Laws of Florida.

antipsychotic class. This decrease in compliance results in a reduction in collection of manufacturer rebates that offset the cost of Medicaid drug spending.[33]

III. Effect of Proposed Changes:

Section 1 amends s. 409.901, F.S., to create a definition of the term "serious mental illness" pertaining to the Florida Medicaid program. The bill defines that term to mean any of the following psychiatric disorders as defined by the American Psychiatric Association in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition*:[34]

- Bipolar disorders, including hypomanic, manic, depressive, and mixed-feature episodes.
- Depression in childhood or adolescence.
- Major depressive disorders, including single and recurrent depressive episodes.
- Obsessive-compulsive disorders.
- Paranoid personality disorder or other psychotic disorders.
- Schizoaffective disorders, including bipolar or depressive symptoms.
- Schizophrenia.

Section 2 amends s. 409.912(5)(a), F.S., to create an exception from step-therapy prior authorization requirements within the Florida Medicaid program for a drug product that is prescribed for the treatment of a serious mental illness or a medication of a similar drug class if prior authorization was previously granted for the prescribed drug and the medication was dispensed to the patient during the previous 12 months. The bill requires that in cases involving drugs for the treatment of a serious mental illness, the exception must be approved, as opposed to the Agency for Health Care Administration (AHCA) being authorized to approve the exception as in current law.

Section 3 amends s. 409.910(20)(a), F.S., to make a conforming change.

Section 4 directs the AHCA to include the bill's rate impact on new managed care plan payment rates within Statewide Medicaid Managed Care that take effect October 1, 2023.

Section 5 provides an effective date of October 1, 2023.

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[33] Agency for Health Care Administration, *2023 Agency Legislative Bill Analysis: SB 112*, Feb. 17, 2023 (on file with the Senate Committee on Health Policy).

[34] According to the American Psychiatric Association, *The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR),* not the original Fifth Edition, is the Association's latest version of the manual. The Association indicates that "*DSM-5-TR* features the most current text updates based on scientific literature with contributions from more than 200 subject matter experts. The revised version includes a new diagnosis (prolonged grief disorder), clarifying modifications to the criteria sets for more than 70 disorders, addition of *International Classification of Diseases, Tenth Revision, Clinical Modification (ICD-10-CM)* symptom codes for suicidal behavior and nonsuicidal self-injury, and updates to descriptive text for most disorders based on extensive review of the literature. In addition, *DSM-5-TR* includes a comprehensive review of the impact of racism and discrimination on the diagnosis and manifestations of mental disorders. The manual will help clinicians and researchers define and classify mental disorders, which can improve diagnoses, treatment, and research." See https://www.psychiatry.org/psychiatrists/practice/dsm (last visited Feb. 21, 2023).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Agency for Health Care Administration (AHCA) reports that:[35]

- CS/SB 112 will have an operational impact on both the Florida Medicaid fee-for-service delivery system and Statewide Medicaid Managed Care due to changes that will need to be made to all coding related to drugs used to treat serious mental illness.
- In addition to the operational impact, the bill could have adverse impact on the state Medicaid budget. The Florida Medicaid Prescribed Drug List (PDL) includes many effective generic and brand-name medications with robust federal rebates and additional supplemental rebates offered by drug manufacturers, resulting in reduced cost to the Florida Medicaid program. If numerous prescribing physicians elect to prescribe drugs that are not on the PDL under the bill, it may lead to an increase in net drug cost in therapeutic classes related to serious mental illness.

[35] Agency for Health Care Administration, *2023 Agency Legislative Bill Analysis: SB 112*, Feb. 17, 2023 (on file with the Senate Committee on Health Policy).

- After the enactment of SB 534 on July 1, 2022, the Florida Medicaid program observed a relative decrease in the amount of rebates collected for the treatment of schizophrenia. A substantial decrease in rebates relative to the large number of drugs used to treat serious mental illness could be expected if CS/SB 112 takes effect as written. Antipsychotics alone are projected to result in the collection of over $13 million in rebates in the current fiscal year, with a total spend of more than $70 million. The loss of rebates for a class this size could increase the overall cost of pharmacy spending in the Florida Medicaid program.

In terms of numbers, the AHCA indicates that the fiscal impact of the bill is indeterminate, with the caveat that, according to the fiscal year 2020-2021 data, the Florida Medicaid program spent over $117 million on medications for the treatment of serious mental illness. If numerous prescribing physicians elect to prescribe drugs that are not on the PDL, and the bill's provisions are applied, it may lead to an increase in drug cost in therapeutic classes related to serious mental illness due to the loss of the AHCA's bargaining power in terms of negotiating rebates. Every one-percent loss in the rate of PDL compliance could generate a $1.1 million increase in Florida Medicaid program expenses. The extent of such noncompliance under the bill is unknown.[36]

The bill could also mitigate costs to the Florida Medicaid program or other state expenditures in indirect ways. For example, if Medicaid recipients needing certain drugs for serious mental illness experience a delay in access to those drugs due to the step-therapy protocol, such delay could lead to the need for other costly treatments, such as the costs of involuntary evaluation during a mental health crisis.[37] Such impact is also indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill's list of psychiatric disorders as defined by the American Psychiatric Association in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition,* includes "paranoid personality disorder or other psychotic disorders." The *DSM-5* categorizes the following disorders under Schizophrenia and "other psychotic disorders":[38]

- Schizotypal (Personality) Disorder;
- Delusional Disorder;
- Brief Psychotic Disorder;
- Schizophreniform Disorder;
- Schizophrenia;
- Schizoaffective Disorder;

[36] Agency for Health Care Administration, *2023 Agency Legislative Bill Analysis: SB 112,* Feb. 17, 2023 (on file with the Senate Committee on Health Policy)..
[37] See s. 394.463, F.S., within the Florida Mental Health Act.
[38] Wiregrass Georgia Technical College, *DSM-5: Schizophrenia Spectrum and Other Psychotic Disorders,* available at: https://wiregrass.libguides.com/c.php?g=1044445&p=7583272 (last visited Feb. 21, 2023).

- Substance/Medication-Induced Psychotic Disorder;
- Psychotic Disorder Due to Another Medical Condition;
- Catatonia;
- Other Specified Schizophrenia Spectrum and Other Psychotic Disorder; and
- Unspecified Schizophrenia Spectrum and Other Psychotic Disorder.

With the exception of schizophrenia and schizoaffective disorder, the bill includes these disorders by reference to the *DSM-5* as "other psychotic disorders" but does not list them by name. The *DSM-5* might classify other disorders as psychotic disorders that do not appear in this list.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 409.901, 409.912, and 409.910.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on February 20, 2023
The CS changes the effective date from July 1, to October 1, 2023, and directs the Agency for Health Care Administration to consider the bill's impact when setting capitation rates for Medicaid managed care plans for the upcoming contract year that also begins October 1, 2023.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committee on Health Policy; and Senators Harrell and Wright

588-02141-23 2023112c1

A bill to be entitled

An act relating to step-therapy protocols; amending s. 409.901, F.S.; defining the term "serious mental illness"; amending s. 409.912, F.S.; requiring the Agency for Health Care Administration to approve drug products for Medicaid recipients for the treatment of serious mental illness without step-therapy prior authorization under certain circumstances; amending s. 409.910, F.S.; conforming a cross-reference; directing the agency to include rate impacts resulting from the act in certain rates that become effective on a specified date; providing an effective date.

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

Section 1. Present subsections (27) and (28) of section 409.901, Florida Statutes, are redesignated as subsections (28) and (29), respectively, and a new subsection (27) is added to that section, to read:

409.901 Definitions; ss. 409.901-409.920.—As used in ss. 409.901-409.920, except as otherwise specifically provided, the term:

(27) "Serious mental illness" means any of the following psychiatric disorders as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition:

(a) Bipolar disorders, including hypomanic, manic, depressive, and mixed-feature episodes.

(b) Depression in childhood or adolescence.

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(c) Major depressive disorders, including single and recurrent depressive episodes.

(d) Obsessive-compulsive disorders.

(e) Paranoid personality disorder or other psychotic disorders.

(f) Schizoaffective disorders, including bipolar or depressive symptoms.

(g) Schizophrenia.

Section 2. Paragraph (a) of subsection (5) of section 409.912, Florida Statutes, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. To ensure that medical services are effectively utilized, the agency may, in any case, require a confirmation or second physician's opinion of the correct diagnosis for purposes of authorizing future services under the Medicaid program. This section does not restrict access to emergency services or poststabilization care services as defined in 42 C.F.R. s. 438.114. Such confirmation or second opinion shall be rendered in a manner approved by the agency. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the

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inappropriate or unnecessary use of high-cost services. The agency shall contract with a vendor to monitor and evaluate the clinical practice patterns of providers in order to identify trends that are outside the normal practice patterns of a provider's professional peers or the national guidelines of a provider's professional association. The vendor must be able to provide information and counseling to a provider whose practice patterns are outside the norms, in consultation with the agency, to improve patient care and reduce inappropriate utilization. The agency may mandate prior authorization, drug therapy management, or disease management participation for certain populations of Medicaid beneficiaries, certain drug classes, or particular drugs to prevent fraud, abuse, overuse, and possible dangerous drug interactions. The Pharmaceutical and Therapeutics Committee shall make recommendations to the agency on drugs for which prior authorization is required. The agency shall inform the Pharmaceutical and Therapeutics Committee of its decisions regarding drugs subject to prior authorization. The agency is authorized to limit the entities it contracts with or enrolls as Medicaid providers by developing a provider network through provider credentialing. The agency may competitively bid single-source-provider contracts if procurement of goods or services results in demonstrated cost savings to the state without limiting access to care. The agency may limit its network based on the assessment of beneficiary access to care, provider availability, provider quality standards, time and distance standards for access to care, the cultural competence of the provider network, demographic characteristics of Medicaid beneficiaries, practice and provider-to-beneficiary standards,

appointment wait times, beneficiary use of services, provider turnover, provider profiling, provider licensure history, previous program integrity investigations and findings, peer review, provider Medicaid policy and billing compliance records, clinical and medical record audits, and other factors. Providers are not entitled to enrollment in the Medicaid provider network. The agency shall determine instances in which allowing Medicaid beneficiaries to purchase durable medical equipment and other goods is less expensive to the Medicaid program than long-term rental of the equipment or goods. The agency may establish rules to facilitate purchases in lieu of long-term rentals in order to protect against fraud and abuse in the Medicaid program as defined in s. 409.913. The agency may seek federal waivers necessary to administer these policies.

(5)(a) The agency shall implement a Medicaid prescribed-drug spending-control program that includes the following components:

1. A Medicaid preferred drug list, which shall be a listing of cost-effective therapeutic options recommended by the Medicaid Pharmacy and Therapeutics Committee established pursuant to s. 409.91195 and adopted by the agency for each therapeutic class on the preferred drug list. At the discretion of the committee, and when feasible, the preferred drug list should include at least two products in a therapeutic class. The agency may post the preferred drug list and updates to the list on an Internet website without following the rulemaking procedures of chapter 120. Antiretroviral agents are excluded from the preferred drug list. The agency shall also limit the amount of a prescribed drug dispensed to no more than a 34-day

supply unless the drug products' smallest marketed package is greater than a 34-day supply, or the drug is determined by the agency to be a maintenance drug in which case a 100-day maximum supply may be authorized. The agency may seek any federal waivers necessary to implement these cost-control programs and to continue participation in the federal Medicaid rebate program, or alternatively to negotiate state-only manufacturer rebates. The agency may adopt rules to administer this subparagraph. The agency shall continue to provide unlimited contraceptive drugs and items. The agency must establish procedures to ensure that:

a. There is a response to a request for prior authorization by telephone or other telecommunication device within 24 hours after receipt of a request for prior authorization; and

b. A 72-hour supply of the drug prescribed is provided in an emergency or when the agency does not provide a response within 24 hours as required by sub-subparagraph a.

2. A provider of prescribed drugs is reimbursed in an amount not to exceed the lesser of the actual acquisition cost based on the Centers for Medicare and Medicaid Services National Average Drug Acquisition Cost pricing files plus a professional dispensing fee, the wholesale acquisition cost plus a professional dispensing fee, the state maximum allowable cost plus a professional dispensing fee, or the usual and customary charge billed by the provider.

3. The agency shall develop and implement a process for managing the drug therapies of Medicaid recipients who are using significant numbers of prescribed drugs each month. The management process may include, but is not limited to,

comprehensive, physician-directed medical-record reviews, claims analyses, and case evaluations to determine the medical necessity and appropriateness of a patient's treatment plan and drug therapies. The agency may contract with a private organization to provide drug-program-management services. The Medicaid drug benefit management program shall include initiatives to manage drug therapies for HIV/AIDS patients, patients using 20 or more unique prescriptions in a 180-day period, and the top 1,000 patients in annual spending. The agency shall enroll any Medicaid recipient in the drug benefit management program if he or she meets the specifications of this provision and is not enrolled in a Medicaid health maintenance organization.

4. The agency may limit the size of its pharmacy network based on need, competitive bidding, price negotiations, credentialing, or similar criteria. The agency shall give special consideration to rural areas in determining the size and location of pharmacies included in the Medicaid pharmacy network. A pharmacy credentialing process may include criteria such as a pharmacy's full-service status, location, size, patient educational programs, patient consultation, disease management services, and other characteristics. The agency may impose a moratorium on Medicaid pharmacy enrollment if it is determined that it has a sufficient number of Medicaid-participating providers. The agency must allow dispensing practitioners to participate as a part of the Medicaid pharmacy network regardless of the practitioner's proximity to any other entity that is dispensing prescription drugs under the Medicaid program. A dispensing practitioner must meet all credentialing

requirements applicable to his or her practice, as determined by the agency.

5. The agency shall develop and implement a program that requires Medicaid practitioners who issue written prescriptions for medicinal drugs to use a counterfeit-proof prescription pad for Medicaid prescriptions. The agency shall require the use of standardized counterfeit-proof prescription pads by prescribers who issue written prescriptions for Medicaid recipients. The agency may implement the program in targeted geographic areas or statewide.

6. The agency may enter into arrangements that require manufacturers of generic drugs prescribed to Medicaid recipients to provide rebates of at least 15.1 percent of the average manufacturer price for the manufacturer's generic products. These arrangements must ~~shall~~ require that if a generic-drug manufacturer pays federal rebates for Medicaid-reimbursed drugs at a level below 15.1 percent, the manufacturer must provide a supplemental rebate to the state in an amount necessary to achieve a 15.1-percent rebate level.

7. The agency may establish a preferred drug list as described in this subsection, and, pursuant to the establishment of such preferred drug list, negotiate supplemental rebates from manufacturers that are in addition to those required by Title XIX of the Social Security Act and at no less than 14 percent of the average manufacturer price as defined in 42 U.S.C. s. 1936 on the last day of a quarter unless the federal or supplemental rebate, or both, equals or exceeds 29 percent. There is no upper limit on the supplemental rebates the agency may negotiate. The agency may determine that specific products, brand-name or

generic, are competitive at lower rebate percentages. Agreement to pay the minimum supplemental rebate percentage guarantees a manufacturer that the Medicaid Pharmaceutical and Therapeutics Committee will consider a product for inclusion on the preferred drug list. However, a pharmaceutical manufacturer is not guaranteed placement on the preferred drug list by simply paying the minimum supplemental rebate. Agency decisions will be made on the clinical efficacy of a drug and recommendations of the Medicaid Pharmaceutical and Therapeutics Committee, as well as the price of competing products minus federal and state rebates. The agency may contract with an outside agency or contractor to conduct negotiations for supplemental rebates. For the purposes of this section, the term "supplemental rebates" means cash rebates. Value-added programs as a substitution for supplemental rebates are prohibited. The agency may seek any federal waivers to implement this initiative.

8.a. The agency may implement a Medicaid behavioral drug management system. The agency may contract with a vendor that has experience in operating behavioral drug management systems to implement this program. The agency may seek federal waivers to implement this program.

b. The agency, in conjunction with the Department of Children and Families, may implement the Medicaid behavioral drug management system that is designed to improve the quality of care and behavioral health prescribing practices based on best practice guidelines, improve patient adherence to medication plans, reduce clinical risk, and lower prescribed drug costs and the rate of inappropriate spending on Medicaid behavioral drugs. The program may include the following

elements:

(I) Provide for the development and adoption of best practice guidelines for behavioral health-related drugs such as antipsychotics, antidepressants, and medications for treating bipolar disorders and other behavioral conditions; translate them into practice; review behavioral health prescribers and compare their prescribing patterns to a number of indicators that are based on national standards; and determine deviations from best practice guidelines.

(II) Implement processes for providing feedback to and educating prescribers using best practice educational materials and peer-to-peer consultation.

(III) Assess Medicaid beneficiaries who are outliers in their use of behavioral health drugs with regard to the numbers and types of drugs taken, drug dosages, combination drug therapies, and other indicators of improper use of behavioral health drugs.

(IV) Alert prescribers to patients who fail to refill prescriptions in a timely fashion, are prescribed multiple same-class behavioral health drugs, and may have other potential medication problems.

(V) Track spending trends for behavioral health drugs and deviation from best practice guidelines.

(VI) Use educational and technological approaches to promote best practices, educate consumers, and train prescribers in the use of practice guidelines.

(VII) Disseminate electronic and published materials.

(VIII) Hold statewide and regional conferences.

(IX) Implement a disease management program with a model

quality-based medication component for severely mentally ill individuals and emotionally disturbed children who are high users of care.

9. The agency shall implement a Medicaid prescription drug management system.

a. The agency may contract with a vendor that has experience in operating prescription drug management systems in order to implement this system. Any management system that is implemented in accordance with this subparagraph must rely on cooperation between physicians and pharmacists to determine appropriate practice patterns and clinical guidelines to improve the prescribing, dispensing, and use of drugs in the Medicaid program. The agency may seek federal waivers to implement this program.

b. The drug management system must be designed to improve the quality of care and prescribing practices based on best practice guidelines, improve patient adherence to medication plans, reduce clinical risk, and lower prescribed drug costs and the rate of inappropriate spending on Medicaid prescription drugs. The program must:

(I) Provide for the adoption of best practice guidelines for the prescribing and use of drugs in the Medicaid program, including translating best practice guidelines into practice; reviewing prescriber patterns and comparing them to indicators that are based on national standards and practice patterns of clinical peers in their community, statewide, and nationally; and determine deviations from best practice guidelines.

(II) Implement processes for providing feedback to and educating prescribers using best practice educational materials

and peer-to-peer consultation.

(III) Assess Medicaid recipients who are outliers in their use of a single or multiple prescription drugs with regard to the numbers and types of drugs taken, drug dosages, combination drug therapies, and other indicators of improper use of prescription drugs.

(IV) Alert prescribers to recipients who fail to refill prescriptions in a timely fashion, are prescribed multiple drugs that may be redundant or contraindicated, or may have other potential medication problems.

10. The agency may contract for drug rebate administration, including, but not limited to, calculating rebate amounts, invoicing manufacturers, negotiating disputes with manufacturers, and maintaining a database of rebate collections.

11. The agency may specify the preferred daily dosing form or strength for the purpose of promoting best practices with regard to the prescribing of certain drugs as specified in the General Appropriations Act and ensuring cost-effective prescribing practices.

12. The agency may require prior authorization for Medicaid-covered prescribed drugs. The agency may prior-authorize the use of a product:

a. For an indication not approved in labeling;

b. To comply with certain clinical guidelines; or

c. If the product has the potential for overuse, misuse, or abuse.

The agency may require the prescribing professional to provide information about the rationale and supporting medical evidence

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for the use of a drug. The agency shall post prior authorization, step-edit criteria and protocol, and updates to the list of drugs that are subject to prior authorization on the agency's Internet website within 21 days after the prior authorization and step-edit criteria and protocol and updates are approved by the agency. For purposes of this subparagraph, the term "step-edit" means an automatic electronic review of certain medications subject to prior authorization.

13. The agency, in conjunction with the Pharmaceutical and Therapeutics Committee, may require age-related prior authorizations for certain prescribed drugs. The agency may preauthorize the use of a drug for a recipient who may not meet the age requirement or may exceed the length of therapy for use of this product as recommended by the manufacturer and approved by the Food and Drug Administration. Prior authorization may require the prescribing professional to provide information about the rationale and supporting medical evidence for the use of a drug.

14. The agency shall implement a step-therapy prior authorization approval process for medications excluded from the preferred drug list. Medications listed on the preferred drug list must be used within the previous 12 months before the alternative medications that are not listed. The step-therapy prior authorization may require the prescriber to use the medications of a similar drug class or for a similar medical indication unless contraindicated in the Food and Drug Administration labeling. The trial period between the specified steps may vary according to the medical indication. The step-therapy approval process must ~~shall~~ be developed in accordance

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with the committee as stated in s. 409.91195(7) and (8). A drug product may be approved or, in the case of a drug product for the treatment of a serious mental illness, must be approved without meeting the step-therapy prior authorization criteria if the prescribing physician provides the agency with additional written medical or clinical documentation that the product is medically necessary because:

a. There is not a drug on the preferred drug list to treat the disease or medical condition which is an acceptable clinical alternative;

b. The alternatives have been ineffective in the treatment of the beneficiary's disease;

c. The drug product or medication of a similar drug class is prescribed for the treatment of a serious mental illness ~~schizophrenia or schizotypal or delusional disorders~~; prior authorization has been granted previously for the prescribed drug; and the medication was dispensed to the patient during the previous 12 months; or

d. Based on historical evidence and known characteristics of the patient and the drug, the drug is likely to be ineffective, or the number of doses have been ineffective.

The agency shall work with the physician to determine the best alternative for the patient. The agency may adopt rules waiving the requirements for written clinical documentation for specific drugs in limited clinical situations.

15. The agency shall implement a return and reuse program for drugs dispensed by pharmacies to institutional recipients, which includes payment of a $5 restocking fee for the

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implementation and operation of the program. The return and reuse program shall be implemented electronically and in a manner that promotes efficiency. The program must permit a pharmacy to exclude drugs from the program if it is not practical or cost-effective for the drug to be included and must provide for the return to inventory of drugs that cannot be credited or returned in a cost-effective manner. The agency shall determine if the program has reduced the amount of Medicaid prescription drugs which are destroyed on an annual basis and if there are additional ways to ensure more prescription drugs are not destroyed which could safely be reused.

Section 3. Paragraph (a) of subsection (20) of section 409.910, Florida Statutes, is amended to read:

409.910 Responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable.—

(20)(a) Entities providing health insurance as defined in s. 624.603, health maintenance organizations and prepaid health clinics as defined in chapter 641, and, on behalf of their clients, third-party administrators, pharmacy benefits managers, and any other third parties, as defined in s. 409.901(28) ~~s. 409.901(27)~~, which are legally responsible for payment of a claim for a health care item or service as a condition of doing business in this ~~the~~ state or providing coverage to residents of this state, shall provide such records and information as are necessary to accomplish the purpose of this section, unless such requirement results in an unreasonable burden.

Section 4. The Agency for Health Care Administration is directed to include the rate impact of this act in the Medicaid

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managed medical assistance program and long-term care managed care program rates that become effective on October 1, 2023.

Section 5. This act shall take effect October 1, 2023.

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The Florida Senate

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4-13-23
Meeting Date

Fiscal Policy
Committee

112
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jarrod Fowler

Phone 850-224-6496

Address 1430 Piedmont Dr. E
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Email jfowler@flmedical.org

Tallahassee FL 32308
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
Florida Medical Association

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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04.13.2023
Meeting Date

Fiscal Policy
Committee

SB0112
Bill Number or Topic

Amendment Barcode (if applicable)

Name Chanté Jones

Phone 850.272.0551

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Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
AARP Florida

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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4/13/23
Meeting Date

Fiscal Policy
Committee

112
Bill Number or Topic

Amendment Barcode (if applicable)

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Address 4427 Herschel St
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Email nulandlaw@aol.com

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Florida Chapter, American College of Physicians

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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April 13, 2023
Meeting Date

Fiscal Policy
Committee

112
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

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Address 1454 Vieux Carre Drive
Street

Email Barney@BarneyBishop.com

Tallahassee FL 32308
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Small Business Pharmacy

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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4/13/23
Meeting Date

Fiscal Policy
Committee

CS/SB 112
Bill Number or Topic

Amendment Barcode (if applicable)

Name Aimee Diaz Lyon

Phone 850-205-9000

Address 119 South Monroe Street #200
Street

Email adl@mhdfirm.com

Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: The Florida Psychiatric Society

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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April 13, 2023
Meeting Date

Fiscal Policy
Committee

112
Bill Number or Topic

Amendment Barcode (if applicable)

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Street

Email clyon@llw-law.com

Tallahassee FL 32301
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Osteopathic Medical Association

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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The Florida Senate

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4/13/2023
Meeting Date

Fiscal Policy
Committee

112
Bill Number or Topic

Amendment Barcode (if applicable)

Name Caitlyn Clibbon, Disability Rights Florida

Phone

Address
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Email caitlync@disabilityrightsflorida.org

City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: Disability Rights Florida

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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Fiscal Policy
Committee

112
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jared Willis

Phone 284-1996

Address
Street

Email

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

Alliance for Patient Access

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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Committee

CS/SB 112
Bill Number or Topic

Amendment Barcode (if applicable)

Name Amy Young

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City State Zip

Email amylobby@ballardpartners.com

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
American Congress of Obstetricians and Gynecologists, District XII

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/CS/CS/SB 162
INTRODUCER:	Fiscal Policy Committee, Regulated Industries Committee, Environment and Natural Resources Committee, and Senator Collins
SUBJECT:	Water and Wastewater Facility Operators
DATE:	April 14, 2023 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barriero	Rogers	EN	**Fav/CS**
2.	Schrader	Imhof	RI	**Fav/CS**
3.	Barriero	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 162 requires the Department of Environmental Protection (DEP) to issue reciprocal licenses to water utility workers licensed in other jurisdictions and other license applicants who meet certain requirements. The bill directs the DEP to award education and operational experience credits to license applicants who have performed comparable duties in the United States Armed Forces but who do not meet some other requirements for a reciprocal license.

The bill also provides that, during a declared state of emergency under s. 252.36, F.S., the DEP:

- May issue a temporary license to applicants who otherwise meet the requirements for licensure reciprocity; and
- Must waive the application fee for a temporary operator license.

The DEP must also adopt rules for licensure by reciprocity.

II. Present Situation:

Water Treatment Facilities

The DEP has the primary role of regulating public water systems in Florida.[1] A public water system is one that provides water to 25 or more people for at least 60 days each year or serves 15 or more service connections. These public water systems may be publicly or privately owned and operated. Smaller water systems that provide water for public consumption, but which do not fall under the above definition, are regulated by the Department of Health and the county health departments.[2]

Public drinking water systems use different water treatment methods to provide safe drinking water to local communities.[3] Public water systems often use a series of water treatment steps that include coagulation,[4] flocculation,[5] sedimentation, filtration, and disinfection.[6]

Wastewater Treatment Facilities

According to the DEP, the proper treatment and disposal or reuse of wastewater is a crucial part of protecting Florida's water resources.[7] Each person in Florida generates about 100 gallons of domestic wastewater each day.[8] This wastewater must be managed to protect public health, water quality, recreation, fish and wildlife, and the aesthetic appeal of our waterways.[9] Domestic wastewater in Florida is treated either by on-site sewage treatment and disposal systems (OSTDSs), also known as septic tanks, or by centralized domestic (municipal) wastewater treatment facilities.[10] The majority of the state's domestic wastewater is treated by larger centralized treatment facilities, which are the regulatory responsibility of the DEP's Wastewater Management Program.[11] The DEP also regulates smaller domestic wastewater treatment facilities, known as "package plants," as well as networked, distributed wastewater treatment systems.[12]

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[1] DEP, *Source and Drinking Water Program*, https://floridadep.gov/water/source-drinking-water (last visited Mar. 24, 2023), and Section 403.852(1), F.S.
[2] *Id.*
[3] U.S. Centers for Disease Control and Prevention (CDC), *Water Treatment*, https://www.cdc.gov/healthywater/drinking/public/water_treatment.html (last visited Mar. 24, 2023).
[4] Coagulation is often the first step in water treatment. During coagulation, chemicals with a positive charge are added to the water. The positive charge neutralizes the negative charge of dirt and other dissolved particles in the water. When this occurs, the particles bind with the chemicals to form slightly larger particles. *Id.*
[5] Flocculation follows the coagulation step. Flocculation is the gentle mixing of the water to form larger, heavier particles called flocs. Often, water treatment plants will add additional chemicals during this step to help the flocs form. *Id.*
[6] *Id.*
[7] DEP, *General Facts and Statistics about Wastewater in Florida*, https://floridadep.gov/water/domestic-wastewater/content/general-facts-and-statistics-about-wastewater-florida (last visited Mar. 24, 2023).
[8] DEP, *Domestic Wastewater Program*, https://floridadep.gov/water/domestic-wastewater (last visited Mar. 24, 2023).
[9] *Id.*
[10] *Id.*
[11] *Id.*
[12] *Id.*

The DEP is also responsible for permitting and compliance activities for the state's approximately 2,000 domestic wastewater treatment facilities.[13] The DEP's Wastewater Management Program develops and administers rules and policy for proper treatment of wastewater from domestic facilities.[14] The Wastewater Management Program is also responsible for regulating domestic industrial pretreatment, domestic biosolids management, reuse of reclaimed water, and domestic wastewater to wetlands programs.

Licensure Requirements

The DEP derives its water system authority from the Florida Safe Drinking Water Act[15] and has been delegated authority from the U.S. Environmental Protection Agency to implement the federal Safe Drinking Water Act.[16]

State law provides that a current operator's license issued by the DEP is required in order for a person to perform the duties of an operator of a water treatment plant, water distribution system, or domestic wastewater treatment plant.[17] A "water treatment plant" collects, treats, and stores water for human consumption;[18] "water distribution system" conveys water for human consumption;[19] and "domestic wastewater treatment plant" treats, stabilizes, or holds domestic waste.[20] An operator is any person, including the owner, who is onsite and in charge of the actual operation of such plants or systems.[21]

To become a licensed operator, a person must apply to the DEP to take the licensure examination, submit a completed application for licensure, remit all required fees,[22] and meet certain other criteria, including having a high school diploma or its equivalent, successfully completing a training course approved by the DEP, and possessing onsite operational experience.[23] The Department of Veteran Affairs offers reimbursement of fees associated with professional licensure exams to qualified veterans.[24]

[13] DEP, *General Facts and Statistics about Wastewater in Florida*, *supra* note 7.
[14] DEP, *Domestic Wastewater Program*, *supra* note 8.
[15] Sections 403.850 – 403.892, F.S.
[16] DEP, *Source and Drinking Water Program*, https://floridadep.gov/water/source-drinking-water (last visited Mar. 24, 2023).
[17] Section 403.867, F.S.
[18] Section 403.866(6), F.S.
[19] Section 403.866(5), F.S.
[20] Section 403.866(2), F.S.
[21] Section 403.866(3), F.S.
[22] Individuals must submit a $25 fee at the time they submit their application to take the licensure examination. Fla. Admin. Code R. 62-602.600(1). Individuals applying for a Class A, Class B, or Class C Treatment Plant Operator license must submit $50 at the time they submit their application for licensure, and individuals applying for a Class D Treatment Plant Operator license or a Water Distribution System Operator license must submit $25. Fla. Admin. Code R. 62-602.600(2).
[23] Section 403.872, F.S.; Fla. Admin. Code R. 62-602.300.
[24] DEP, *Water and Domestic Wastewater Operator Certification Program*, https://floridadep.gov/water/certification-restoration/content/water-and-domestic-wastewater-operator-certification-program (last visited Mar. 24, 2023).

Licensure Reciprocity

Ensuring a pool of qualified and certified operators is essential in addressing the workforce needs of water utilities.[25] However, because licensing standards vary by state and an operator license is typically only valid in the state in which it is issued, it can be challenging to recruit new out-of-state operators.[26] This may be particularly problematic as the workforce becomes more mobile and workers change jobs and move across state lines more frequently.[27] Most states offer reciprocity to make it easier for an operator who already holds a license in one state to obtain a license in another state.[28]

Florida does not offer reciprocal licensure to individuals who are licensed in other states or jurisdictions. Florida is one of only three states that do not offer reciprocal licensure for operators of water treatment plants or water distribution systems (Nebraska and Oklahoma are the others), and is one of two states that do not offer reciprocal licensure to operators of domestic wastewater facilities (Oklahoma is the other).[29]

State Emergency Management Act

The State Emergency Management Act (act), part I, ch. 252, F.S., was enacted to be the legal framework for this state's emergency management activities, recognizing the state's vulnerability to a wide range of emergencies, including natural, manmade, and technological disasters.[30] In order to reduce the state's vulnerability to these circumstances and to prepare to respond to them, the act promotes the state's emergency readiness through enhanced coordination, long-term planning, and adequate funding.[31]

The act creates the Division of Emergency Management (division) within the Executive Office of the Governor and grants the division with powers and duties necessary to mitigate the vulnerability of life, property, and economic prosperity due to natural and manmade disasters.[32]

The act also delineates the Governor's authority to declare a state of emergency, issue executive orders, and otherwise lead the state during emergencies. If the Governor finds that an emergency[33] has occurred or is imminent, he or she must declare a state of emergency.[34] An executive order or proclamation of a state of emergency shall identify whether the state of

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[25] Jeff Oxenford and Jim Ginley, American Water Works Association, *Operator Licensing Requirements Across the United States*, 2 (2018), *available at* https://www.awwa.org/Portals/0/AWWA/ETS/Resources/Final_Report_Compiled_2.19.18.pdf?ver=2019-02-18-142536-257.
[26] *Id.* at 4.
[27] *Id.* at 12.
[28] *See generally* American Water Works Association, *Operator certification requirements catalogued for all 50 states* (2018), https://www.awwa.org/AWWA-Articles/operator-certification-requirements-catalogued-for-all-50-states (last visited Mar. 24, 2023).
[29] Oxenford, *supra* note 25, at 8.
[30] Section 252.311(1), F.S.
[31] Section 252.311(3), F.S.
[32] Sections 252.32(1)(a) and 252.34(3), F.S.
[33] "Emergency" means any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property. *See* s. 252.34(4), F.S.
[34] Section 252.36(2), F.S.

emergency is due to a minor,[35] major,[36] or catastrophic[37] disaster.[38] The state of emergency must continue until the Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist, but no state of emergency may continue for longer than 60 days unless renewed by the Governor.[39] Additionally, the Legislature may end a state of emergency by passing a concurrent resolution.[40]

III. Effect of Proposed Changes:

Section 1 amends s. 403.865, F.S., regarding water and wastewater facility personnel, to include the following legislative findings:

- Water and wastewater services are essential to the health and well-being of all citizens; and
- Water and wastewater facility personnel are essential first responders.

The section also defines "water and wastewater facility personnel," as used in the findings, as, "any employee of a governmental authority as defined in s. 367.021;[41] a utility as defined in s. 367.021;[42] a state, municipal, or county sewerage system as defined in s. 403.031(9);[43] or a public water system as defined in s. 403.852(2).[44]"

Section 2 amends s. 403.867, F.S., which provides that a person may not perform the duties of an operator of a water treatment plant, water distribution system, or domestic wastewater treatment plant unless he or she holds a current operator's license issued by the DEP. The bill changes this requirement by providing that an operator must hold an *active and valid operator* license issued by the DEP under s. 403.872, F.S., which provides the requirements for licensure, or s. 403.8721, F.S., which is created by this bill.

Section 3 creates s. 403.8721, F.S., to establish requirements for licensure by reciprocity. The bill directs the DEP to issue a license by reciprocity to any applicant who meets, at minimum, all of the following requirements:

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[35] "Minor disaster" means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance. *See* s. 252.34(2)(c), F.S.
[36] "Major disaster" means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance. *See* s. 252.34(2)(b), F.S.
[37] "Catastrophic disaster" means a disaster that will require massive state and federal assistance, including immediate military involvement. *See* s. 252.34(2)(a), F.S.
[38] Section 252.36(4)(c), F.S.
[39] Section 252.36(2), F.S.
[40] Section 252.36(3), F.S.
[41] Section 367.021, F.S., defines "governmental authority" as, "a political subdivision, as defined by s. 1.01(8), a regional water supply authority created pursuant to s. 373.713, or a nonprofit corporation formed for the purpose of acting on behalf of a political subdivision with respect to a water or wastewater facility."
[42] Section 367.021, F.S., defines "utility" as, "a water or wastewater utility and, except as provided in s. 367.022, includes every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or wastewater service to the public for compensation."
[43] Section 403.031(9), F.S., defines "sewerage system" as, "pipelines or conduits, pumping stations, and force mains and all other structures, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal."
[44] Section 403.852(2), F.S., defines "public water system," in part, as, "a system for the provision to the public of water for human consumption through pipes or other constructed conveyances if such system has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year."

- Is a water treatment plant operator, water distribution system operator, or domestic wastewater treatment plant operator and holds an active and valid license from another state, the Federal Government, a territory or tribal government that has been designated as the primary agency by the U.S. Environmental Protection Agency, or any unit thereof for which the licensure requirements, including education and operational experience, are comparable to or exceed Florida's licensure requirements;
- Has passed a licensure examination comparable to the licensure examination of the DEP, subject to approval by the DEP;
- Is not the subject of a disciplinary or enforcement action outside this state at the time of application for reciprocal licensure;
- Submits a completed application for reciprocal licensure and any required supporting documentation; and
- Remits the application fee.

The bill also directs the DEP to issue a license by reciprocity to any applicant who has performed duties comparable to a water treatment plant operator, water distribution system operator, or domestic wastewater treatment plant operator while serving in the U.S. Armed Forces for which the requirements for performing the duties, including education and operational experience, are comparable to or exceed Florida's licensure requirements. Such applicants must, at minimum, meet the following requirements:

- (1) Passing a skill assessment or competency examination comparable to the DEP's licensure exam;
- (2) Not being subject to a disciplinary or enforcement action at the time of application for reciprocal licensure;
- (3) Submitting a completed application for reciprocal licensure and any required supporting documentation; and
- (4) Remitting the application fee.

If an applicant does not meet the requirements under (1) and (2) above, the DEP must award education and operational experience credits for licensure under s. 403.872, F.S., which provides the requirements for licensure in Florida.

The bill also provides that, during a declared state of emergency pursuant to s. 252.36, F.S., the DEP:

- May issue a temporary license to applicants who otherwise meet the requirements for licensure reciprocity; and
- Must waive the application fee for a temporary operator license.

The bill also directs the DEP to adopt rules to implement this section.

Section 3 provides an effective date of July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an insignificant negative fiscal impact on the DEP because the bill requires the DEP to waive the application fee for a temporary reciprocal license issued during a declared state of emergency. In addition, the bill may have a negative fiscal impact on the DEP related to reviewing the licensure examinations of other jurisdictions and determining whether those examinations are comparable to the DEP's licensure examination. The DEP estimates year one non-recurring expenses of $11,000 and $184,000 in annual recurring expenses associated with salary and benefits to implement the program, including public outreach and staff training.[45]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[45] Email from Alex Kernan, Director of Legislative and Governmental Affairs, DEP, to Senate Committee on Environment and Natural Resources (Mar. 14, 2023) (email on file with the Senate Committee on Regulated Industries).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 403.865 and 403.867.

This bill creates section 403.8721 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Fiscal Policy on April 13, 2023:
The amendment removes the word "drinking" from the term "drinking water and wastewater facility personnel."

CS by Environment and Natural Resources on March 20, 2023:
The amendment reorganizes the bill language to clarify that only applicants who have performed comparable duties in the United States Armed Forces are eligible for education and operational experience credits.

CS by Regulated Industries on March 29, 2023:
The amendment revises the bill to:

- Amend legislative intent and provide a definition for the term "drinking water and wastewater facility personnel" within the legislative intent.
- Clarify that the standards for the Department of Environmental Protection (DEP) to approve a reciprocal water treatment plant operator, water distribution system operator, or domestic wastewater treatment plant operator, provided in the bill for a license-holder from another government entity, or with certain armed forces experience, are minimum standards.
- Provide rulemaking authority for the DEP.
- Make technical revisions.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

801760

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Collins) recommended the following:

Senate Amendment (with title amendment)

Delete lines 29 - 31

and insert:

(b) Water and wastewater facility personnel are essential first responders. As used in this section, the term "water and wastewater facility personnel" means any

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

And the title is amended as follows:

801760

Delete line 5

and insert:

"water and wastewater facility personnel";

By the Committees on Regulated Industries; and Environment and Natural Resources; and Senator Collins

A bill to be entitled

An act relating to water and wastewater facility operators; amending s. 403.865, F.S.; revising legislative findings and intent; defining the term "drinking water and wastewater facility personnel"; amending s. 403.867, F.S.; conforming a provision to changes made by the act; creating s. 403.8721, F.S.; requiring the Department of Environmental Protection to issue water treatment plant operator licenses, water distribution system operator licenses, and domestic wastewater treatment plant operator licenses by reciprocity to certain applicants; providing licensure requirements; authorizing the department to issue temporary operator licenses during a declared state of emergency; requiring the department to waive the application fee for temporary operator licenses; requiring the department to adopt rules; providing an effective date.

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

Section 1. Section 403.865, Florida Statutes, is amended to read:

403.865 Water and wastewater facility personnel; legislative purpose.—

(1) The Legislature finds that:

(a) Water and wastewater services are essential to the health and well-being of all citizens.

(b) Drinking water and wastewater facility personnel are

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

essential first responders. As used in this section, the term "drinking water and wastewater facility personnel" means any employee of a governmental authority as defined in s. 367.021; a utility as defined in s. 367.021; a state, municipal, or county sewerage system as defined in s. 403.031(9); or a public water system as defined in s. 403.852(2).

(c) The threat to the public health and the environment from the operation of water and wastewater treatment plants and water distribution systems mandates that qualified personnel operate these facilities.

(2) It is the ~~legislative~~ intent of the Legislature that any person who performs the duties of an operator and who falls below minimum competency or who otherwise presents a danger to the public be prohibited from operating a plant or system in this state.

Section 2. Section 403.867, Florida Statutes, is amended to read:

403.867 License required.—A person may not perform the duties of an operator of a water treatment plant, water distribution system, or ~~a~~ domestic wastewater treatment plant unless he or she holds an active and valid operator ~~a current operator's~~ license issued by the department under s. 403.872 or s. 403.8721.

Section 3. Section 403.8721, Florida Statutes, is created to read:

403.8721 Requirements for licensure by reciprocity.—

(1) The department shall issue a license by reciprocity to any applicant who, at a minimum, meets all of the following requirements:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

(a) Is a water treatment plant operator, water distribution system operator, or domestic wastewater treatment plant operator and holds an active and valid license from another state, the Federal Government, a territory or tribal government that has been designated as the primary agency by the United States Environmental Protection Agency, or any unit thereof for which the licensure requirements, including education and operational experience, are comparable to or exceed the licensure requirements of s. 403.872.

(b) Has passed a licensure examination comparable to the licensure examination of the department, subject to approval by the department.

(c) Is not the subject of a disciplinary or enforcement action outside this state at the time of application for reciprocal licensure.

(d) Submits a completed application for reciprocal licensure and any required supporting documentation.

(e) Remits the application fee.

(2) The department shall issue a license by reciprocity to any applicant who has performed duties comparable to a water treatment plant operator, water distribution system operator, or domestic wastewater treatment plant operator while serving in the United States Armed Forces for which the requirements for performing the duties, including education and operational experience, are comparable to or exceed the licensure requirements of s. 403.872.

(a) Any person applying for a license by reciprocity under this subsection must, at a minimum, meet all of the following requirements:

1. Has passed a skill assessment or competency examination comparable to the licensure examination of the department, subject to approval by the department.

2. Is not the subject of a disciplinary or enforcement action at the time of application for reciprocal licensure.

3. Submits a completed application for reciprocal licensure and any required supporting documentation.

4. Remits the application fee.

(b) If an applicant does not meet the requirements for licensure under subparagraphs (a)1. and 2., the department must award education and operational experience credits for licensure under s. 403.872.

(3) During a state of emergency declared pursuant to s. 252.36, the department:

(a) May issue a temporary water treatment plant operator license, water distribution system operator license, or domestic wastewater treatment plant operator license by reciprocity to any applicant who meets the requirements of subsection (1) or subsection (2).

(b) Shall waive the application fee for a temporary operator license under this subsection.

(4) The department shall adopt rules to implement this section.

Section 4. This act shall take effect July 1, 2023.

The Florida Senate

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4/13/23
Meeting Date

Fiscal Policy
Committee

162
Bill Number or Topic

Amendment Barcode (if applicable)

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Tallahassee FL 32309
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Florida Rural Water Association

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

DUPLICATE

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April 13, 2023
Meeting Date

Senate Fiscal Policy
Committee

162
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kevin Cleary

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Email kcleary@gunster.com

Tallahassee FL 32301
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Section of the American Water Works Associations

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/CS/SB 240
INTRODUCER:	Fiscal Policy Committee; Education Pre-K – 12 Committee; and Senator Hutson and others
SUBJECT:	Education
DATE:	April 14, 2023
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Bouck	ED	**Fav/CS**
2.	Brick	Yeatman	FP	**Fav/CS**
3.				

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 240 provides supports for district school boards, Florida College System institutions (state colleges), and other stakeholders in Florida's workforce development system to provide students with high-quality career and technical education (CTE) and other workforce education programs.

The bill supports CTE for middle and high school students. Specifically, the bill:

- Provides $100 million for district school boards and colleges to fund the creation or expansion of CTE programs that serve secondary students.
- Authorizes secondary CTE programs to be funded according to the cost of the programs.
- Removes limitations on bonus funding for middle school students in CTE programs.
- Provides additional bonus funding within the Florida Education Finance Program for select achievements in CTE.

The bill supports CTE pathways for students. Specifically, the bill:

- Adds continuity through controlled open enrollment for middle school students to continue their CTE programs in high school.
- Enhances career and academic plans by requiring them to be updated and requiring parents to be provided information about CTE opportunities and benefits for students.
- Expands options for students to earn credit through extracurricular participation in career and technical student organizations.

The bill strengthens opportunities for students to engage in work-based learning by:
- Establishing regional education and industry consortia to meet and report to local workforce development boards the most effective ways to grow, retain, and attract talent.
- Requiring each district school board to provide all students enrolled in grades 9 through 12 with at least one work-based learning opportunity.

The bill provides flexibility for district school boards in recruiting CTE teachers. The bill:
- Provides discretion to district school boards to certify instructors to teach CTE programs.
- Requires school boards to give teachers credit toward continuing education requirements for supporting students in extracurricular CTE activities.

The bill provides flexibility in the administration of workforce development by restoring to district school boards and state colleges the responsibility for approving workforce education programs that have a statewide curriculum framework developed by the Department of Education.

The bill provides flexibility for the Credentials Review Committee (Committee) in designating credentials of value. The bill:
- Authorizes the Committee to consider both information provided by the Labor Market Statistics Center within the Department of Economic Opportunity related to short-term demand and long-term data of the Labor Market Estimating Conference as factors in the development of the criteria for identifying credentials of value.
- Removes the requirement for the Committee to develop a returned-value performance funding formula for colleges and career centers.

The bill enhances the CAPE Industry Certification Funding List (Funding List), which is used to incent credentials of value for CTE programs. The bill:
- Provides flexibility to CTE programs to choose the courses in which students may earn industry certifications identified in the Funding List.
- Requires the State Board of Education to adopt three funding tiers for postsecondary certifications on the Funding List according to anticipated wages.

The bill also provides flexibility in the administration of certain state financial aid and grant programs.

The bill takes effect July 1, 2023.

II. Present Situation:

Workforce Innovation and Opportunity Act of 2014

In 2014, Congress passed the Workforce Innovation and Opportunity Act (WIOA), which superseded the Workforce Investment Act of 1998.[1] WIOA requires each state to develop a

[1] Workforce Innovation and Opportunity Act, 29 U.S.C. s. 3101 et seq. (2014).

single, unified plan for aligning workforce services through the identification and evaluation of core workforce programs.[2]

WIOA identifies four core programs that coordinate and complement each other to ensure job seekers have access to needed resources.[3] The core programs are:

- Adult, Dislocated Worker and Youth Programs;
- Adult Education and Literacy Activities;
- Employment Services under the Wagner-Peyser Act;[4] and
- Vocational Rehabilitation Services.[5]

WIOA establishes minimum performance accountability measures for the evaluation of core programs in each state and performance reports to be provided at the state, local, and training provider levels.[6] Performance measures that apply across all core programs include:[7]

- The percentage of participants in unsubsidized employment during second quarter after exit.
- The percentage of participants in unsubsidized employment during fourth quarter after exit.
- The median earnings of participants during second quarter after exit.
- The percentage of participants who obtain a postsecondary credential or secondary school diploma within 1 year after exit.
- The achievement of measureable skill gains toward credentials or employment; and
- The effectiveness in serving employers.

State Administration of Workforce Development

WIOA requires the Governor to establish a State Workforce Development Board (state board) to assist the Governor in carrying out the duties and responsibilities required by WIOA.[8] CareerSource Florida, Inc., implements the policy directives of the state board and administers state workforce development programs.[9] CareerSource Florida, Inc., provides administrative support to the state board, the principal workforce policy organization for the state.[10] In Fiscal Year 2021-2022, CareerSource allocated $245 million in funding[11] and assisted 86,503 job seekers in obtaining employment.[12]

WIOA requires states to designate local workforce development areas in the state. The local workforce development areas must be consistent with labor market areas and regional economic

[2] *See* 29 U.S.C. s. 3112(a).
[3] *See* 29 U.S.C. s. 3102(13).
[4] *See* 29 U.S.C. s. 49 et seq.
[5] *See* 29 U.S.C. s. 720 et. seq.
[6] *See* 29 U.S.C. s. 3141.
[7] *Id.*
[8] 29 U.S.C. s. 3111.
[9] Section 445.004(2), F.S.
[10] Section 445.004(2)-(3), F.S.
[11] CareerSource Florida, *Strategic Policy and Performance Council Meeting* (Feb. 16, 2022), *available at* https://careersourceflorida.com/wp-content/uploads/2022/08/2022-02-16-Closer-Look-Fed_Funding_State_Board_Initiatives.pdf, at 5.
[12] CareerSource Florida, *CareerSource Florida Celebrates 2022 Workforce Development Accomplishments*, https://careersourceflorida.com/2022/12/29/careersource-florida-celebrates-2022-workforce-development-accomplishments/ (last visited Mar. 11, 2023).

development areas in the state and have available federal and non-federal resources necessary to effectively administer workforce development services.[13] Within each area, a local workforce development board must be established.[14] Each local workforce development board is required to coordinate planning and service delivery strategies within the local workforce development area and submit to the Governor a 4-year local plan for the delivery of workforce development services.[15]

The Department of Economic Opportunity (DEO) serves as Florida's lead workforce agency.[16] DEO is responsible for the fiscal and administrative affairs of the workforce development system.[17] DEO receives and distributes federal funds for employment-related programs to the local workforce development boards.[18] Under the direction of CareerSource, the DEO is required to annually meet with each local workforce development board to review the board's performance and to certify that the board is in compliance with applicable state and federal laws.[19] Within the DEO, the Labor Market Statistics Center of the Bureau of Workforce Statistics and Economic Research produces, analyzes, and delivers timely and reliable labor statistics to improve economic decision-making.[20]

The REACH Office coordinates workforce development in Florida across the various agencies that participate in the workforce development system. The REACH Office is required to develop criteria for assigning letter grades to local workforce development boards.[21] The state board is required to adopt letter grades annually by July 1.[22] In implementing its various duties, the REACH Office is required to maximize the use of available federal and private funds for the development and initial operation of the workforce opportunity portal.[23]

Career and Technical Education

The $1.3 billion Carl D. Perkins Career and Technical Education Act of 2006, as amended by the Strengthening Career and Technical Education for the 21st Century Act (Perkins V), assists states and outlying areas in expanding and improving career and technical education (CTE) in secondary schools, technical schools, and community colleges.[24] The term "career and technical education" means organized educational activities that:[25]

- Offer a sequence of courses that provides individuals with rigorous academic content and relevant technical knowledge and skills needed to prepare for further education and careers.

[13] *See* 29 U.S.C. s. 3121.
[14] 29 U.S.C. s. 3122.
[15] *See* 29 U.S.C. ss. 3122 and 3123.
[16] Primarily through the Division of Workforce Services. *See* s. 20.60, F.S.
[17] *See* s. 20.60(5)(c), F.S. and s. 445.009(3)(c), F.S.
[18] *See* s. 20.60(5)(c), F.S. and s. 445.003, F.S.
[19] *See* s. 445.007(3), F.S.
[20] Department of Economic Opportunity, *Workforce Statistics*, https://floridajobs.org/workforce-statistics (last visited Mar. 12, 2023).
[21] Section 14.36(3)(h), F.S.
[22] Section 445.004(8), F.S.
[23] Section 14.36, F.S.
[24] 20 U.S.C. s. 2301 et seq.
[25] 20 U.S.C. s. 2302(5).

- Include competency-based, work-based, or other applied learning that supports the development of academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, employability skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual.
- To the extent practicable, coordinate between secondary and postsecondary education programs through programs of study that provide postsecondary credit or advanced standing.
- May include career exploration at the high school level or as early as the middle grades.

The purpose of career education is to enable students who complete career programs to attain and sustain employment and realize economic self-sufficiency. Perkins V defines a CTE concentrator as a student at the secondary school level who has completed at least 2 courses in a single CTE program or program of study.[26] CTE program administrators are accountable for:[27]

- Student demonstration of the academic skills necessary to enter an occupation.
- Student preparation to enter an occupation in an entry-level position or continue postsecondary study.
- Career program articulation with other corresponding postsecondary programs and job training experiences.
- Employer satisfaction with the performance of students who complete career education or reach occupational completion points.
- Student completion, placement, and retention rates.

The criteria for qualification of individual courses for inclusion in the classification of secondary career education programs and workforce development education programs are annually adopted by the State Board of Education and published by the commissioner in the curriculum frameworks.[28] The approved curriculum frameworks are aligned with the following career clusters:[29]

- Agriculture, Food & Natural Resources
- Architecture & Construction
- Arts, A/V Technology & Communication
- Business, Management & Administration
- Education & Training
- Energy
- Engineering & Technology Education
- Finance
- Government & Public Administration
- Health Science
- Hospitality & Tourism
- Human Services
- Information Technology
- Law, Public Safety & Security

[26] 20 U.S.C. s. 2302(12).
[27] Section 1004.92, F.S.
[28] Rule 6A-6.0571, F.A.C.
[29] FLDOE, *Curriculum Frameworks*, https://www.fldoe.org/academics/career-adult-edu/career-tech-edu/curriculum-frameworks/2022-23-frameworks/ (last visited Mar. 8, 2023).

- Manufacturing
- Marketing, Sales & Service
- Transportation, Distribution & Logistics
- Additional CTE programs and courses, including diversified education, instructional support services, and high school apprenticeship and preapprenticeship.

Career and technical student organizations (CTE student organizations) are a key component of Florida's plan under Perkins V to strengthen the employability skills of students.[30] A CTE student organization is an organization for students enrolled in a CTE program that engages in CTE activities as an integral part of the instructional program.[31] These organizations are aligned with a respective career cluster and provide a unique program of career and leadership development, motivation, and recognition for middle, secondary and post-secondary students.[32]

A CTE student organization is eligible to receive funds from the state's Perkins V allocation through the Department of Education (DOE) if the organization submits a request to the DOE and has, for one year:[33]

- Been incorporated as a 501(c)(3) not-for-profit corporation in the United States, with an established constitution & bylaws and a board of directors having majority representation from CTE educators or administrators.
- Been organized into state geographic units and affiliated organizations.
- Included 150 or more student members organized into chapters in middle, secondary or postsecondary institutions, with a formalized process for selection of student leaders at the local and state levels.
- Served students and teachers in one or more of the 17 career clusters.
- Included 10 or more middle, secondary or postsecondary chapters.
- Offered at least one statewide leadership development event and competitions event aligned with CTE program standards and curricula.
- Included an identified, participating and employed state executive director or equivalent.
- Supported the integration of arts and design skills and support for hands-on learning, particularly for students who are members of groups underrepresented in such subject fields, such as female students, minority students, and students who are members of special populations.
- At least one business partner outreach activity.
- Included an established operating budget
- Increased the participation of students in nontraditional fields and students who are members of special populations.

[30] Florida Department of Education, *Perkins V: Florida's State Plan for the Strengthening Career and Technical Education For the 21st Century Act (Perkins V)*, *available at* https://www.fldoe.org/core/fileparse.php/18815/urlt/FloridaStatePlanPerkinsV.pdf, at 28.
[31] 20 USC s. 2302(5).
[32] Florida Department of Education, *Career and Technical Education Student Organization (CTSO) Request Form*, *available at* https://www.fldoe.org/academics/career-adult-edu/perkins/.
[33] Florida Department of Education, *Career and Technical Education Student Organization (CTSO) Request Form*, *available at* https://www.fldoe.org/academics/career-adult-edu/perkins/.

There are eleven registered CTE student organizations in Florida,[34] including the Florida Future Educators of America, which is facilitated by the DOE.[35] State CTE student organizations may be associated with nationally recognized CTE student organizations.

The Florida Future Farmers of America (FFA) is an association of the Future Farmers of America, which is a federally-charted national and patriotic organization.[36] A core component of FFA participation is the supervised agricultural experience. A supervised agricultural experience is an entrepreneurial or work-based learning experience related to the student's career interests and goals.[37] It is year-round, led by the student, and supervised by the agricultural education instructor. A supervised agricultural experience consists of projects or enterprises within the Agriculture, Food and Natural Resources career pathways where the student applies agricultural skills and knowledge taught in the classroom to real-world experiences. A supervised agricultural experience is one component of a CTE credit in Agriscience Foundations 1.[38] There are six types of supervised agricultural experiences:[39]

- Foundational supervised agricultural experience, in which students shadow a worker in an agricultural career and start learning personal financial management and planning and how to safely live and work in agriculture.
- Ownership/Entrpreneurship, in which students own and operate an agriculture-related business or enterprise providing goods or services.
- Placement/internship, in which students gain experience through working for an agricultural employer.
- Research-based supervised agricultural experience, in which students use the scientific process to discover new agricultural knowledge or validate current knowledge and research.
- School-based enterprise, in which students start or continue a business owned and managed by students using school facilities. It must take place outside of teacher-directed class instruction time and must provide goods or services that meet the needs of an identified market.
- Service-learning, in which students complete a service-learning project that is pre-approved by a local review committee that includes the agricultural education teacher and community stakeholders. It must be a stand-alone project, not part of an ongoing chapter project or community fundraiser. The project must align to the Agriculture, Food and Natural Resources Technical Standards and CareerReady Practices.

Each of the recognized CTE student organizations provides similar meaningful opportunities for students to participate in extracurricular CTE activities that provide employability skills and enhance student interest in education.

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[34] Florida Department of Education, *Career and Technical Student Organizations, available at* https://www.fldoe.org/core/fileparse.php/7515/urlt/CareerTechStudentOrg.pdf.
[35] Florida Department of Education, *Florida Future Educators of America*, https://www.fldoe.org/teaching/recruitment/fl-future-educators-of-america/index.stml (last visited Mar. 12, 2023).
[36] 20 U.S.C. s. 70901.
[37] Future Farmers of America, *2022-2023 Official FFA Manual, available at* https://ffa.app.box.com/s/z6bkjdmqd7e329a58a27e5xn1fzcqeqq, at 11.
[38] Florida Department of Education, *Student Performance Standards: Agriscience Foundations 1, Course Number 8106810, as adopted in* Florida Department of Education, *2012-2022 Course Code Directory, Section 5: CTE, available at* https://www.fldoe.org/policy/articulation/ccd/2021-2022-course-directory.stml.
[39] Future Farmers of America, *2022-2023 Official FFA Manual, available at* https://ffa.app.box.com/s/z6bkjdmqd7e329a58a27e5xn1fzcqeqq, at 11.

Career and Education Planning

In order for a student to be promoted to high school from a middle school, a student must complete a course in career and education planning, which may be taught by any member of the instructional staff. The course may be implemented as a stand-alone course or integrated into another course or courses and must:[40]

- Be Internet-based, customizable to each student, and include research-based assessments to assist students in determining educational and career options and goals.
- Result in a completed personalized academic and career plan for the student that may be revised as the student progresses through middle school and high school.
- Emphasize the importance of entrepreneurship and employability skills.
- Include information from the DEO's economic security report and other state career planning resources.

In addition, the course must inform students of:[41]

- High school graduation requirements, including a detailed explanation of the requirements for earning a high school diploma designation;
- The requirements for each scholarship in the Florida Bright Futures Scholarship Program; state university and state college admission requirements;
- Available opportunities to earn college credit in high school, including Advanced Placement courses; the International Baccalaureate Program; the Advanced International Certificate of Education Program; dual enrollment, including career dual enrollment; and career education courses, including career-themed courses, preapprenticeship and apprenticeship programs, and course sequences that lead to industry certification.

At the beginning of each school year, district school boards are required to notify parents of students in or entering high school of the opportunity and benefits of advanced placement, International Baccalaureate, Advanced International Certificate of Education, dual enrollment, and Florida Virtual School courses and options for early graduation.[42]

Work-Based Learning

Work-based learning is featured prominently in Perkins V as a strategy for preparing CTE students for further learning and careers.[43] The term "work-based learning opportunity" means an interaction with industry or community professionals that occurs in a workplace setting, to the extent possible, or a simulated environment at an educational institution that allows firsthand experience with tasks required in a given career field, is aligned with curriculum and instruction, and is provided in partnership with an educational institution.[44]

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[40] Section 1003.4156(7)(e), F.S.
[41] Section 1003.4156(7)(e), F.S.
[42] Section 1003.02(1)(i), F.S.
[43] US Department of Education, Office of Career, Technical, and Adult Education, *Expanding Work-Based Learning Opportunities for Youth: Insights from the Field* (Jan. 19, 2021), *available at* https://s3.amazonaws.com/PCRN/file/WBL-RFI-Comments-Summary.pdf, at 1.
[44] Section 446.0915(1), F.S.

A work-based learning opportunity must:[45]

- Be developmentally appropriate.
- Identify learning objectives for the term of experience.
- Explore multiple aspects of an industry.
- Develop workplace skills and competencies.
- Assess performance.
- Provide opportunities for work-based reflection.
- Link to next steps in career planning and preparation in a student's chosen career pathway.
- Be provided in an equal and fair manner.
- Be documented and reported in compliance with state and federal labor laws.

The State Board of Education establishes uniform minimum standards and guidelines for determining student eligibility, obligations of employers, and requirements of institutions that offer work-based learning opportunities.[46] The standards require participating employers, schools, and students, or the parent of a student, to execute a training agreement that includes the names and contact information of the participants and:[47]

- The start and end dates of the work-based learning opportunity;
- The number of hours to be worked per week by the student and the student's work schedule, if available;
- Whether the work-based learning opportunity is paid or unpaid;
- A description of the work-based learning opportunity, including, but not limited to, the student's specific job responsibilities;
- The employability and technical skills to be learned by the student during the work-based learning opportunity;
- A description of how the student's performance will be assessed by the employer supervisor and instructor.

A work-based learning opportunity should prioritize paid experiences, such as apprenticeship and preapprenticeship programs.[48] Diversified education also offers a program of structured work-based learning. Diversified education is a cooperative education program for Middle and High School students that offers career guidance, occupational work experience and coursework in employability skills. It utilizes a cooperative partnership between schools, businesses and parents to prepare students for future employment and careers.[49]

The benefits of work-based learning opportunities for students are recognized by the Florida Talent Development Council. The Legislature created the Florida Talent Development Council to develop a coordinated, data-driven, statewide approach to meeting Florida's needs for a 21st century workforce that employers and educators use as part of Florida's talent supply system.[50]

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[45] Section 446.0915(2), F.S.
[46] Section 446.0915(3), F.S.
[47] Rule 6A-23.0042, F.A.C.
[48] Section 446.0915(2), F.S.
[49] Florida Department of Education, *Additional CTE Programs/Courses: Diversified Education*, https://www.fldoe.org/academics/career-adult-edu/career-tech-edu/additional-cte-programs-courses/diversified-edu.stml (last visited Mar. 11, 2023).
[50] Section 1004.015(1), F.S.

The strategic plan formulated by the Florida Talent Development Council for strengthening Florida's workforce includes building partnerships among K-12, postsecondary education, technical education, adult education, industry, apprenticeships, specialty training and other partners to facilitate earlier engagement in career exploration and work-based learning opportunities for all student populations.[51]

Workers' Compensation Reimbursement Program

Business are authorized to employ students in work-based learning opportunities, and a state program exists to reimburse employers for the workers' compensation insurance premiums associated with the employment. Employers subject to the requirements of Florida's Workers' Compensation Law are required to secure the payment of workers' compensation for their employees.[52] A student 18 years of age or younger who is in a paid work-based learning opportunity must be covered by the workers' compensation insurance of his or her employer. A student 18 years of age or younger who is providing unpaid services under a work-based learning opportunity provided by a school district or state college is considered to be employed by the school district or state college.[53]

The DOE is authorized to reimburse employers, including school districts and state college, for the proportionate cost of workers' compensation insurance premiums for students in work-based learning opportunities in accordance with DOE rules.[54] The DOE reviews requests to ensure that each request for reimbursement is limited to an increase in the employer's workers compensation premiums attributable to the inclusion of a student participating in a work-based learning opportunity.[55]

CTE Teachers

Each district school board is required to establish the minimal qualifications for part-time and full-time nondegreed teachers of career programs. The qualifications for such teachers must require the filing of a complete set of fingerprints for background screening and documentation of:[56]

- A high school diploma or the equivalent.
- Completion of 6 years of full-time successful occupational experience or the equivalent of part-time experience in the teaching specialization area. The district school board may establish alternative qualifications for teachers with an industry certification in the career area in which they teach.
- Completion of career education training conducted through the local school district inservice master plan or through an educator preparation institute approved by the Department of Education pursuant to s. 1004.85.

[51] Florida Talent Development Council, *Strategic Plan: 2020-2030*, *available at* https://www.floridajobs.org/docs/default-source/communicationsfiles/florida-talent-development-council/ftdc-plan.pdf?sfvrsn=4eae40b0_2#:~:text=GOAL%3A,training%20experience%20to%2060%20percent.&text=Identify%20the%20postsecondary%20degrees%2C%20certificates,awarded%20by%20Florida%27s%20postsecondary%20institutions, at 8.
[52] Section 440.10(1), F.S.
[53] Section 446.54, F.S.
[54] Section 446.54, F.S.
[55] Rule 6A-6.05732(4), F.A.C.
[56] Section 1012.39(1)(c), F.S.

- For full-time teachers, completion of professional education training in teaching methods, course construction, lesson planning and evaluation, and teaching special needs students. This training may be completed through coursework from an accredited or approved institution or an approved district teacher education program.
- Demonstration of successful teaching performance.
- Documentation of industry certification when state or national industry certifications are available and applicable.

District school boards are required to issue an adjunct teaching certificate to any applicant who meets background screening requirements and who has expertise in the subject area to be taught as evidenced by passage of a subject area test.[57]

Teachers have continuing education requirements to renew their certificates.[58] To renew a professional certificate, an applicant must earn a minimum of 6 college credits or 120 inservice points or a combination thereof. Renewal of subject area specializations also requires specific college credits or inservice points.[59] For each area of specialization to be retained on a certificate, the applicant must earn at least 3 of the required credit hours or equivalent inservice points in the specialization area. Training that may be applied toward any specialization includes:[60]

- Education in "clinical educator" training.
- Participation in mentorship and induction activities.
- Training in the area of literacy and reading instruction, implementing multisensory intervention strategies, computational skills acquisition, exceptional student education, normal child development, and the disorders of development.

Controlled Open Enrollment

"Controlled open enrollment" is a public education delivery system that allows school districts to make student school assignments using parents' indicated preferential educational choice as a significant factor. Controlled open enrollment is only available if the desired school of attendance has capacity to receive the student. A middle grades student who desires to continue a CTE pathway only offered in a high school outside of the student's zone is not included in the list of students that receive preferential treatment for enrollment.[61]

Standard High School Diploma Requirements

A student must complete 24 credits to earn a standard high school diploma. The 24 required credits include:[62]

- Four credits in English Language Arts I, II, III, and IV.
- Four credits in mathematics, including one in Algebra I and one in Geometry.
- Three credits in science, two of which must have a laboratory component and one of which must include Biology I.

[57] Section 1012.57(1), F.S.
[58] Section 1012.585, F.S.
[59] Section 1012.585(3), F.S.
[60] Section 1012.585(3)(a), F.S.
[61] Section 1002.31(2)(c), F.S.
[62] Section 1003.4282(3)(a)-(g), F.S.

- Three credits in social studies including one credit in United States History, one credit in World History, one-half credit in economics, and one-half credit in United States Government.
- One credit in fine or performing arts, speech and debate, or practical arts.
- One credit in physical education which includes the integration of health.
- 7.5 credits in electives. School districts are required to develop and offer coordinated electives to enable a student to develop knowledge and skills in his or her area of interest and such electives must include opportunities for students to earn college credit.
- One-half credit in financial literacy.

A student may earn a 'merit designation' on a standard high school diploma by attaining at least one industry certification identified on the CAPE Industry Certification Funding List.[63]

The DOE is required to develop multiple additional CTE courses or programs that allow students to earn credit in both the career education course and courses required for high school graduation. The State Board of Education is required to determine at least biennially if sufficient academic standards are covered in CTE courses to warrant the award of academic credit, including satisfaction of assessment requirements.[64] There are 543 CTE courses that do not satisfy the practical arts requirement.[65]

A student who earns credit upon completion of a registered apprenticeship or preapprenticeship program may use the credit to satisfy the high school graduation credit requirements in an elective or fine or performing arts, speech and debate, or practical arts.[66] In addition, approximately 280 CTE courses meet the practical arts requirement.[67]

Articulation

The State Board of Education and the Board of Governors of the State University System of Florida (Board of Governors) are required to enter into a statewide articulation agreement that helps to facilitate the seamless transition of students across and among Florida's educational entities.[68] Statewide agreements to articulate career certificate and industry certifications into college credit include:[69]

- Career certificate to associate degree agreements that allow students who complete designated programs to articulate credits into related Associate in Science and Associate in Applied Science degree programs.
- Florida's Gold Standard Career Pathways Articulation Agreements, which guarantee the award of an identified number of college credits to students who have earned a specified

[63] Section 1003.4285(1)(b), F.S.
[64] Section 1003.4282(8)(a), F.S.
[65] Email, Florida Department of Education (Mar. 3, 2023).
[66] Section 1003.4282(8)(a)3., F.S.
[67] Florida Department of Education, *CTE Courses that meet the Practical Arts High School Graduation Requirement*, *available at* https://www.fldoe.org/core/fileparse.php/7746/urlt/2122PACourses.pdf.
[68] Section 1007.23, F.S.
[69] Section 1007.23, F.S.

industry certification and are enrolled in a designated Associate in Science and Associate in Applied Science degree program.[70]

In addition, the statewide articulation agreement requires the identification of three mathematics pathways, which are aligned to programs, meta-majors, and careers.[71] The three pathways adopted in the statewide articulation agreement include:[72]

- Algebra through Calculus.
- Statistical Reasoning.
- Mathematical Thinking in Context.

Credentials of Value

Labor Market Estimating Conference

The Florida Talent Development Council noted the importance of identifying high-demand employment needs in its strategic plan.[73] In this regard, the Labor Market Estimating Conference is required to develop official information with respect to real-time supply and demand in Florida's statewide, regional, and local labor markets as the conference determines is needed by the state planning and budgeting system. Such information must include labor supply by education level, analyses of labor demand by occupational groups and occupations compared to labor supply, a ranking of critical areas of concern, and identification of in-demand, high-skill, middle-level to high-level wage occupations prioritized by level of statewide or regional shortages.[74]

All state agencies must provide the Office of Economic and Demographic Research with the necessary data to accomplish the goals of the conference. State agencies are required to ensure that any related work product regarding labor demand and supply is consistent with the official information developed by the Labor Market Estimating Conference.[75] The labor market demand data informs the development of a state Master Credentials List. State agencies and the judicial branch are required to use the official information developed by each of the consensus estimating conferences in carrying out their duties under the state planning and budgeting system.[76]

Master Credentials List

The state workforce development board is required to appoint a Credentials Review Committee, which includes the director of the REACH Office, to identify nondegree credentials and degree

[70] Rule 6A-10.0401, F.A.C.
[71] Section 1007.23(3), F.S.
[72] Rule 6A-10.024(16), F.A.C.; State Board of Education, *Math Pathways List – 6A-10.024* (Feb. 2023), *available at* https://www.flrules.org/Gateway/reference.asp?No=Ref-15154.
[73] Florida Talent Development Council, *Strategic Plan: 2020-2030*, *available at* https://www.floridajobs.org/docs/default-source/communicationsfiles/florida-talent-development-council/ftdc-plan.pdf?sfvrsn=4eae40b0_2#:~:text=GOAL%3A,training%20experience%20to%2060%20percent.&text=Identify%20the%20postsecondary%20degrees%2C%20certificates,awarded%20by%20Florida%27s%20postsecondary%20institutions, at 6.
[74] Section 216.136)7, F.S.
[75] Section 216.136(7)(a), F.S.
[76] Section 216.135, F.S.

credentials of value for approval by the state board and inclusion in the Master Credentials List.[77] The Master Credentials List must, at a minimum, identify:

- Nondegree credentials and degree programs determined to be of value for the CAPE Industry Certification Funding List, which identifies credentials that are eligible for bonus funding within the Florida Education Finance Program;
- If the credential or degree program meets statewide, regional, or local level demand;
- The type of certificate, credential, or degree; and
- The primary standard occupation classification code.

The credentials must include registered apprenticeship programs, industry certifications, licenses, advanced technical certificates, college credit certificates, career certificates, applied technology diplomas, associate degrees, baccalaureate degrees, and graduate degrees. The Department of Agriculture and Consumer Services, in cooperation with the Institute of Food and Agricultural Sciences at the University of Florida and the College of Agriculture and Food Sciences at the Florida Agricultural and Mechanical University, submits industry certifications for agriculture occupations to the Credentials Review Committee to be considered for placement on the Master Credentials List.[78]

The Credentials Review Committee is required to establish a definition for credentials of value and create a framework of quality. The framework is required to align with federally funded workforce accountability requirements and undergo biennial review. The Credentials Review Committee is required to establish a process for prioritizing nondegree credentials and degree programs based on critical statewide or regional shortages.[79]

The Credentials Review Committee adopted the framework of quality for determining credentials of value December 7, 2022.[80] The framework of quality aligns with statutory guidelines. The criteria to determine value for nondegree credentials should, at a minimum, require:[81]

- Evidence that the credential meets labor market demand as identified by the Labor Market Estimating Conference or meets local demand as identified in the criteria adopted by the Credentials Review Committee. Evidence must include employer information on present credential use or emerging opportunities.
- Evidence that the competencies mastered upon completion of the credential are aligned with labor market demand.
- Evidence of the employment and earnings outcomes for individuals after obtaining the credential. Earnings outcomes must provide middle-level to high-level wages with preference given to credentials generating high-level wages. Credentials that do not meet the earnings outcomes criteria must be part of a sequence of credentials that are required for the next level occupation that does meet the earnings outcomes criteria in order to be identified as a

[77] The law requires the Credentials Review Committee to include certain members representing different components of the workforce development system but does identify the chair of the committee. Section 445.004(4)(h)1., F.S.
[78] Section 570.07(43), F.S.
[79] Section 445.004(4)(h)6., F.S.
[80] Florida Credentials Review Committee, *December 2022 Meeting Minutes*, *available at* https://careersourceflorida.com/wp-content/uploads/2023/02/230209_CRCAgendaPacket.pdf, at 4.
[81] Section 445.004(4)(h)3.-4., F.S.

credential of value. For new credentials, this criteria may be met with conditional eligibility until measurable labor market outcomes are obtained.

The Credentials Review Committee is also required to establish the criteria to determine value for degree programs. This criteria must include evidence that the program meets the labor market demand as identified by the Labor Market Estimating Conference or meets local demand as determined by the committee.[82]

The Credentials Review Committee must also establish a process for:[83]

- At a minimum, quarterly review and approval of credential applications. Approved credentials of value shall be used by the committee to develop the Master Credentials List.
- Annual review of the Master Credentials List.
- Phasing out credentials on the Master Credentials List that no longer meet the framework of quality.
- Designating performance funding eligibility for district school boards and state colleges, based upon the highest available certification for postsecondary students.
- Submitting the Master Credentials List to the State Board of Education.

On February 9, 2023, the Credentials Review Committee approved the Master Credentials List for the 2023-2024 fiscal year.[84] The list included 275 degree credentials, 1,446 non-degree credentials, and 33 digital tools. A provisional status of one year was conferred on 10 degree programs, 78 industry certifications, 85 apprenticeships, and 136 non-degree programs of study.[85] However, no baccalaureate and graduate degrees were included in the Master Credentials List.[86]

All information pertaining to the Credentials Review Committee, the process for the approval of credentials of value, and the Master Credentials List is required to be made available and be easily accessible to the public on all relevant state agency websites.[87]

CAPE Industry Certification Funding List

The Master Credentials List is submitted to the State Board of Education for the adoption of the CAPE Industry Certification Funding List. The State Board of Education is required to adopt, at least annually, based on recommendations by the Commissioner of Education, the CAPE Industry Certification Funding List that assigns additional full-time equivalent membership to certifications identified in the Master Credentials List that meet a statewide, regional, or local demand, and courses that lead to such certifications. Additional full-time equivalent membership funding for regional and local demand certifications and courses that lead to such certifications

[82] Section 445.004(4)(h)5., F.S.
[83] Section 445.004(4)(h)7., F.S.
[84] Florida Credentials Review Committee, *Credentials Review Committee Meeting* (Feb. 9, 2023), https://careersourceflorida.com/event/crc-feb-2023/ (last visited Mar. 10, 2023).
[85] Florida Credentials Review Committee, *Florida Credentials Review Committee* (Feb. 9, 2023), *available at* https://careersourceflorida.com/wp-content/uploads/2023/02/230209_CRCMeetingPresentation.pdf, at 11.
[86] CareerSource FL, *Master Credentials List: 2023-2024 Master Credentials List*, https://careersourceflorida.com/boardroom/florida-credentials-review-committee/master-credentials-list/ (last visited Mar. 10, 2023).
[87] Section 445.004(4)(h)2., F.S.

may only be earned in those areas with regional or local demand as identified by the Credentials Review Committee.

Industry certification is a process where students demonstrate knowledge, skills, and competencies and earn a credential that is nationally recognized and is:

- Within an industry that addresses a critical local or statewide economic need;
- Linked to an occupation that is included in the workforce system's targeted occupation list; or
- Linked to an occupation that is identified as emerging.[88]

The CAPE Industry Certification Funding List may include the following certificates, certifications, and courses:[89]

- CAPE industry certifications identified as credentials of value that meet the framework of quality. The CAPE Industry Certification Funding List must incorporate by reference the industry certifications on the career pathways list approved for the Florida Gold Seal CAPE Scholars award.
- CAPE Digital Tool certificates.
- CAPE ESE Digital Tool certificates, workplace industry certifications, and OSHA industry certifications for students with disabilities.
- CAPE Innovation Courses that combine academic and career performance outcomes with embedded industry certifications.
- CAPE Acceleration Industry Certifications that articulate for 15 or more college credit hours.

Certifications included on the CAPE Industry Certification Funding List:[90]

- Require at least 150 hours of instruction and
- Can be earned in middle and high school.
- Usually require passage of a subject area examination and some combination of work experience, educational attainment, or on-the-job training.

<u>CAPE Digital Tools</u>

Each district school board is required to make available digital materials, CAPE Digital Tool certificates, and CAPE industry certifications for students in prekindergarten through grade 12 in order to enable students to attain digital skills.[91] The DOE is required to identify in the CAPE Industry Certification Funding List CAPE Digital Tool certificates that indicate a student's digital skills and notify each school district when the certificates are available. The DOE must make the certificates available to all public elementary and middle grades students, but the Commissioner of Education may limit CAPE industry certifications and CAPE Digital Tool certificates to students in certain grades based on formal recommendations by providers of CAPE industry certifications and CAPE Digital Tool certificates.[92]

[88] Section 1003.492(2), F.S.
[89] Section 1008.44(1), F.S.
[90] Rule 6A-6.0576(5)-(6), F.S.
[91] Section 1003.4203(1), F.S.
[92] Section 1008.44(4)(b), F.S.

Each district school board is also required to make available digital and instructional materials, including software applications, to students with disabilities who are in prekindergarten through grade 12. Digital materials may include CAPE Digital Tool certificates, workplace industry certifications, and OSHA industry certifications for students with disabilities; and each student's individual educational plan for students with disabilities must identify the CAPE Digital Tool certificates and CAPE industry certifications the student seeks to attain before high school graduation.[93]

Courses identified in the CAPE Industry Certification Funding List that combine academic and career content and performance outcome expectations and articulate for college credit are eligible for additional full-time equivalent membership. Such approved courses must incorporate at least two third-party assessments that, if successfully completed by a student, articulate for college credit. At least one of the two third-party assessments must be associated with an industry certification that is identified on the CAPE Industry Certification Funding List. Each course that is approved by the commissioner must be specifically identified in the Course Code Directory as a CAPE Innovation Course.[94] The 2022-2023 CAPE Industry Certification Funding List does not include any CAPE Innovation courses.[95]

Florida Education Finance Program

The additional FTE for CAPE programs is provided through the Florida Education Finance Program (FEFP), which is the primary mechanism for funding the operating costs of Florida school districts. To equalize educational opportunities, the FEFP formula recognizes varying local property tax bases, education program costs, costs of living, and costs for equivalent educational programs due to sparsity and dispersion of the student population.[96]

Cost factors based on desired relative cost differences between programs are established in the annual General Appropriations Act. Nationwide, it is estimated that CTE costs may be between 20 and 40 percent higher than those for general academic instruction.[97] The cost factor for secondary CTE programs in Florida, however, is required to be the same as for basic programs grade 9 through 12.[98]

The FEFP incents various instructional programs by providing weighted full-time equivalent student membership for students who attain a specified level of performance in the programs. CAPE industry certifications issued to middle school and high school students are eligible for additional full-time equivalent membership.[99] School districts earn bonus funding of 0.025 FTE for students who complete a CAPE Digital Tool Certificate and 0.1 FTE for each student who

[93] Section 1003.4203(2), F.S.
[94] Section 1003.4203(5)(a), F.S.
[95] Florida Department of Education, *2022-2023 CAPE Industry Certification Funding List*, *available at* https://www.fldoe.org/core/fileparse.php/8904/urlt/2223CAPECertFundList.pdf.
[96] OPPAGA, *Florida Education Finance Program*, https://oppaga.fl.gov/ProgramSummary/BackPageDetail?programNumber=2002&backPageNumber=01 (last visited Mar. 9, 2023).
[97] Education Commission of the State, *State Approaches to Secondary CTE Funding* (Apr. 8, 2020), https://ednote.ecs.org/state-approaches-to-secondary-cte-funding/ (last visited Mar. 11, 2023).
[98] Section 1011.62(1)(c), F.S.
[99] Section 1003.4203(4), F.S.

completes a career-themed course or a course embedded with a CAPE industry certification. This bonus funding is limited to 0.1 FTE for a middle school student each year. High school students are not subject to the same limit and are able to generate for the school district:[100]

- A value of 0.2 FTE for each student who is issued a CAPE industry certification that has a statewide articulation agreement for college credit approved by the State Board of Education.
- A value of 0.3 FTE for student completion of the courses and the embedded certifications for CAPE Innovation courses.
- A value of 0.5 FTE for CAPE Acceleration Industry Certifications that articulate for 15 to 29 college credit hours, and 1.0 FTE for CAPE Acceleration Industry Certifications that articulate for 30 or more college credit hours.

There is also bonus funding for teachers who provide the instruction for students who earn one of these digital tools or industry certifications. The bonuses range from $25 for each student who earns a credential weighted at 0.1 FTE up to $100 for each student who successfully completes a CAPE Acceleration Industry Certification weighted at 1.0 FTE.[101]

In the 2020-2021 school year, 99,043 students in secondary grades earned at least one industry certification.[102] Each district must allocate at least 80 percent of the funds provided for CAPE industry certification to the program that generated the funds.[103]

The Commissioner of Education was required to conduct a review of the methodology used to determine additional full-time equivalent membership weights assigned in the Florida Education Finance Program and, if necessary, recommend revised weights. The weights must factor in the prioritization of critical shortages of labor market demand and middle-level to high-level wage earning outcomes as identified by the Credentials Review Committee. The results of the review and the commissioner's recommendations were required to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than December 1, 2021.[104] The commissioner was unable to conduct the review because the Labor Market Estimating Conference had not identified the list of occupations that are in demand.[105]

Dual Enrollment

Incentives are also provided to encourage students to participate in dual enrollment. The dual enrollment program is the enrollment of an eligible secondary student or home education student in a postsecondary course creditable toward high school completion and a career certificate or an associate or baccalaureate degree.

Students enrolled in dual enrollment instruction may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. Dual enrollment full-time equivalent student membership is calculated in an amount equal

[100] Section 1011.61(1)(o)1., F.S.
[101] Section 1011.62(1)(o)3., F.S.
[102] Florida Department of Education, *State Secondary: Career, Technical, and Adult Education 2020-2021 Summary, available at* https://www.fldoe.org/core/fileparse.php/9904/urlt/2021secondarycte.pdf, at 3.
[103] Section 1011.62(1)(o)2., F.S.
[104] Section 1008.44(1)(f), F.S.
[105] Florida Department of Education, *Memorandum re: CAPE Weights from Commissioner Richard Corcoran to Governor Ron DeSantis, Speaker of the House Chris Sprowls, and Senate President Wilton Simpson* (Dec. 1, 2021).

to the hours of instruction that would be necessary to earn the full-time equivalent student membership for an equivalent course if it were taught in the school district. Students enrolled in dual enrollment instruction are exempt from the payment of tuition and fees, including laboratory fees.[106]

District school boards receive additional full-time equivalent student membership for students who meet specified standards in dual enrollment courses. A value of 0.16 full-time equivalent student membership for secondary students enrolled full time in a technical or state college, and a value of 0.08 full-time equivalent student membership for other students, who complete a general education core course through the dual enrollment program with a grade of "A." In addition, a value of 0.3 full-time equivalent student membership is calculated for any student who receives an associate degree through the dual enrollment program with a 3.0 grade point average or better.[107] Each school district is required to allocate at least 50 percent of the funds received from the dual enrollment bonus FTE funding to the schools that generated the funds to support student academic guidance and postsecondary readiness.[108]

School districts received approximately 10,564 weighted full-time equivalent student membership related to dual enrollment performance in the 2021-2022 fiscal year.[109]

Postsecondary Workforce Education

At the postsecondary level, the terms "workforce education" and "workforce education program" include:[110]

- Adult general education programs designed to improve the employability skills of the state's workforce.[111]
- Career certificate programs, which are defined as a course of study that leads to one completion point.[112]
- Applied technology diploma programs.
- Continuing workforce education courses.
- Degree career education programs.
- Apprenticeship and preapprenticeship programs.

Postsecondary Workforce Education Performance Funding

Annual performance funding distributions to district school boards and state colleges are based on student attainment of the credentials included in the CAPE Industry Certification Funding List.[113] Performance funding for industry certifications for school district workforce education programs is contingent upon specific appropriation in the General Appropriations Act.[114]

[106] Section 1011.62(1)(i)1., F.S.
[107] Section 1011.62(1)(i)2., F.S.
[108] Section 1011.62(1)(i)2., F.S.
[109] Florida Department of Education, *2021-22 FEFP Final Calculation, available at* https://www.fldoe.org/core/fileparse.php/7507/urlt/2122FEFPFinalcalc.pdf, at 16.
[110] Section 1011.80(1), F.S.
[111] Section 1011.80(1), F.S.
[112] Section 1004.02(20), F.S.
[113] Section 1008.44(2), F.S.
[114] Section 1011.80(7)(b), F.S.

Prior to the 2022-2023 fiscal year, each school district and state college was to be provided $1,000 for each industry certification earned by a workforce education student, or prorated if funds were insufficient to fully fund the calculated total award. Beginning with the 2022-2023 fiscal year, the Credentials Review Committee is required to develop a returned-value funding formula to allocate school district performance funds that rewards student job placements and wages for students earning industry certifications, with a focus on increasing the economic mobility of underserved populations.

One-third of the performance funds under the formula must be allocated based on student job placements. The remaining two-thirds must be allocated using a tiered weighted system based on aggregate student wages that exceed minimum wage, with the highest weight applied to the highest wage tier, with additional weight for underserved populations. Student wages above minimum wage are considered to be the value added by the institution's training. At a minimum, the formula must take into account variables such as differences in population and wages across school districts.[115]

Challenges to the development of the returned-value funding formula have been employment tracking, lack of access to out-of-state placement, wage information for state incentive fund calculations, and a lag between behavior and employment activity.[116]

Operation of Postsecondary Workforce Education Programs

District school boards and state colleges may only conduct workforce education programs with approval by the State Board of Education. Only state colleges may award college credit in an associate in applied science or an associate in science degree, except that district school boards may conduct any portion of the degree program that contains within it an occupational completion point that confers a certificate or an applied technology diploma. Any instruction designed to articulate to a degree program is subject to guidelines and standards adopted by the State Board of Education.[117]

The State Board of Education is required to establish criteria, based on the framework of quality established by the Credentials Review Committee, for review and approval of new workforce education programs by an state college or a school district that are not included in the statewide curriculum framework.[118]

A state college or school district offering a new workforce education program that is in the statewide curriculum framework may not receive performance funding and additional full-time equivalent membership funding until the workforce education program is reviewed, through an expedited review process, and approved by the State Board of Education based on criteria that must include, but is not limited to, the following:[119]

[115] Sections 1011.80(7)(b) and 1011.81(2), F.S.
[116] Florida Credentials Review Committee, *June 2022 Meeting Minutes*, *available at* https://careersourceflorida.com/wp-content/uploads/2022/10/2022-10-31-CRC-Agenda.pdf, at 3.
[117] Section 1011.80(2), F.S.
[118] Section 1011.80(2)(a), F.S.
[119] Section 1011.80(2)(b), F.S.

- A description of the new workforce education program that includes all of the following:
  - An analysis of workforce demand and unmet need for graduates of the program on a district, regional, or statewide basis, as appropriate, including evidence from entities independent of the technical center or institution.
  - The geographic region to be served.
- Documentation of collaboration among technical centers and institutions serving the same students in a geographical or service area that enhances program offerings and prevents program duplication that exceeds workforce need. Unnecessary duplication of programs offered by public and private institutions must be avoided.
- Alignment of program offerings with credentials or degree programs identified on the Master Credentials List.
- Articulation agreements between technical centers and state colleges for the enrollment of graduates in related workforce education programs.
- Documentation of alignment between the exit requirements of a technical center and the admissions requirements of a state college into which students typically transfer.
- Performance and compliance indicators that will be used in determining the program's success.

State University System Programs

For each university in the State University System of Florida, the Board of Governors is responsible for cost-effective policy decisions appropriate to the university's mission, the implementation and maintenance of high-quality education programs, the measurement of performance, the reporting of information, and the provision of input regarding state policy, budgeting, and education standards.[120]

The Board of Governors is required to develop a strategic plan specifying goals and objectives for the State University System and each constituent university, including each university's contribution to overall system goals and objectives. The strategic plan is required to:[121]

- Include performance metrics and standards common for all institutions and metrics and standards unique to institutions.
- Consider reports and recommendations of the Florida Talent Development Council and the Articulation Coordinating Committee.
- Include student enrollment and performance data delineated by method of instruction, including, but not limited to, traditional, online, and distance learning instruction.
- Include criteria for designating baccalaureate degree and master's degree programs at specified universities as high-demand programs of emphasis, using the criteria to determine value for and prioritization of degree credentials and degree programs established by the Credentials Review Committee. The Board of Governors must review designated programs of emphasis, at a minimum, every 3 years to ensure alignment with the prioritization of degree credentials and degree programs identified by the Credentials Review Committee.

[120] Section 1001.706(1), F.S.
[121] Section 1001.706(5), F.S.

State Financial Aid and Grants

The general requirements for eligibility of students for state financial aid awards and tuition assistance grants consist of the following:[122]

- Achievement of the academic requirements of and acceptance at a state university or state college; a nursing diploma school approved by the Florida Board of Nursing; a Florida college or university which is accredited by an accrediting agency recognized by the State Board of Education; a Florida institution the credits of which are acceptable for transfer to state universities; a career center; or a private career institution accredited by an accrediting agency recognized by the State Board of Education.
- Residency in this state for no less than one year preceding the award of aid or a tuition assistance grant.[123] Residency in this state must be for purposes other than to obtain an education.
- Submission of certification attesting to the accuracy, completeness, and correctness of information provided to demonstrate a student's eligibility to receive state financial aid awards or tuition assistance grants.

Money-Back Guarantee Program

The Money-back Guarantee Program requires each district school board and state college to refund the cost of tuition to students who are not able to find a job in the field in which the student was trained within six months of successful completion of select workforce education programs that prepare students for in-demand, middle-level to high-level wage occupations.[124]

Each district school board and state college is required to establish a money-back guarantee program to:[125]

- Offer a money-back guarantee on at least three programs that prepare individuals to enter in-demand, middle-level to high-level wage occupations identified by the Labor Market Estimating Conference. School districts or state colleges must offer a money-back guarantee on at least 50 percent of workforce education programs if they offer six or fewer programs.
- Offer a money-back guarantee for all workforce education programs that are established to meet a critical local economic industry need, but are not linked to the statewide needs list as identified by the Labor Market Estimating Conference.
- Establish student eligibility criteria for the money-back guarantee program that includes:
  - Student attendance.
  - Student program performance.
  - Career Service or Career Day attendance.
  - Participation in internship or work-study programs.
  - Job search documentation.
  - Development of a student career plan with the institution's career services department.

[122] Section 1009.40(1)(a), F.S.
[123] The residency requirement is specific to awards under ss. 1009.50, 1009.505, 1009.51, 1009.52, 1009.53, 1009.60, 1009.62, 1009.72, 1009.73, 1009.75, 1009.77, 1009.89, and 1009.894, F.S.
[124] Section 1011.803(1), F.S.
[125] Section 1011.803(2), F.S.

By November 1 of each year, the DOE is required to report performance results by school district, state college, and program to the Governor, the President of the Senate, and the Speaker of the House of Representatives.[126]

Open Door Grant Program

Under the Open Door Grant Program, grants are provided to district school boards and state colleges to cover up to two-thirds of the cost of short-term high-demand programs for eligible students upon successful completion and award of a credential of value. The grant program provides short-term training for high-demand programs in Florida. The Open Door Grant Program allows grant funds to be used to cover the cost of a program, which includes tuition and fees, examination, books, and materials.[127]

A student who does not receive state or federal aid at the time of enrollment is responsible for paying one-third of the cost of the program and signing an agreement to either complete the program or pay an additional one-third of the program cost in the event of non-completion. Grant funds may be used to cover the student's one-third of the cost of the program for students in integrated education and training programs and students who do not have a high school diploma and meet requirements established by the DOE. A student who does receive state or federal aid may be awarded a grant to cover the unmet need after all eligible aid is accounted for.[128]

The DOE is required to prioritize funding for integrated education and training programs in which institutions establish partnerships with local workforce development boards to provide basic skills instruction contextually and concurrently with workforce training that results in the award of credentials on the Master Credentials List. One-quarter of the appropriated grant funds must prioritize students attending rural institutions. No more than one-quarter of funds may be disbursed annually to any one eligible institution.[129]

The DOE may not reimburse any institution more than $3,000 per completed workforce training program by an eligible student.[130]

The State Board of Education is required to adopt rules for the DOE to administer the grant by:

- Requiring eligible institutions to provide student-specific data and make final decisions on any dispute between eligible institutions and grant recipients;
- Undertaking periodic assessments of the overall success of the grant program and recommend modifications, interventions, and other actions based on such assessments;
- Establishing the procedure by which eligible institutions shall notify the department when eligible students enroll in eligible programs; and
- Requiring each eligible institution to submit a report with data from the previous fiscal year on program completion and credential attainment by students participating in the grant program.[131]

[126] Section 1011.803(4), F.S.
[127] Section 1009.895, F.S.
[128] Section 1009.895(4), F.S.
[129] Section 1009.895(3), F.S.
[130] Section 1009.895(5), F.S.
[131] Section 1009.895(6) and (8), F.S.

The DOE must provide an annual report to the State Board of Education on program completion, attainment, and participant wage and demographics categorized by credential name and relevant occupation.[132]

As of March 1, 2023, the DOE disbursed to institutions $3,772,008 for the Open Door Grant Program in the 2022-2023 fiscal year.[133]

Florida Pathways to Career Opportunities Grant Program

The Florida Pathways to Career Opportunities Grant Program provides grants to high schools, district school boards and state colleges, and other apprenticeship and preapprenticeship program sponsors, on a competitive basis, to establish or expand apprenticeship or preapprenticeship programs. The Department of Education is authorized to use up to $200,000 of the total amount allocated to administer the grant program.[134]

Applications are required to include projected enrollment and projected costs for the new or expanded apprenticeship program. The department is required to award grants for preapprenticeship or apprenticeship programs with demonstrated regional demand that:

- Address a critical statewide or regional shortage as identified by the Labor Market Estimating Conference and are industry sectors not adequately represented throughout the state, such as health care;
- Address a critical statewide or regional shortage as identified by the Labor Market Estimating Conference; or
- Expand existing programs that exceed the median completion rate and employment rate one year after completion of similar programs in the region, or the state if there are no similar programs in the region.[135]

Grant funds may be used for instructional equipment, supplies, instructional personnel, student services, and other direct expenses associated with the creation or expansion of an apprenticeship program. Grant recipients must submit quarterly reports in a format prescribed by the Department of Education, which annually publishes a report on its website.[136]

For the 2022-2023 program year, the Legislature appropriated $15 Million, and reappropriated approximately $2.9 Million, for the Florida Pathways to Career Opportunities Grant Program.[137] As of December 5, 2022, the Department of Education has provided $16.5 Million in grants to 50 district school boards, state colleges, and registered apprenticeship programs.[138]

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[132] Section 1009.895(7), F.S.
[133] Email, Department of Education (Mar. 3, 2023).
[134] Section 1011.802(5), F.S.
[135] Sections 1011.802(2) and (3), F.S.
[136] Sections 1011.802(3) and (4).
[137] Transparency Florida, *2022-2023 Operating Budget in Ledger Format*, http://www.transparencyflorida.gov/OperatingBudget/Ledger.aspx?FY=22&BE=48250800&AC=051310&Fund=1000&LI=123&OB=Y&SC=F, (last visited Feb. 27, 2023).
[138] Florida Department of Education, *Pathways to Career Opportunities Grant Program*, PCOG Prioritized Funding List (Statewide Competition), https://www.fldoe.org/core/fileparse.php/18794/urlt/22-23PCOG-PFLStatewide.pdf. *and* PCOG Prioritized Funding List (Space Coast Competition) (last visited Feb. 27, 2023).

Workforce Development Capitalization Incentive Grant Program

The Workforce Development Capitalization Incentive Grant Program is a program to provide grants to school districts and state colleges on a competitive basis to fund some or all of the costs associated with the creation or expansion of workforce development programs that serve specific employment workforce needs. The State Board of Education is required to give highest priority to programs that train people to enter high-skill, high-wage occupations identified by the Labor Market Estimating Conference and other programs approved by the State Board of Education, programs that train people to enter occupations under the welfare transition program, or programs that train for the workforce adults who are eligible for public assistance, economically disadvantaged, disabled, not proficient in English, or dislocated workers.[139] The grant was not funded in the 2022 fiscal year.[140]

Workforce Training

The one-stop delivery system is the state's primary customer-service strategy for offering every Floridian access, through service sites or telephone or computer networks, to the following services:[141]

- Job search, referral, and placement assistance.
- Career counseling and educational planning.
- Consumer reports on service providers.
- Recruitment and eligibility determination.
- Support services, including child care and transportation assistance to gain employment.
- Employability skills training.
- Adult education and basic skills training.
- Technical training leading to a certification and degree.
- Claim filing for reemployment assistance services.
- Temporary income, health, nutritional, and housing assistance.
- Other appropriate and available workforce development services.

Intensive services and training provided pursuant to WIOA are required to be provided to individuals through Intensive Service Accounts and Individual Training Accounts. The state workforce development board is required to develop criteria for use of these accounts.[142] Individual Training Accounts must be expended on programs that prepare people to enter occupations identified by the Labor Market Estimating Conference and on other programs recommended and approved by the state board following a review by the DEO to determine the program's compliance with federal law.[143] For each approved training program, local workforce development boards, in consultation with training providers, must establish a fair-market purchase price to be paid through an Individual Training Account. Training services provided through Individual Training Accounts must be performance-based, with successful job placement triggering final payment of at least 10 percent.[144]

[139] Section 1011.801, F.S.
[140] Chapter 2022-156, Laws of Fla.
[141] Section 445.009(1), F.S.
[142] Section 445.009(7), F.S.
[143] Section 445.009(8)(a), F.S.
[144] Section 445.009(8)(e), F.S.

Typical training services for adults and dislocated workers include, but are not limited to occupational skills training, on-the-job training and related instruction, incumbent worker training, job readiness training, entrepreneurship, adult literacy, and employer-specific training.[145]:

An eligible training provider is the only type of entity that may receive funding for providing these services.[146] An eligible training provider must be included on the state list of eligible training providers and must:[147]

- Provide a program of higher education which leads to a recognized postsecondary credential;
- Be a registered apprenticeship or pre-apprenticeship program; or
- Provide other training services, including adult education and literacy activities provided in combination with other eligible training services.

Training provided by an eligible training provider must lead to:[148]

- A certificate, an associate degree, baccalaureate degree, or
- The skills or competencies needed for a specific job or jobs, an occupation, occupational group, or generally, for many types of jobs or occupations, as recognized by employers and determined prior to training.

The DEO is responsible for establishing standards for eligible training providers of workforce development programs funded through WIOA. The DEO is required to establish initial and subsequent eligibility criteria, based on input from the state board, local workforce development boards, the DOE, and other stakeholders, for the WIOA eligible training provider list. The list directs training resources to programs leading to employment in high-demand and high-priority occupations that provide economic security, particularly those occupations facing a shortage of skilled workers. A training provider who offers training to obtain a credential on the Master Credentials List may not be included on a state or local eligible training provider list if the provider fails to submit the required information or fails to meet initial or subsequent eligibility criteria. Subsequent eligibility criteria must use the performance and outcome measures defined and reported under the Workforce Development Information System maintained by the DOE, to determine whether each program offered by a training provider is qualified to remain on the list. Nationally, 54 percent of WIOA participants who complete a training program of an eligible training provider find employment.[149] Every program offered by a training provider in Florida is required to demonstrate:[150]

- That income earnings for all individuals who complete the program are equivalent to or above the state's minimum wage in a calendar quarter.
- An employment rate of at least 75 percent for all individuals. For programs linked to an occupation, the employment rate is calculated based on obtaining employment in the field in which the participant was trained.

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[145] 20 C.F.R. s. 680.200.
[146] 20 C.F.R. s. 680.410.
[147] 20 C.F.R. s. 680.410.
[148] 20 C.F.R. s. 663.508.
[149] USDOL, Employment and Training Administration, *Finding the Right Training*, https://www.trainingproviderresults.gov/#!/about, (last visited Mar. 11, 2023).
[150] Section 445.003(7)(b), F.S.

- A completion rate of at least 75 percent for all individuals, beginning with the 2023-2024 program year.

Internship Tax Credit Program

Internships give students the opportunity to gain valuable applied experience and make connections in professional fields they are considering for career paths. More students are pursuing experiential learning, particularly internships, and more colleges and universities are promoting student engagement in experiential learning such as internships, and a greater number and variety of employers are offering these experiences in the form of internships.[151]

The Florida Internship Tax Credit Program provides a tax credit for up to five student interns per taxable year, per corporation. The credit amount is $2,000 per student intern (maximum of $10,000 for each taxable year).[152]

The Florida Endowment Foundation for Vocational Rehabilitation (The ABLE Trust)

In 1990, the Legislature recognized the need to encourage public and private support to enhance vocational rehabilitation and employment of Florida's citizens who are disabled by establishing the Florida Endowment Foundation for Vocational Rehabilitation, also known as The ABLE Trust, as a direct support organization for the Division of Vocational Rehabilitation within the Department of Education. The ABLE Trust is approved by the division to be operating for the benefits and best interest of the state through a contract.[153] A board of directors, appointed by the Governor, oversees the operations of The ABLE Trust and ensures that funds are provided for programs or initiatives which engage in the research, promotion, or aid of job training and counseling for Florida's disabled citizens, and to support the work of the division.[154]

Florida Workforce Education Financial Assistance

Created in 1993, the Florida Work Experience program (FWEP) provides need-based financial assistance to students as they are employed in occupations complementary to their educational endeavors and career goals. The 2007 Florida Legislature expanded the FWEP to serve students at postsecondary institutions by providing additional on-campus employment opportunities, helping to keep students in school and reducing students' school loans. Additionally, the program's opportunities for employment at a student's school serve as a retention tool because students employed on campus are more likely to complete their postsecondary education.[155]

Eligibility for students to participate must include one of the following criteria:[156]

- Enrolled at an eligible college or university as no less than a half-time undergraduate student in good standing;

[151] National Association of Colleges and Employers, *Policy Statement: U.S. Internships* (2018), https://www.naceweb.org/about-us/advocacy/position-statements/position-statement-us-internships/ (last visited Mar. 4, 2023).
[152] Section 220.198, F.S. *See also* https://floridarevenue.com/taxes/tips/documents/tip_22c01-01.pdf
[153] Section 413.615(5)-(6), F.S.
[154] Sections 413.615(4), (8), and (10), F.S.
[155] Section 1009.77(1), F.S.
[156] Section 1009.77(8)(a), F.S.

- Enrolled in an eligible postsecondary career certificate program[157] as no less than a half-time student in good standing; or
- Being enrolled as no less than a half-time student in good standing at an eligible educator preparation institution.

Currently, students pursuing an applied technology diploma are not eligible to participate in the program. An applied technology diploma is a credential that signifies a student has successfully completed a (clock hour or college credit) postsecondary education program and is ready for employment in a field. Examples include medical coding/billing (1110 clock hours), paramedic (1100 clock hours), pharmacy technician (1050 clock hours), and dental assisting technology and management (1230 clock hours).

III. Effect of Proposed Changes:

CS/SB 240 provides supports for district school boards, Florida College System institutions (state colleges), and other stakeholders in Florida's workforce development system to provide students with high-quality career and technical education (CTE) and other workforce education programs.

State Administration of Workforce Development

The bill amends s. 14.36, F.S., to expand the REACH Office's authority to include facilitating coordination among the DEO, DOE, and CareerSource Florida, Inc., to develop and expand apprenticeship, preapprenticeship, and other work-based learning models and streamline efforts to recruit and onboard new apprentices, preapprentices, students, and employers interested in work-based learning opportunities. The coordination must include, but not be limited to, conducting outreach with business leaders, local governments, and education providers.

The bill requires the REACH Office to develop criteria and display public information that will assist the public in making informed decisions when deciding to access the local workforce board or one-stop career center.

The bill also revises the statutory name of the opportunity portal by renaming it the consumer-first workforce system.

Additionally, the bill requires the REACH Office to maximize the use of funds appropriated for the development and initial operation of the consumer-first workforce system rather than maximize the use of available federal and private funds as under current law.

The bill requires CareerSource Florida, in consultation with the DEO, to assist the state board in developing and administering streamlined and collaborative approaches to workforce development that results in cost saving and efficiencies throughout the state.

The bill requires the state board, in consultation with the DEO, to:

[157] Section 1009.77(8)(a)2. Eligible programs must be approved by the Department of Education and must consist of no less than 450 clock hours of instruction. Such programs must be offered by a career center operated by a district school board under s. 1001.44 or by a Florida College System institution.

- Require administrative cost arrangements among planning regions;
- Implement consistent contract and procurement policies and procedures;
- Require the use of a state-established template for contracts or other method for ensuring all contract mechanisms follow certain standards established by the board, and leveraged buying power for fringe benefits, such as health insurance, life insurance, and retirement.

Career and Technical Education

Career and Education Planning

The bill amends s. 1003.4156, F.S., to modify the middle school course in career and education planning to require, instead of authorize, updating the academic and career plan for a student at least annually as the student progresses through middle school and high school. The bill also requires a middle grade student's personalized academic and career plan to include information on the career and technical education graduation pathway option and work-based learning opportunities.

The bill amends ss. 1003.02 and 1014.05, F.S., to require district school board policies to include procedures for a parent or guardian and the student to learn about workforce education options for students, such as apprenticeships and preapprenticeships, diversified education, CTE courses and programs, career and technical student organizations (CTE student organizations), and industry certifications, and the costs and benefits of CTE in comparison to other postsecondary pathways. The bill requires that parents and students be provided the contact information for a certified school counselor to provide advice.

Beginning in the 2023-2024 school year, the bill requires each district school board to adopt policies and procedures to require each high school to host an annual career fair during the school year and establish a process to provide students in grades 11 and 12 the opportunity to meet or interview with potential employers during the career fair. The career fair must be held during the school day. The career fair must also be held on the campus of the high school, unless the district holds a joint career fair involving multiple high schools.

Work-Based Learning

The bill establishes regional education and industry consortia and requires meetings and reports to the local workforce development board. The bill creates in s. 445.007, F.S., the requirement for each local workforce development board to create an education and industry consortium composed of representatives of educational entities and businesses in the designated service delivery area. Each consortium is required to provide quarterly reports to the applicable local board that provide community-based information related to educational programs and industry needs to assist the local board in making decisions on programs, services, and partnerships in the service delivery area. The bill requires the local board to consider the information obtained from the consortium to determine the most effective ways to grow, retain, and attract talent to the service delivery area.

The bill requires the chair of the local workforce development board to appoint the consortium members. The bill prohibits a member of a local workforce development board from serving as a member of the consortium. The bill provides that consortium members are appointed for 2-year

terms beginning on January 1 of the year of appointment, and any vacancy on the consortium must be filled for the remainder of the unexpired term in the same manner as the original appointment.

The bill requires in s. 1004.015, F.S., the Florida Talent Development Council identify barriers and best practices in the facilitation of work-based learning opportunities for students in middle and high school. The bill requires the Florida Talent Development Council, by December 1, 2023, to submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives recommendations on best practices for collaboration between district school boards, local workforce development boards, and local businesses and business groups. The recommendations must include any necessary legislative action to facilitate work-based learning opportunities for students in middle and high school, including the identification of potential targeted financial incentives that may help to facilitate work-based learning opportunities for students.

The bill specifies that work-based learning should prioritize diversified education, which adds to current law that encourages apprenticeship and preapprenticeship opportunities. The bill modifies s. 446.071, F.S., to authorize an educational institution, a local workforce board, a community or faith-based organization, or an association to be an apprenticeship sponsor.

Additionally, the bill modifies s. 446.0915, F.S., to require each district school board to provide all students enrolled in grades 9 through 12 with at least one work-based learning opportunity.

Workers' Compensation Reimbursement Program

The bill modifies s. 446.54, F.S., to shift the administration of reimbursements for workers' compensation insurance costs of work-based learners from the Department of Education to the Department of Financial Services (DFS) and clarifies that reimbursements are for workers' compensation insurance premiums paid during the previous state fiscal year.

The bill requires an application for reimbursement to include:

- The number of students participating in work-based learning opportunities with the employer, including the number of those who are participating in paid and unpaid work-based learning opportunities with the employer;
- An attestation of information specified in law regarding student eligibility and details of the employer request for reimbursement.

The bill requires DFS to process applications within 45 days and coordinate with the educational institution to verify student and employer information. Reimbursements must be made on a first-come, first-served basis.

The bill defines an "educational institution" to include a school operated by a district school board, a charter school, a career center operated by a district school board, a charter technical career center operated by a district school board, or a state college.

The bill provides $2 million in nonrecurring funds to the DFS to make reimbursements for workers-compensation premiums for students in work-based learning programs.

CTE Teachers

The bill modifies s. 1012.39, F.S., to provide flexibility from certification requirements for school boards in hiring non-degree CTE teachers by:
Reducing the required minimum experience to 3 years.
Removing the requirement for demonstrating successful teaching performance.
Removing career education training requirements for part-time CTE teachers.
Authorizing full-time CTE teachers to complete professional education training through local district inservice master plans.

As an alternative to the requirement of passing a subject area exam, the bill authorizes a person who holds an industry certification in a subject matter area to serve as an adjunct teacher.

The bill modifies s. 1012.585, F.S. to require district school boards to include in inservice plans a process for teachers to earn inservice hours toward renewal of a professional certificate through involvement in extracurricular CTE activities, such as serving as an advisor for a CTE student organization.

Controlled Open Enrollment

The bill modifies s. 1002.31, F.S., to require each district school board to enable a student who, in middle school, completed a CTE course or an industry certification included in the CAPE Industry Certification Funding List to continue a sequential program of CTE in the same concentration, if a high school in the district offers the program.

Standard High School Diploma

The bill amends s. 1003.4282, F.S., to modify the options for a student to complete required credits to earn a standard high school diploma. The bill replaces the practical arts option in the required credit in fine or performing arts, speech and debate, or practical arts with the option to complete one credit in CTE to satisfy the required credit.

The bill adds graduation and university admissions requirements to the required biennial study by the State Board of Education on the sufficiency of academic standards of CTE courses. In addition, the bill requires the Department of Education (DOE) to convene a workgroup to:

- Identify best practices in CTE pathways from middle school to high school to aid middle school students in career planning and facilitate their transition to high school programs. The career pathway must be linked to postsecondary programs.
- Establish three mathematics pathways for students enrolled in secondary grades by aligning mathematics courses to programs, postsecondary education, and careers. The bill requires the workgroup to identify the three mathematics pathways and the mathematics course sequence within each pathway which align to the mathematics skills needed for success in the corresponding academic programs, postsecondary education, and careers.

The bill requires the State Board of Education to establish a process that enables a student to receive work-based learning or credit in electives for completing a threshold level of demonstrable participation in extracurricular activities associated with career and technical

student organizations. As a result, for example, a student who completes a supervised agricultural experience through the Florida Future Farmers of America would receive a work-based learning credit or elective credit. The bill prohibits eligibility for work-based learning credit or credit in electives for extracurricular activities or supervised agricultural experiences to be limited by grade level.

The bill modifies ss. 1003.4285 and 1003.5716, F.S., to rebrand the merit designation on a standard high school diploma as the "Industry Scholar" designation.

Articulation

The bill requires the Office of Program Policy Analysis and Government Accountability to conduct a review of approved career statewide articulation agreements that include:

- Industry certification, career certificate, and applied technology diploma programs that articulate to associate in science or associate in applied science degrees.
- Early childhood education programs.
- Associate in science to baccalaureate degree programs.

The bill requires the review to include:

- The number of CAPE industry certifications on the Master Credentials List which are included in a statewide articulation agreement.
- The number of career programs or degrees offered by career centers and state colleges compared to the number of such certifications or programs included in a statewide articulation agreement.
- The extent to which articulated programs included in a statewide articulation agreement are offered in a region or service area.
- The number and percentage of students in an articulated career program who transfer to and then complete the linked program specified in the statewide articulation agreement.
- Recommendations to strengthen the process of developing statewide articulation agreements, and on the role of such agreements in a Florida stackable credential framework.

The bill requires the office to report its findings to the President of the Senate and the Speaker of the House of Representatives by November 1, 2023.

Credentials of Value

Labor Market Estimating Conference

The bill amends s. 216.135, F.S., to require state agencies to ensure that any related work product is consistent with the official information developed by the Economic Estimating Conference, the Demographic Estimating Conference, and the Labor Market Estimating Conference.

The bill modifies in s. 216.136, F.S., the duties of the Labor Market Estimating Conference, to remove the requirement for the Labor Market Estimating Conference to:

- Develop real-time supply and demand data in Florida’s local labor markets but maintain the requirement to develop information with respect to supply and demand in Florida’s statewide

and regional labor markets, and specifies the obligation is with respect to the state's near- and long-term planning and budgeting needs.
- Identify in-demand, high-skill, middle-level to high-level wage occupations.

Master Credentials List

The bill modifies the requirements for the Master Credentials List. The bill amends s. 445.004, F.S., to:
- Specifically provide that industry certifications for agricultural occupations are eligible for inclusion on the Master Credentials List.
- Limit the Master Credentials List to credentials up to and including associate degrees, and exclude baccalaureate and graduate degrees.
- Specify that the REACH Office Director serves as chair of the Credentials Review Committee.
- Provide flexibility to the Credentials Review Committee to adopt criteria for determining whether nondegree credentials meet labor market demand instead of relying on the Labor Market Estimating Conference for the determination.
- Require the Credentials Review Committee to consider information provided by Labor Market Statistics Center within the Department of Economic Opportunity (DEO) as evidence for determining whether a nondegree credential meets labor market demand. The bill makes conforming changes throughout to authorize agencies to consider labor information provided by the Labor Market Statistics Center.
- Require the Credentials Review Committee to consider both information provided by the Labor Market Statistics Center within the Department of Economic Opportunity and the Labor Market Estimating Conference in the development of the criteria to determine whether to include degree programs on the Master Credentials List.
- Authorize the Credentials Review Committee to consider additional evidence to determine labor market demand for credentials for agricultural occupations.
- Remove the requirement that the Master Credentials List and the Labor Market Estimating Conference be used to designate state university Programs of Strategic Emphasis.
- Requires a minimum phase-out period of at least one year after being marked for removal for credentials on the Master Credentials List; which provides stability and predictability in creating programs.
- Specify that the Master Credentials List is used for the development of the CAPE Industry Certification Funding List.

CAPE Industry Certification Funding List

In order to provide flexibility to align the CAPE Industry Certification Funding List with CTE pathways instead of individual courses, the bill modifies s. 1008.44, F.S., to remove the requirement that courses that lead to certifications identified in the Master Credentials List be included in the CAPE Industry Certification Funding List.

<u>CAPE Digital Tools</u>

The bill removes from the CAPE Industry Certification Funding List requirements for inclusion of CAPE ESE digital tools and CAPE Innovation credentials and their associated incentives.

The bill specifies that the DOE selects the CAPE digital tool certificates that are included on the CAPE Industry Certification Funding List and requires the DOE to annually review available assessments that meet the requirements for inclusion on the list. The bill also authorizes the DOE to limit CAPE industry certifications and CAPE Digital Tool certificates to students in certain grades without receiving formal recommendations from the providers of the certificate.

Florida Education Finance Program

The bill modifies s. 1011.62, F.S., to require in the Florida Education Finance Program the cost factor for secondary CTE programs to be higher than the cost factor basic programs grade 9 through 12.

The bill removes the limitation of 0.1 additional FTE membership for an elementary or middle grades student for certificates earned within the same year and authorizes middle school digital tool certificates to partially satisfy sequential industry certification requirements for FTE bonus funding.

The bill provides an incentive for CTE concentrators by providing additional FTE to students who complete at least three courses and an industry certification in a single CTE program or program of study.

The bill maintains the current requirement that 80 percent of bonus funds remain with the CTE program, but also specifies that the remaining 20 percent must be reserved for district CTE programs.

The bill extends the deadline for the commissioner to review whether the weights for additional FTE for CTE programs should be revised to prioritize valuable certifications.

Dual Enrollment

The bill adds to the options for district school boards to generate additional full-time equivalent student membership through the dual enrollment program. The bill provides that a value of 0.08 full-time equivalent student membership must be calculated for each student who completes a career course through the dual enrollment program with a grade of "A" in a pathway that leads to an industry certification that is included on the CAPE Industry Certification Funding List.

Postsecondary Workforce Education

Postsecondary Workforce Education Performance Funding

The bill modifies s. 445.004, F.S., to remove the requirement for the Credentials Review Committee to develop a returned-value performance funding formula for performance funding for district school boards and state colleges.

The bill modifies ss. 1011.80(7) and 1011.81(2), to create tiered performance funding for district school boards and state colleges by providing a higher incentive for certifications with higher anticipated wages, rather than the current returned-value funding formula or $1,000 for all

certifications. The bill requires the State Board of Education to adopt the tiers for each earned industry certification based upon the anticipated average wages of the highest earning occupation to which the certification is linked on the Master Credentials List. The amount awarded for each tier must be specified in the GAA.

Operation of Postsecondary Workforce Education Programs

The bill amends s. 1011.80, F.S., to modify the approval process for state colleges and school districts to conduct workforce education programs. The bill:

- Maintains the requirement that state colleges and district school boards obtain approval of new workforce education programs that are not included in the statewide curriculum framework.
- Shifts from the State Board of Education to the local college board of trustees or district school board the responsibility for approval of new workforce education programs that are in the statewide curriculum framework.
- Specifies that state colleges and district school boards may offer continuing workforce education courses or programs without prior State Board of Education approval but requires keeping adequate and accurate records of instructional activity and reporting continuing workforce education instructional activity in a format prescribed by the DOE. The bill specifies that continuing workforce education courses and programs are exempt from the requirements for approval by the State Board of Education, state college board of trustees, or district school board, and are ineligible for performance funding.

The bill also removes the prohibition on the awarding by district school boards of college credit in associate in applied science and associate in science degrees. The bill provides a process for the State Board of Education to approve associate in science and associate in applied science degree programs offered by district school boards that aligns with the process for state colleges to offer baccalaureate degree programs. The bill aligns the tuition for associate in science and associate in applied science degree programs with the tuition for the programs offered by state colleges, which is $71.98 per credit hour for residents and nonresidents, and an out-of-state fee of $215.94 per credit hour.[158]

State University System Programs

The bill provides flexibility to the Board of Governors of the State University System of Florida by removing in s. 1001.706, F.S., the requirement to adopt the criteria to determine value for and prioritization of degree credentials and degree programs established by the Credentials Review Committee for designating high-demand programs of emphasis.

The bill requires the strategic plan for the Board of Governors to consider information provided by the Labor Market Statistics Center within the Department of Economic Opportunity related to short-term demand and the long-term data of the Labor Market Estimating Conference.

[158] Section 1009.23, F.S.

State Financial Aid and Grants

Money-Back Guarantee Program

The bill modifies s. 1011.803, F.S., to provide flexibility for institutions to determine the three programs for which the institution offers a money-back guarantee, by removing the requirement that the programs be linked to preparing students for in-demand, middle-level to high-level wage occupations identified by the Labor Market Estimating Conference. The bill also removes the requirement that all programs offered to meet local workforce demand include a money-back guarantee for employment.

Open Door Grant Program

The bill modifies s. 1009.895, F.S., to convert the Open Door Grant Program to a financial aid program for students of a state college or technical center to incentivize current and future workers to enroll in CTE that leads to a credential, certificate, or degree. The bill requires participating postsecondary institutions to administer the grant program in accordance with rules of the State Board of Education.

Under the bill, in order to be eligible for the program, a student must:

- Be a resident of Florida for tuition purposes and attest to the accuracy, completeness, and correctness of information provided to demonstrate the student's eligibility to receive state financial aid awards or tuition assistance grants;
- Be enrolled in a workforce education program; and
- Be enrolled at a school district postsecondary technical career center, a state college, or a charter technical career center.

An institution is prohibited by the bill from imposing additional criteria to determine a student's eligibility to receive a grant.

Under the bill, a student is eligible to receive an award equal to the amount needed to cover 100 percent of the cost for the eligible workforce education program after all other federal and state financial aid and any other private or public financial assistance is applied. These costs may include tuition and fees, exam or assessment costs, books, or related materials. Additionally, a student is eligible to receive a stipend up to $1,500 per academic year to cover other educational expenses related to cost of attendance. The awards are subject to availability of funding and stipend amounts may be specified in the GAA. The bill requires institutions to give returning students priority over new students.

The bill provides a timetable for funding the grant program. Pursuant to the bill:

- For the 2023-2024 fiscal year, funding for eligible institutions must consist of a base amount provided for in the General Appropriations Act plus each institution's proportionate share of full-time equivalent students enrolled in workforce education programs.
- Beginning in fiscal year 2024-2025, the funds appropriated for the Open Door Grant Program must be distributed to eligible institutions in accordance with a formula approved by the State Board of Education. The formula must consider at least the prior year's distribution of funds and the number of eligible applicants who did not receive awards.

The bill requires, subject to the appropriation of funds by the Legislature, the Department of Education to transmit payment of grants to the institution in advance of the registration period and institutions to notify students of the amount of their awards.

The bill requires institutions to determine the eligibility status of each student to receive a disbursement as of the end of its regular registration period, inclusive of a drop-add period and proscribes any requirement for institutions to subsequently reevaluate a student's eligibility status.

The bill requires institutions to certify to the DOE within 30 days after the end of the regular registration period of each term the amount of funds disbursed to each student. Institutions are required under the bill to remit to the DOE any undisbursed advances for the fall, spring, and summer terms within 30 days after the end of the summer term.

The bill requires each institution to report to the DOE by the established date:
- The number of students eligible for the program for each academic term.
- Any necessary demographic and eligibility data for students;
- The information from the currently required report that includes data from the previous fiscal year on program completion and credential attainment by students participating in the grant program. The bill removes the requirement that the report include the average cost per workforce credential attained, categorized by credential name and relevant occupation.

The bill maintains the requirement for the DOE to compile the data and provide a report to the State Board of Education but removes the requirements for the report to include information on the average wage, age, gender, race, ethnicity, veteran status, and other relevant information, of students who have completed workforce training programs categorized by credential name and relevant occupation.

The bill maintains the requirement for the State Board of Education to adopt rules to implement the program.

Pathways to Career Opportunities Grant Program

The bill modifies s. 1011.802, F.S., to provide flexibility for the administration of the Pathways to Career Opportunities Grant Program. Specifically, the bill:
- Removes the requirement that the grant be awarded on a competitive basis.
- Removes the limitation that the grant award may only be used for establishing or expanding programs and prohibits the award from being used for administrative costs.
- Enables the DOE to consider, in the approval of grant awards, information in addition to the findings of the Labor Market Estimating Conference related to labor market demand, including data of the Labor Market Statistics Center within the Department of Economic Opportunity (DEO).
- Incents programs to work together to share program resources.
- Doubles to $400,000 the amount the DOE may use to administer the program.

The bill prohibits any individual applicant from receiving more than ten percent of the total amount appropriated.

Workforce Development Capitalization Incentive Grant Program

The bill amends s. 1011.801, F.S., to modify the purpose and administration of the Workforce Development Capitalization Incentive Grant Program. The bill:

- Removes the requirement that the grant be administered on a competitive basis.
- Shifts the focus of the workforce development grant to serving secondary students in CTE programs.
- Requires the Department of Education to administer the workforce development capitalization incentive grant program and authorizes the state board of education to adopt rules.
- Provides $100 million for the Workforce Development Capitalization Incentive Grant Program.

Workforce Training

The bill maintains the requirement in s. 445.009, F.S., that training services provided through WIOA individual training accounts be performance-based but removes the specified final payment of at least 10 percent for job placement.

The bill amends s. 445.003, F.S., to modify the minimum completion, employment, and earnings requirements for eligible training providers by authorizing DEO and DOE to set the minimum percentage thresholds for eligibility. The bill specifies that no more than 20 percent of all eligible training providers in the state would fall below the minimum criteria set by the departments.

The bill restores an annual nursing study. The bill modifies s. 464.0195, F.S., to require the Florida Center for Nursing to convene various groups representative of nurses, other health care providers, business and industry, consumers, lawmakers, and educators to:

- Review and comment on data analysis prepared for the center;
- Recommend systemic changes, including strategies for implementation of recommended changes; and
- Evaluate and report the results of these efforts to the Legislature and others.
- No later than each January 10, submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives providing details of its activities during the preceding calendar year in pursuit of its goals and in the execution of its duties.

Internship Tax Credit Program

The bill expands and renames the 'Internship Tax Credit Program' the 'Experimental Learning Credit Program'. The bill also authorizes businesses to claim a tax credit for employing apprentices and preapprentices. Consistent with the current program, the tax credit amount remains $2,000 per student intern, apprentice, or preapprentice (maximum of $10,000/business, inclusive of subsidiaries, for each taxable year).[159]

[159] Section 220.198, F.S. *See also* https://floridarevenue.com/taxes/tips/documents/tip_22c01-01.pdf

To qualify, a business must employ an apprentice or preapprentice in Florida for at least 500 hours during the year. Additionally, it must show that at least 20 percent of its full-time employees were former apprentices or preapprentices. Small businesses (average of 10 or fewer full-time employees for last three years) must currently employ a former apprentice, preapprentice, or student intern.

The bill specifies that the combined total amount of tax credits is $2.5 million in each of the state fiscal years 2021-2022, 2022-2023, 2023-2024, and 2024-2025.

The Florida Endowment Foundation for Vocational Rehabilitation (The ABLE Trust)

The bill delays the October 1, 2023, scheduled repeal of the Florida Endowment Foundation for Vocational Rehabilitation (The ABLE Trust) as a statutorily-created direct support organization until October 1, 2027.

The bill requires the Florida Endowment Foundation for Vocational Rehabilitation to conduct research and issue reports on the systems in Florida that provide services to individual with disabilities, including autism and intellectual and developmental disabilities. The board is required to submit to the Legislature a report by December 1, 2023. The report must:

- Identify the current systems for service delivery to persons with disabilities, including operations, services, coordination activities, and structures.
- Identify barriers and obstacles in transportation for persons with disabilities living in the home or receiving community-based services for jobs, medical appointments, and peer-to-peer groups.
- Identify workforce issues related to direct support professionals, behavioral or mental health specialists, health care practitioners, and other individuals who assist with the provision of services to persons with disabilities.
- Examine the best practices for uniform and efficient service delivery and the coordination of and transition among systems, including transitioning out of high school.
- Examine federal and state law and rules that impact or limit supports or services for persons with disabilities.
- Identify systemwide incongruency and inefficiencies in service delivery.
- Identify opportunities for job coaching and community participation supports, including those opportunities for individuals who cannot or choose not to go into the community because of underlying issues.

Florida Workforce Education Financial Assistance Programs

The bill expands the Florida Work Experience Program to include students who attend charter technical career centers and students pursuing an applied technology diploma on at least a half-time basis. Additionally, the bill encourages a participating postsecondary education institution to provide academic credit to students who participate in the program.

The bill also authorizes a state university to establish a workforce education partnership program. Pursuant to the bill, the purpose of a workforce education partnership program is to allow a student who is enrolled at the state university, and employed by a private employer participating in the program, to graduate from the state university without student loans. The bill requires the

Board of Governors to create a template, in consultation with state and local workforce and economic development agencies, for a state university to establish the program. The template must include the following:

- The process for a private employer to participate in the program.
- Student eligibility criteria.
- The process for the eligible student to enroll in the program.
- Guidance and requirements for the state university and private employer to:
  - Each designate a mentor to assist participating students.
  - Create a process to make a housing stipend available to participating students.
  - Create a process to provide life management and professional skills training to participating students.
- The requirement that a private employer establish an education assistance program pursuant to s. 127 of the Internal Revenue Code of 1986 and provide tuition assistance for a student enrolled at the state university while such student works for the private employer up to the maximum amount that the employer may exclude from the employer's gross income under that section.
- The requirement that the state university work with participating students to ensure that they have applied for and are receiving the maximum amount of financial aid in the form of scholarships and grants.
- The requirement that the state university and private employer seek out additional sources of funding to pay for remaining costs for participating students.

The bill requires the Board of Governors to evaluate the effectiveness of the workforce education partnership programs and determine if additional training and employment programs can use the template developed.

The bill authorizes the Board of Governors to adopt regulations for the administration of the program.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will have a significant impact on state revenues and expenditures. The bill requires an appropriation of $100 million to support career and technical education for students in secondary grades and an appropriation of $2 million to reimburse employers providing work-based learning opportunities for students.

The provisions of the bill adjusting the cost factor and weighted funding for students in career and technical education programs may reallocate funds within the Florida Education Finance Program to school districts with relatively more students enrolled in career and technical education programs.

The bill doubles to $400,000 the amount the Department of Education may retain for administering the Pathways to Career Opportunities Grant Program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends ss. 14.36, 216.135, 216.136, 220.198, 413.615, 445.003, 445.004, 445.007, 445.009, 445.038, 446.071, 446.0915, 446.54, 464.0195, 1001.03, 1001.43, 1001.64, 1001.706, 1002.31, 1003.02, 1003.4156, 1003.4203, 1003.4282, 1003.4285, 1003.491, 1003.5716, 1004.013, 1004.015, 1008.41, 1008.44, 1009.22, 1009.354, 1009.77, 1009.894, 1009.895, 1009.935, 1009.986, 1011.62, 1011.80, 1011.801, 1011.802, 1011.803, 1011.81, 1012.39, 1012.57, 1012.585, and 1013.841, F.S.

The bill creates ss. 1007.331 and 1009.771, F.S.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS in Fiscal Policy on April 13, 2023:
The committee substitute modifies revisions made in the bill to the state administration of workforce development. The committee substitute:

- Requires the REACH Office to coordinate apprenticeship across state agencies.
- Specifies flexibility provided in the bill for minimum criteria for eligible training providers of workforce development programs.
- Removes from the bill the provision related to federal waivers for workforce development.
- Adds requirements for workforce development agencies to work together to streamline workforce development.
- Authorizes the Credentials Review Committee to consider labor market demand data for agricultural occupations and adds notice requirements for denying an application to the Master Credentials List.
- Removes the specific requirement that the analysis of the health care workforce supply and demand to align with agency labor market information.
- Authorizes academic credit for the Florida Work Experience Program and allows participation by a charter technical career center and an applied technology diploma program.
- Requires the Board of Governors of the State University System to create a template for state universities to establish a workforce education partnership program between state universities and private employers to provide resources to students to ease financial burdens through paid work experience and available financial assistance programs.
- Advances to November 1 the due date for the OPPAGA report on the review of approved career statewide articulation agreements.
- Extends the sunset date for the ABLE Trust and adds requirements for the ABLE Trust to examine areas for potential improvement in services to persons with disabilities and report to the Legislature.

The committee substitute modifies revisions to workforce education funding provided in the bill. The committee substitute:

- Specifies that transportation and housing costs for eligible students under the Open Door Grant Program will be funded with a $1,500 stipend and clarifies that funding per institution is based on the number of enrolled workforce education students.
- Modifies tiered performance funding for postsecondary institutions by requiring industry certifications earned by students of career centers and state colleges to be funded at $1,000 each or prorated, and requires the DOE to provide a report to the Legislature with industry certifications sorted into tiers based on anticipated wage outcomes.

- Modifies the Workforce Development Capitalization Incentive Grant Program as provided in the bill to specify that the grant is for serving secondary students in high-performing, high-demand CTE programs.
- Removes the limitation that the Pathways to Career Opportunities Grant Program be used only for the creation or expansion of programs and prohibits funds to be used for administrative costs.
- Removes the exception to the money-back guarantee program for school districts and state colleges that offer 6 or fewer programs.
- Renames the Internship Tax Credit as the Experiential Learning Tax Credit and adds apprentices and preapprentices to the tax credit program.
- Makes conforming changes throughout the bill to provide consistency in references to agencies providing labor market data.

The committee substitute modifies requirements of the bill related to workforce education programs conducted district school boards. The committee substitute:

- Authorizes career centers to offer Associate in Science and Associate in Applied Science programs and establishes tuition for the programs and the procedures for review and approval by the State Board of Education.
- Requires district school boards to host career fairs for high schools.
- Replaces the requirement of the bill that student personalized academic and career plans be updated annually with the requirement to notify parents and teach each student how to access and update the plan online, and encourage the student to access and update the plan at least annually as the student progresses through middle and high school.
- Specifies that a practical arts course satisfies the credit requirement for a course in career and technical education.
- Consolidates credit options provided in the bill for extracurricular work-based learning activities.
- Modifies flexibility provided in the bill to hire CTE teachers by requiring full-time CTE teachers to have a minimum of 3 years of experience and training, which may include training through district inservice master plans.
- Provides a conforming cross-reference to reflect the "Industry Scholar" diploma designation provided in the bill.
- Structurally shifts language of bill regarding parental notifications related to academic and career planning.

CS in Education Pre-K – 12 Committee on March 14, 2023:
The committee substitute postpones from July 1 to October 15 the annual date required pursuant to current law requiring the CareerSource FL state board to adopt the letter grades for local workforce development boards.

The committee substitute also includes a technical amendment that removes specific examples of requirements for state agencies to align with projections of the Labor Market Estimating Conference but maintains general requirements for the policy alignment.

The committee substitute adds requirements to notify parents and students of career and academic planning options and work-based learning opportunities and pathways. Specifically, the committee substitute:

- Requires a middle grade student's personalized academic and career plan to include information on the career and technical education graduation pathway option and work-based learning opportunities and maintains a provision of the bill requiring the plan to be updated at least annually.
- Expands the required annual school district parental notification on high school acceleration options to include notification to the student, information on career and academic planning options, and the contact information of a certified school counselor who is able to provide advice.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
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The Committee on Fiscal Policy (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (h) of subsection (3) and subsection (5) of section 14.36, Florida Statutes, are amended, and paragraph (k) is added to subsection (3) of that section, to read:

14.36 Reimagining Education and Career Help Act.—The Reimagining Education and Career Help Act is created to address



the evolving needs of Florida's economy by increasing the level of collaboration and cooperation among state businesses and education communities while improving training within and equity and access to a more integrated workforce and education system for all Floridians.

(3) The duties of the office are to:

(h) Develop the criteria for assigning a letter grade for each local workforce development board under s. 445.004. The criteria shall, in part, be based on local workforce development board performance accountability measures and return on investment. The majority of the grade shall be based on the improvement by each local workforce development board in the long-term self-sufficiency of participants through outcome measures such as reduction in long-term public assistance and the percentage of participants whose wages were higher after program completion compared to wages before participation in a program. The office shall also develop criteria and display information that will assist the public in making informed decisions when deciding to access the local workforce development board or one-stop career center.

(k) Facilitate coordination among the Department of Economic Opportunity, the Department of Education, and CareerSource Florida, Inc., to develop and expand apprenticeship, preapprenticeship, and other work-based learning models and streamline efforts to recruit and onboard new apprentices, preapprentices, students, and employers interested in work-based learning opportunities. Such coordination shall include, but need not be limited to, conducting outreach with business leaders, local governments, and education providers.



(5) The office shall provide the public with access to available federal, state, and local services and provide stakeholders with a systemwide, global view of workforce related program data across various programs through actionable qualitative and quantitative information. The office shall:

(a) Minimize duplication and maximize the use of existing resources by facilitating the adaptation and integration of state information systems to improve usability and seamlessly link to the consumer-first workforce system ~~opportunity portal~~ and other compatible state information systems and applications to help residents of the state:

1. Explore and identify career opportunities.

2. Identify in-demand jobs and associated earning potential.

3. Identify the skills and credentials needed for specific jobs.

4. Access a broad array of federal, state, and local workforce related programs.

5. Determine the quality of workforce related programs offered by public postsecondary educational institutions and public and private training providers, based on employment, wages, continued education, student loan debt, and receipt of public assistance by graduates of workforce, certificate, or degree programs. To gather this information, the office shall review each workforce related program 1 year after the program's first graduating class and every 5 years after the first review.

6. Identify opportunities and resources to support individuals along their career pathway.

7. Provide information to help individuals understand their



potential earnings through paid employment and cope with the loss of public assistance as they progress through career pathways toward self-sufficiency.

8. Map the timing and magnitude of the loss of public assistance for in-demand occupations across the state to help individuals visualize how their incomes will increase over time as they move toward self-sufficiency.

(b) Provide access to labor market data consistent with the ~~official~~ information developed by the Labor Market Estimating Conference and the Labor Market Statistics Center within the Department of Economic Opportunity and provide guidance on how to analyze the data, the appropriate use of the data, and any limitations of the data, including instances in which such data may not be used.

(c) Maximize the use of the consumer-first workforce system ~~opportunity portal~~ at locations within the workforce development system.

(d) Maximize the use of ~~available federal and private~~ funds appropriated for the development and initial operation of the consumer-first workforce system ~~opportunity portal~~. Any incidental costs to state agencies must be derived from existing resources.

(e) Annually by December 1, ~~2022, and annually thereafter,~~ report to the Legislature on the implementation and outcomes of the consumer-first workforce system ~~opportunity portal~~, including the increase of economic self-sufficiency of individuals.

Section 2. Section 216.135, Florida Statutes, is amended to read:


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216.135 Use of official information by state agencies and the judicial branch.—Each state agency and the judicial branch shall use the official information developed by the consensus estimating conferences in carrying out their duties under the state planning and budgeting system. State agencies, including their divisions, bureaus, and statutorily created entities, must ensure that any related work product is consistent with the official information developed by the Economic Estimating Conference, the Demographic Estimating Conference, and the Labor Market Estimating Conference.

Section 3. Paragraph (a) of subsection (7) of section 216.136, Florida Statutes, is amended to read:

216.136 Consensus estimating conferences; duties and principals.—

(7) LABOR MARKET ESTIMATING CONFERENCE.—

(a) The Labor Market Estimating Conference shall develop such official information with respect to ~~real-time~~ supply and demand in Florida's statewide and~~,~~ regional~~, and local~~ labor markets as the conference determines is needed by the state's near-term and long-term ~~state~~ planning and budgeting system. Such information must ~~shall~~ include labor supply by education level, analyses of labor demand by occupational groups and occupations compared to labor supply, and a ranking of critical areas of concern~~, and identification of in-demand, high-skill, middle-level to high-level wage occupations~~ prioritized by level of statewide or regional shortages. The Office of Economic and Demographic Research is designated as the official lead for the United States Census Bureau's State Data Center Program or its successor. All state agencies shall ~~must~~ provide the Office of


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Economic and Demographic Research with the necessary data to accomplish the goals of the conference. ~~In accordance with s. 216.135, state agencies must ensure that any related work product regarding labor demand and supply is consistent with the official information developed by the Labor Market Estimating Conference created in s. 216.136.~~

Section 4. Section 220.198, Florida Statutes, is amended to read:

220.198 Experiential learning ~~Internship~~ tax credit program.—

(1) This section may be cited as the "Florida Experiential Learning ~~Internship~~ Tax Credit Program."

(2) As used in this section, the term:

(a) "Apprentice" has the same meaning as in s. 446.021(2).

(b) "Full time" means at least 30 hours per week.

(c) "Preapprentice" has the same meaning as in s. 446.021(1).

(d)~~(b)~~ "Qualified business" means a business that is in existence and has been continuously operating for at least 3 years.

(e)~~(c)~~ "Student intern" means a person who has completed at least 60 credit hours at a state university or 15 credit hours at a Florida College System institution, regardless of whether the student intern receives course credit for the internship; a person who is enrolled in a career center operated by a school district under s. 1001.44 or a charter technical career center; or any graduate student enrolled at a state university.

(3) For taxable years beginning on or after January 1, 2022, a qualified business is eligible for a credit against the


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tax imposed by this chapter in the amount of $2,000 per apprentice, preapprentice, or student intern if all of the following apply:

(a) The qualified business employed at least one apprentice, preapprentice, or student intern in an apprenticeship, preapprenticeship, or internship in which the student intern worked full time in this state for at least 9 consecutive weeks, or the apprentice or preapprentice worked in this state for at least 500 hours, and the qualified business provides the department documentation evidencing each apprenticeship, preapprenticeship, or internship claimed. The department may require the taxpayer to provide the taxpayer's Registered Apprenticeship Partners Information Data System program identification number and other necessary information, which the department may verify with the Department of Education.

(b) The qualified business provides the department documentation for the current taxable year showing that at least 20 percent of the business' full-time employees were previously employed by that business as apprentices, preapprentices, or student interns.

(c) ~~At the start of an internship,~~ Each apprentice, preapprentice, or student intern provides the qualified business with verification by the apprentice's, preapprentice's, or student intern's state university, Florida College System institution, career center operated by a school district under s. 1001.44, ~~or~~ charter technical career center, or provider of related technical instruction that the apprentice, preapprentice, or student intern is enrolled and maintains a


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minimum grade point average of 2.0 on a 4.0 scale, if applicable. The qualified business may accept a letter from the applicable educational institution or provider of related technical instruction stating that the apprentice, preapprentice, or student intern is enrolled as evidence that the apprentice, preapprentice, or student intern meets these requirements.

(4) Notwithstanding paragraph (3)(b), a qualified business that, on average for the 3 immediately preceding years, employed 10 or fewer full-time employees may receive the tax credit if it provides documentation that it previously hired at least one apprentice, preapprentice, or student intern and, for the current taxable year, that it employs on a full-time basis at least one employee who was previously employed by that qualified business as an apprentice, preapprentice, or ~~a~~ student intern.

(5)(a) A qualified business, including all subsidiaries, may not claim a tax credit of more than $10,000 in any one taxable year.

(b) The combined total amount of tax credits which may be granted to qualified businesses under this section is $2.5 million in each of state fiscal years 2021-2022, ~~and~~ 2022-2023, 2023-2024, and 2024-2025. The department must approve the tax credit prior to the taxpayer taking the credit on a return. The department must approve credits on a first-come, first-served basis.

(6) The department may adopt rules, including emergency rules pursuant to s. 120.54(4), governing the manner and form of applications for the tax credit and establishing qualification requirements for the tax credit. All conditions are deemed met



for the adoption of emergency rules pursuant to s. 120.54(4).

(7) A qualified business may carry forward any unused portion of a tax credit under this section for up to 2 taxable years.

Section 5. Paragraph (a) of subsection (10) and subsection (14) of section 413.615, Florida Statutes, are amended to read:

413.615 Florida Endowment for Vocational Rehabilitation.—

(10) DISTRIBUTION OF MONEYS.—The board shall use the moneys in the operating account, by whatever means, to provide for:

(a)1. Planning, research, and policy development for issues related to the employment and training of disabled citizens, and publication and dissemination of such information as may serve the objectives of this section.

2. Research on the systems in the state which provide services to persons with disabilities, including autism and intellectual and developmental disabilities. The board shall submit to the Legislature a report by December 1, 2023. The report must:

a. Identify the current systems for service delivery to persons with disabilities, including operations, services, coordination activities, and structures.

b. Identify barriers and obstacles in transportation for persons with disabilities living in the home or receiving community-based services for jobs, medical appointments, and peer-to-peer groups.

c. Identify workforce issues related to direct-support professionals, behavioral or mental health specialists, health care practitioners, and other individuals who assist with the provision of services to persons with disabilities.



d. Examine the best practices for uniform and efficient service delivery and the coordination of and transition among systems, including transitioning out of high school.

e. Examine federal and state law and rules that impact or limit supports or services for persons with disabilities.

f. Identify systemwide incongruence and inefficiencies in service delivery.

g. Identify opportunities for job coaching and community participation supports, including those opportunities for individuals who cannot, or choose not to, enter the community because of underlying issues.

Any allocation of funds for research, advertising, or consulting shall be subject to a competitive solicitation process. State funds may not be used to fund events for private sector donors or potential donors or to honor supporters.

(14) REPEAL.—This section is repealed October 1, 2027 ~~2023~~, unless reviewed and saved from repeal by the Legislature.

Section 6. Paragraph (b) of subsection (7) of section 445.003, Florida Statutes, is amended to read:

445.003 Implementation of the federal Workforce Innovation and Opportunity Act.—

(7) DUTIES OF THE DEPARTMENT.—The department shall adopt rules to implement the requirements of this chapter, including:

(b) Initial and subsequent eligibility criteria, based on input from the state board, local workforce development boards, the Department of Education, and other stakeholders, for the Workforce Innovation and Opportunity Act eligible training provider list. This list directs training resources to programs


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leading to employment in high-demand and high-priority occupations that provide economic security, particularly those occupations facing a shortage of skilled workers. A training provider who offers training to obtain a credential on the Master Credentials List under s. 445.004(4)(h) may not be included on a state or local eligible training provider list if the provider fails to submit the required information or fails to meet initial or subsequent eligibility criteria. Subsequent eligibility criteria must use the performance and outcome measures defined and reported under s. 1008.40, to determine whether each program offered by a training provider is qualified to remain on the list.

~~1. For the 2021-2022 program year,~~ The Department of Economic Opportunity and the Department of Education shall establish the minimum criteria a training provider must achieve for completion, earnings, and employment rates of eligible participants. A provider must meet at least two of the minimum criteria for subsequent eligibility. The minimum program criteria may not exceed the threshold at which more than 20 percent of all eligible training providers in the state would fall below.

~~2. Beginning with the 2022-2023 program year, each program offered by a training provider must, at a minimum, meet all of the following:~~

~~a. Income earnings for all individuals who complete the program that are equivalent to or above the state's minimum wage in a calendar quarter.~~

~~b. An employment rate of at least 75 percent for all individuals. For programs linked to an occupation, the~~



~~employment rate is calculated based on obtaining employment in the field in which the participant was trained.~~

~~c. A completion rate of at least 75 percent for all individuals, beginning with the 2023-2024 program year.~~

Section 7. Subsection (1), paragraph (h) of subsection (4), and subsections (6) and (8) of section 445.004, Florida Statutes, are amended to read:

445.004 CareerSource Florida, Inc., and the state board; creation; purpose; membership; duties and powers.—

(1) CareerSource Florida, Inc., is created as a not-for-profit corporation, which shall be registered, incorporated, organized, and operated in compliance with chapter 617 and shall operate at the direction of the state board. CareerSource Florida, Inc., is not a unit or entity of state government and is exempt from chapters 120 and 287. CareerSource Florida, Inc., shall apply the procurement and expenditure procedures required by federal law for the expenditure of federal funds. To the extent permitted by state or federal law, CareerSource Florida, Inc., in consultation with the department, shall assist the state board in developing and administering streamlined and collaborative approaches to workforce development which result in cost savings and efficiencies throughout the state. CareerSource Florida, Inc., shall be administratively housed within the department and shall operate under agreement with the department. The Legislature finds that public policy dictates that CareerSource Florida, Inc., operate in the most open and accessible manner consistent with its public purpose. To this end, the Legislature specifically declares that CareerSource Florida, Inc., its board, councils, and any advisory committees


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or similar groups created by CareerSource Florida, Inc., are subject to the provisions of chapter 119 relating to public records, and those provisions of chapter 286 relating to public meetings.

(4)

(h)1. The state board shall appoint a Credentials Review Committee to identify nondegree credentials and degree credentials of value for approval by the state board and inclusion in the Master Credentials List. Such credentials must include registered apprenticeship programs, industry certifications, including industry certifications for agricultural occupations submitted pursuant to s. 570.07(43), licenses, advanced technical certificates, college credit certificates, career certificates, applied technology diplomas, and associate degrees, but may not include baccalaureate degrees, and graduate degrees. The Credentials Review Committee must include:

a. The Chancellor of the Division of Public Schools.

b. The Chancellor of the Division of Career and Adult Education.

c. The Chancellor of the Florida College System.

d. The Chancellor of the State University System.

e. The director of the Office of Reimagining Education and Career Help, who shall serve as chair of the committee.

f. Four members from local workforce development boards, with equal representation from urban and rural regions.

g. Two members from nonpublic postsecondary institutions.

h. Two members from industry associations.

i. Two members from Florida-based businesses.



j. Two members from the Department of Economic Opportunity.

k. One member from the Department of Agriculture and Consumer Services.

2. All information pertaining to the Credentials Review Committee, the process for the approval of credentials of value, and the Master Credentials List must be made available and be easily accessible to the public on all relevant state agency websites.

3. The Credentials Review Committee shall establish a definition for credentials of value and create a framework of quality. The framework must align with federally funded workforce accountability requirements and undergo biennial review.

4. The criteria to determine value for nondegree credentials should, at a minimum, require:

a. Evidence that the credential meets labor market demand as identified by the Labor Market Statistics Center within the Department of Economic Opportunity or the Labor Market Estimating Conference created in s. 216.136, or meets local demand as identified in the criteria adopted by the Credentials Review Committee. The Credentials Review Committee may consider additional evidence to determine labor market demand for credentials for agricultural occupations. Evidence to be considered by the Credentials Review Committee must include employer information on present credential use or emerging opportunities.

b. Evidence that the competencies mastered upon completion of the credential are aligned with labor market demand.

c. Evidence of the employment and earnings outcomes for



individuals after obtaining the credential. Earnings outcomes must provide middle-level to high-level wages with preference given to credentials generating high-level wages. Credentials that do not meet the earnings outcomes criteria must be part of a sequence of credentials that are required for the next level occupation that does meet the earnings outcomes criteria in order to be identified as a credential of value. For new credentials, this criteria may be met with conditional eligibility until measurable labor market outcomes are obtained.

5. The Credentials Review Committee shall establish the criteria to determine value for degree programs. This criteria must ~~shall~~ include evidence that the program meets statewide or regional ~~the~~ labor market demand as identified by the Labor Market Statistics Center within the Department of Economic Opportunity or the Labor Market Estimating Conference created in s. 216.136, or meets local demand as determined by the committee. The Credentials Review Committee may consider additional evidence to determine labor market demand for credentials for agricultural occupations ~~Such criteria must be used to designate programs of emphasis under s. 1001.706 and to guide the development of program standards and benchmarks under s. 1004.92~~.

6. The Credentials Review Committee shall establish a process for prioritizing nondegree credentials and degree programs based on critical statewide or regional shortages.

7. The Credentials Review Committee shall establish a process for:

a. At a minimum, quarterly review and approval of credential applications. Approved credentials of value shall be



used by the committee to develop the Master Credentials List.

b. Annual review of the Master Credentials List.

c. Phasing out credentials on the Master Credentials List that no longer meet the framework of quality. Credentials must remain on the list for at least 1 year after identification for removal.

d. Designating performance funding eligibility under ss. 1011.80 and 1011.81, based upon the highest available certification for postsecondary students.

e. Upon approval ~~Beginning with the 2022-2023 school year~~, the state board shall submit the Master Credentials List to the State Board of Education. The list must, at a minimum, identify nondegree credentials and degree programs determined to be of value for purposes of the CAPE Industry Certification Funding List adopted under ss. 1008.44 and 1011.62(1); if the credential or degree program meets statewide, regional, or local level demand; the type of certificate, credential, or degree; and the primary standard occupation classification code. ~~For the 2021-2022 school year, the Master Credentials List shall be comprised of the CAPE Industry Certification Funding List and the CAPE Postsecondary Industry Certification Funding List under ss. 1008.44 and 1011.62(1) and adopted by the State Board of Education before October 1, 2021.~~

f. If an application submitted to the Credentials Review Committee does not meet the required standards, the Credentials Review Committee must provide a notice of deficiency to the applicant and the provider who was identified as the point of contact provided on the application by the end of the next quarter after receipt of the application. The notice must



include the basis for denial and the procedure to appeal the denial.

8. The Credentials Review Committee shall establish a process for linking Classifications of Instructional Programs (CIP) to Standard Occupational Classifications (SOC) for all new credentials of value identified on the Master Credentials List. The CIP code aligns instructional programs to occupations. A CIP to SOC link indicates that programs classified in the CIP code category prepare individuals for jobs classified in the SOC code category. The state board shall submit approved CIP to SOC linkages to the State Board of Education with each credential that is added to the Master Credentials List.

9. The Credentials Review Committee shall identify all data elements necessary to collect information on credentials by the Florida Education and Training Placement Program automated system under s. 1008.39.

~~10. The Credentials Review Committee shall develop a returned-value funding formula as provided under ss. 1011.80(7)(b) and 1011.81(2)(b). When developing the formula, the committee may not penalize Florida College System institutions or school districts if students postpone employment to continue their education.~~

(6) The state board, in consultation with the department, shall achieve the purposes of this section by:

(a) Creating a state employment, education, and training policy that ensures workforce related programs are responsive to present and future business and industry needs and complement the initiatives of Enterprise Florida, Inc.

(b) Establishing policy direction for a uniform funding



system that prioritizes evidence-based, results-driven solutions by providing incentives to improve the outcomes of career education, registered apprenticeship, and work-based learning programs and that focuses resources on occupations related to new or emerging industries that add greatly to the value of the state's economy.

(c) Establishing a comprehensive policy related to the education and training of target populations such as those who have disabilities, are economically disadvantaged, receive public assistance, are not proficient in English, or are dislocated workers. This approach should ensure the effective use of federal, state, local, and private resources in reducing the need for public assistance by combining two or more sources of funding to support workforce related programs or activities for vulnerable populations.

(d) Identifying barriers to coordination and alignment among workforce related programs and activities and developing solutions to remove such barriers.

(e) Maintaining a Master Credentials List that:

1. Serves as a public and transparent inventory of state-approved credentials of value.

2. Directs the use of federal and state funds for workforce education and training programs that lead to approved credentials of value.

3. Guides workforce education and training programs by informing the public of the credentials that have value in the current or future job market.

(f) Requiring administrative cost arrangements among planning regions.


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(g) Implementing consistent contract and procurement policies and procedures.

(h) Requiring the use of a state-established template for contracts or other method for ensuring all contract mechanisms follow certain standards established by the state board.

(i) Leveraging buying power for fringe benefits, including, but not limited to, health insurance, life insurance, and retirement.

(8) Each October 15 ~~Annually, beginning July 1~~, ~~2022,~~ the state board shall ~~assign and~~ make the public information available and easily accessible on its website ~~a letter grade~~ for each local workforce development board using the criteria established by the Office of Reimagining Education and Career Help under s. 14.36, including the most recently assigned letter grade.

Section 8. Subsection (15) is added to section 445.007, Florida Statutes, to read:

445.007 Local workforce development boards.—

(15) Each local workforce development board shall create an education and industry consortium composed of representatives of educational entities and businesses in the designated service delivery area. Each consortium shall provide quarterly reports to the applicable local board which provide community-based information related to educational programs and industry needs to assist the local board in making decisions on programs, services, and partnerships in the service delivery area. The local board shall consider the information obtained from the consortium to determine the most effective ways to grow, retain, and attract talent to the service delivery area. The chair of


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the local workforce development board shall appoint the consortium members. A member of a local workforce development board may not serve as a member of the consortium. Consortium members shall be appointed for 2-year terms beginning on January 1 of the year of appointment, and any vacancy on the consortium must be filled for the remainder of the unexpired term in the same manner as the original appointment.

Section 9. Paragraphs (a) and (e) of subsection (8) of section 445.009, Florida Statutes, are amended to read:

445.009 One-stop delivery system.—

(8)

(a) Individual Training Accounts must be expended on programs that prepare people to enter occupations identified by the Labor Market Statistics Center within the Department of Economic Opportunity and the Labor Market Estimating Conference created by s. 216.136, and on other programs recommended and approved by the state board following a review by the department to determine the program's compliance with federal law.

(e) Training services provided through Individual Training Accounts must be performance-based~~, with successful job placement triggering final payment of at least 10 percent~~.

Section 10. Section 445.038, Florida Statutes, is amended to read:

445.038 Digital media; job training.—CareerSource Florida, Inc., through the Department of Economic Opportunity, may use funds dedicated for incumbent worker training for the digital media industry. Training may be provided by public or private training providers for broadband digital media jobs listed on the occupations list developed by the Labor Market Estimating



Conference or the Labor Market Statistics Center within the Department of Economic Opportunity and on other programs recommended and approved by the state board following a review by the department to determine the program's compliance with federal law. Programs that operate outside the normal semester time periods and coordinate the use of industry and public resources must ~~should~~ be given priority status for funding.

Section 11. Subsection (2) of section 446.071, Florida Statutes, is amended to read:

446.071 Apprenticeship sponsors.—

(2) A local apprenticeship sponsor may be a committee, a group of employers, an employer, ~~or~~ a group of employees, an educational institution, a local workforce board, a community or faith-based organization, an association, or any combination thereof.

Section 12. Present subsection (3) of section 446.0915, Florida Statutes, is redesignated as subsection (4), a new subsection (3) is added to that section, and subsection (2) of that section is amended, to read:

446.0915 Work-based learning opportunities.—

(2) A work-based learning opportunity must meet all of the following criteria:

(a) Be developmentally appropriate.

(b) Identify learning objectives for the term of experience.

(c) Explore multiple aspects of an industry.

(d) Develop workplace skills and competencies.

(e) Assess performance.

(f) Provide opportunities for work-based reflection.


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(g) Link to next steps in career planning and preparation in a student's chosen career pathway.

(h) Be provided in an equal and fair manner.

(i) Be documented and reported in compliance with state and federal labor laws.

A work-based learning opportunity should prioritize paid experiences, such as apprenticeship, ~~and~~ preapprenticeship, and diversified education programs.

(3) Each district school board shall ensure that each student enrolled in grades 9 through 12 has access to at least one work-based learning opportunity.

Section 13. Section 446.54, Florida Statutes, is amended to read:

446.54 Reimbursement for workers' compensation insurance premiums.—

(1) A student 18 years of age or younger who is in a paid work-based learning opportunity must ~~shall~~ be covered by the workers' compensation insurance of his or her employer in accordance with chapter 440. For purposes of chapter 440, a school district or Florida College System institution is considered the employer of a student 18 years of age or younger who is providing unpaid services under a work-based learning opportunity provided by the school district or Florida College System institution.

(2) Subject to appropriation, ~~the Department of Education may reimburse~~ employers, including school districts and Florida College System institutions, may apply to the Department of Financial Services for reimbursement of the proportionate cost


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of workers' compensation premiums paid during the fiscal year for students participating in work-based learning opportunities in the previous state fiscal year ~~in accordance with department rules~~.

(a) An application for reimbursement must include the following information:

1. The number of students participating in work-based learning opportunities with the employer, including the number of those participating in paid and unpaid work-based learning opportunities;

2. An attestation that:

a. The students were 18 years of age or younger during the time of participation in the work-based learning opportunity; and

b. For an employer who paid the students, the employer is seeking reimbursement for the proportionate cost of workers' compensation premiums related to those students only; or

c. For a school district or Florida College System institution that is considered the employer, the employer is seeking reimbursement for the proportionate cost of workers' compensation premiums related to those students only;

3. A description of the method used by the employer to determine the proportionate share of the cost of workers' compensation premiums attributable to students;

4. The total amount of reimbursement requested;

5. The employer's name, point of contact, and contact information;

6. A statement by the employer agreeing to maintain documentation supporting the information in the application for



5 years; and

7. Any other information requested by the department.

(b) Within 45 days after receipt of a complete application, the Department of Financial Services must process the application and notify the applicant of approval or denial of the application. The Department of Financial Services shall coordinate with the educational institution to verify the information on the application related to the employer and the students participating in the work-based learning opportunity. Reimbursements must be made on a first-come, first-served basis.

(c) For purposes of this section, the term "educational institution" means a school as defined in s. 1003.01(2) operated by a district school board, a charter school formed under s. 1002.33, a career center operated by a district school board under s. 1001.44, a charter technical career center under s. 1002.34, or a Florida College System institution identified in s. 1000.21.

Section 14. Paragraph (a) of subsection (2) of section 464.0195, Florida Statutes, is amended, paragraph (c) is added to that subsection, and subsection (5) is added to that section, to read:

464.0195 Florida Center for Nursing; goals.—

(2) The primary goals for the center shall be to:

(a) Develop a strategic statewide plan for nursing manpower in this state by:

1. Conducting a statistically valid biennial data-driven gap analysis of the supply and demand of the health care workforce. ~~Demand must align with the Labor Market Estimating Conference created in s. 216.136.~~ The center shall:



a. Establish and maintain a database on nursing supply and demand in the state, to include current supply and demand.

b. Analyze the current and future supply and demand in the state and the impact of this state's participation in the Nurse Licensure Compact under s. 464.0095.

2. Developing recommendations to increase nurse faculty and clinical preceptors, support nurse faculty development, and promote advanced nurse education.

3. Developing best practices in the academic preparation and continuing education needs of qualified nurse educators, nurse faculty, and clinical preceptors.

4. Collecting data on nurse faculty, employment, distribution, and retention.

5. Piloting innovative projects to support the recruitment, development, and retention of qualified nurse faculty and clinical preceptors.

6. Encouraging and coordinating the development of academic-practice partnerships to support nurse faculty employment and advancement.

7. Developing distance learning infrastructure for nursing education and advancing faculty competencies in the pedagogy of teaching and the evidence-based use of technology, simulation, and distance learning techniques.

(c) Convene various groups representative of nurses, other health care providers, business and industry, consumers, lawmakers, and educators to:

1. Review and comment on data analysis prepared for the center;

2. Recommend systemic changes, including strategies for



implementation of recommended changes; and

3. Evaluate and report the results of these efforts to the Legislature and other entities.

(5) No later than each January 10, the center shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives providing details of its activities during the preceding calendar year in pursuit of its goals and in the execution of its duties under subsection (2), including a nursing education program report.

Section 15. Present subsections (15) through (19) of section 1001.03, Florida Statutes, are redesignated as subsections (16) through (20), respectively, and a new subsection (15) is added to that section, to read:

1001.03 Specific powers of State Board of Education.—

(15) DISTRICT POSTSECONDARY ASSOCIATE IN APPLIED SCIENCE AND ASSOCIATE IN SCIENCE DEGREE PROGRAMS.—The State Board of Education shall provide for the review and approval of proposals by district career centers to offer associate in applied science and associate in science degree programs pursuant to s. 1007.331.

Section 16. Subsection (14) of section 1001.43, Florida Statutes, is amended to read:

1001.43 Supplemental powers and duties of district school board.—The district school board may exercise the following supplemental powers and duties as authorized by this code or State Board of Education rule.

(14) RECOGNITION OF ACADEMIC AND CAREER ACHIEVEMENT.—

(a) The Legislature recognizes the importance of promoting student academic and career achievement, motivating students to


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attain academic and career achievement, and providing positive acknowledgment for that achievement. It is the intent of the Legislature that school districts bestow the same level of recognition to the state's academic and career scholars as to its athletic scholars.

(b) The district school board is encouraged to adopt policies and procedures to celebrate the academic and career ~~workforce~~ achievement of students by:

1. Declaring an "Academic Scholarship Signing Day" to recognize the outstanding academic achievement of high school seniors who sign a letter of intent to accept an academic scholarship offered to the student by a postsecondary educational institution.

2. Declaring a "College and Career Decision Day" to recognize high school seniors for their postsecondary education plans, to encourage early preparation for college, and to encourage students to pursue advanced career pathways through the attainment of industry certifications for which there are statewide college credit articulation agreements.

(c) Beginning with the 2023-2024 school year, each district school board must require each high school within its jurisdiction to host an annual career fair during the school year and establish a process to provide students in grades 11 and 12 the opportunity to meet or interview with potential employers during the career fair. The career fair must be held on the campus of the high school, except that a group of high schools in the district may hold a joint career fair to satisfy the requirement in this paragraph. The career fair must be held during the school day and may use Florida's online career



planning and work-based learning system as part of the career fair activities.

District school board policies and procedures may include conducting assemblies or other appropriate public events in which students sign actual or ceremonial documents accepting scholarships or enrollment. The district school board may encourage holding such events in an assembly or gathering of the entire student body as a means of making academic and career success and recognition visible to all students.

Section 17. Paragraph (b) of subsection (5) of section 1001.706, Florida Statutes, is amended to read:

1001.706 Powers and duties of the Board of Governors.—

(5) POWERS AND DUTIES RELATING TO ACCOUNTABILITY.—

(b) The Board of Governors shall develop a strategic plan specifying goals and objectives for the State University System and each constituent university, including each university's contribution to overall system goals and objectives. The strategic plan must:

1. Include performance metrics and standards common for all institutions and metrics and standards unique to institutions depending on institutional core missions, including, but not limited to, student admission requirements, retention, graduation, percentage of graduates who have attained employment, percentage of graduates enrolled in continued education, licensure passage, average wages of employed graduates, average cost per graduate, excess hours, student loan burden and default rates, faculty awards, total annual research expenditures, patents, licenses and royalties, intellectual



property, startup companies, annual giving, endowments, and well-known, highly respected national rankings for institutional and program achievements.

2. Consider reports and recommendations of the Florida Talent Development Council under s. 1004.015 and the Articulation Coordinating Committee under s. 1007.01, and the information provided by the Labor Market Statistics Center within the Department of Economic Opportunity and the Labor Market Estimating Conference.

3. Include student enrollment and performance data delineated by method of instruction, including, but not limited to, traditional, online, and distance learning instruction.

4. Include criteria for designating baccalaureate degree and master's degree programs at specified universities as high-demand programs of emphasis. ~~The programs of emphasis list adopted by the Board of Governors before July 1, 2021, shall be used for the 2021-2022 academic year. Beginning in the 2022-2023 academic year, the Board of Governors shall adopt the criteria to determine value for and prioritization of degree credentials and degree programs established by the Credentials Review Committee under s. 445.004 for designating high-demand programs of emphasis. The Board of Governors must review designated programs of emphasis, at a minimum, every 3 years to ensure alignment with the prioritization of degree credentials and degree programs identified by the Credentials Review Committee.~~

Section 18. Paragraph (l) is added to subsection (3) of section 1002.31, Florida Statutes, to read:

1002.31 Controlled open enrollment; public school parental choice.—



(3) Each district school board shall adopt by rule and post on its website the process required to participate in controlled open enrollment. The process must:

(l) Enable a student who, in middle school, completed a career and technical education course or an industry certification included in the CAPE Industry Certification Funding List to continue a sequential program of career and technical education in the same concentration, if a high school in the district offers the program.

Section 19. Paragraph (i) of subsection (1) of section 1003.02, Florida Statutes, is amended to read:

1003.02 District school board operation and control of public K-12 education within the school district.—As provided in part II of chapter 1001, district school boards are constitutionally and statutorily charged with the operation and control of public K-12 education within their school districts. The district school boards must establish, organize, and operate their public K-12 schools and educational programs, employees, and facilities. Their responsibilities include staff development, public K-12 school student education including education for exceptional students and students in juvenile justice programs, special programs, adult education programs, and career education programs. Additionally, district school boards must:

(1) Provide for the proper accounting for all students of school age, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students in the following areas:


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(i) ~~*Parental*~~ *Notification of acceleration, academic, and career planning options.*—At the beginning of each school year, notify ~~parents of~~ students in or entering high school and the students' parents, in a language that is understandable to students and parents, of the opportunity and benefits of advanced placement, International Baccalaureate, Advanced International Certificate of Education, and dual enrollment courses; career and professional academies; career-themed courses; the career and technical education pathway to earn a standard high school diploma under s. 1003.4282(10); work-based learning opportunities, including internships and apprenticeship and preapprenticeship programs;~~, and~~ Florida Virtual School courses; and options for early graduation under s. 1003.4281, and provide those students and parents with guidance on accessing and using Florida's online career planning and work-based learning coordination system and the contact information of a certified school counselor who can advise students and parents on those options.

Section 20. Paragraph (e) of subsection (1) of section 1003.4156, Florida Statutes, is amended to read:

1003.4156 General requirements for middle grades promotion.—

(1) In order for a student to be promoted to high school from a school that includes middle grades 6, 7, and 8, the student must successfully complete the following courses:

(e) One course in career and education planning to be completed in grades 6, 7, or 8, which may be taught by any member of the instructional staff. The course must be Internet-based, customizable to each student, and include research-based



assessments to assist students in determining educational and career options and goals. In addition, the course must result in a completed personalized academic and career plan for the student which must use, when available, Florida's online career planning and work-based learning coordination system. The course must teach each student how to access and update the plan and encourage the student to access and update the plan at least annually ~~that may be revised~~ as the student progresses through middle school and high school. The personalized academic and career plan~~,~~ must emphasize the importance of entrepreneurship and employability skills~~,~~ and must include information from the Department of Economic Opportunity's economic security report under s. 445.07 and other state career planning resources. The required personalized academic and career plan must inform students of high school graduation requirements, including a detailed explanation of the requirements for earning a high school diploma designation under s. 1003.4285 and the career and technical education pathway to earn a standard high school diploma under s. 1003.4282(10); the requirements for each scholarship in the Florida Bright Futures Scholarship Program; state university and Florida College System institution admission requirements; available opportunities to earn college credit in high school, including Advanced Placement courses; the International Baccalaureate Program; the Advanced International Certificate of Education Program; dual enrollment, including career dual enrollment; work-based learning opportunities, including internships and preapprenticeship and apprenticeship programs; and career education courses, including career-themed courses~~, preapprenticeship and apprenticeship programs,~~ and


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course sequences that lead to industry certification pursuant to s. 1003.492 or s. 1008.44. The course may be implemented as a stand-alone course or integrated into another course or courses.

Section 21. Subsections (2) and (5) of section 1003.4203, Florida Statutes, are amended to read:

1003.4203 Digital materials, CAPE Digital Tool certificates, and technical assistance.—

~~(2) CAPE ESE DIGITAL TOOLS.—Each district school board, in consultation with the district school superintendent, shall make available digital and instructional materials, including software applications, to students with disabilities who are in prekindergarten through grade 12. Beginning with the 2015-2016 school year:~~

~~(a) Digital materials may include CAPE Digital Tool certificates, workplace industry certifications, and OSHA industry certifications identified pursuant to s. 1008.44 for students with disabilities; and~~

~~(b) Each student's individual educational plan for students with disabilities developed pursuant to this chapter must identify the CAPE Digital Tool certificates and CAPE industry certifications the student seeks to attain before high school graduation.~~

(4) ~~(5) CAPE INNOVATION AND~~ CAPE ACCELERATION.—

~~(a) *CAPE Innovation.*—Courses, identified in the CAPE Industry Certification Funding List, that combine academic and career content, and performance outcome expectations that, if achieved by a student, shall articulate for college credit and be eligible for additional full-time equivalent membership under s. 1011.62(1)(o)1.c. Such approved courses must incorporate at~~



~~least two third-party assessments that, if successfully completed by a student, shall articulate for college credit. At least one of the two third-party assessments must be associated with an industry certification that is identified on the CAPE Industry Certification Funding List. Each course that is approved by the commissioner must be specifically identified in the Course Code Directory as a CAPE Innovation Course.~~

~~(b) *CAPE Acceleration.*—~~Industry certifications that articulate for 15 or more college credit hours and, if successfully completed, are eligible for additional full-time equivalent membership under s. 1011.62(1)(o)1.d. Each approved industry certification must be specifically identified in the CAPE Industry Certification Funding List as a CAPE Acceleration Industry Certification.

Section 22. Present subsection (11) of section 1003.4282, Florida Statutes, is redesignated as subsection (12), a new subsection (11) is added to that section, and paragraph (e) of subsection (3) and paragraph (a) of subsection (8) of that section are amended, to read:

1003.4282 Requirements for a standard high school diploma.—

(3) STANDARD HIGH SCHOOL DIPLOMA; COURSE AND ASSESSMENT REQUIREMENTS.—

(e) *One credit in fine or performing arts, speech and debate, or career and technical education~~, or practical arts~~.*—A ~~The~~ practical arts course that incorporates ~~must incorporate~~ artistic content and techniques of creativity, interpretation, and imagination satisfies the one credit requirement in fine or performing arts, speech and debate, or career and technical education. Eligible practical arts courses are identified in the



Course Code Directory.

(8) CAREER EDUCATION COURSES THAT SATISFY HIGH SCHOOL CREDIT REQUIREMENTS.—

(a) Participation in career education courses engages students in their high school education, increases academic achievement, enhances employability, and increases postsecondary success. The department shall develop, for approval by the State Board of Education, multiple, additional career education courses or a series of courses that meet the requirements set forth in s. 1003.493(2), (4), and (5) and this subsection and allow students to earn credit in both the career education course and courses required for high school graduation under this section and s. 1003.4281.

1. The state board must determine at least biennially if sufficient academic standards are covered to warrant the award of academic credit, including satisfaction of graduation, assessment, and state university admissions requirements under this section.

2. Career education courses must:

a. Include workforce and digital literacy skills.

b. Integrate required course content with practical applications and designated rigorous coursework that results in one or more industry certifications or clearly articulated credit or advanced standing in a 2-year or 4-year certificate or degree program, which may include high school junior and senior year work-related internships or apprenticeships. The department shall negotiate state licenses for material and testing for industry certifications.



The instructional methodology used in these courses must comprise authentic projects, problems, and activities for contextual academic learning and emphasize workplace skills identified under s. 445.06.

3. A student who earns credit upon completion of an apprenticeship or preapprenticeship program registered with the Department of Education under chapter 446 may use such credit to satisfy the high school graduation credit requirements in paragraph (3)(e) or paragraph (3)(g). The state board shall approve and identify in the Course Code Directory the apprenticeship and preapprenticeship programs from which earned credit may be used pursuant to this subparagraph.

4. The State Board of Education shall, by rule, establish a process that enables a student to receive work-based learning credit or credit in electives for completing a threshold level of demonstrable participation in extracurricular activities associated with career and technical student organizations. Work-based learning credit or credit in electives for extracurricular activities or supervised agricultural experiences may not be limited by grade level.

(11) CAREER AND TECHNICAL EDUCATION CREDIT.—The Department of Education shall convene a workgroup to:

(a) Identify best practices in career and technical education pathways from middle school to high school to aid middle school students in career planning and facilitate their transition to high school programs. The career pathway must be linked to postsecondary programs.

(b) Establish three mathematics pathways for students enrolled in secondary grades by aligning mathematics courses to



programs, postsecondary education, and careers. The workgroup shall collaborate to identify the three mathematics pathways and the mathematics course sequence within each pathway which align to the mathematics skills needed for success in the corresponding academic programs, postsecondary education, and careers.

Section 23. Paragraph (b) of subsection (1) of section 1003.4285, Florida Statutes, is amended to read:

1003.4285 Standard high school diploma designations.—

(1) Each standard high school diploma shall include, as applicable, the following designations if the student meets the criteria set forth for the designation:

(b) *Industry Scholar* ~~*Merit*~~ *designation.*—In addition to the requirements of s. 1003.4282, in order to earn the Industry Scholar ~~Merit~~ designation, a student must attain one or more industry certifications from the list established under s. 1003.492.

Section 24. Subsection (3) of section 1003.491, Florida Statutes, is amended to read:

1003.491 Florida Career and Professional Education Act.—The Florida Career and Professional Education Act is created to provide a statewide planning partnership between the business and education communities in order to attract, expand, and retain targeted, high-value industry and to sustain a strong, knowledge-based economy.

(3) The strategic 3-year plan developed jointly by the local school district, local workforce development boards, economic development agencies, and state-approved postsecondary institutions must ~~shall~~ be constructed and based on:


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(a) Research conducted to objectively determine local and regional workforce needs for the ensuing 3 years, using labor projections as identified by the Labor Market Statistics Center within the Department of Economic Opportunity and the Labor Market Estimating Conference as factors in the criteria for the plan ~~created in s. 216.136~~;

(b) Strategies to develop and implement career academies or career-themed courses based on occupations identified by the Labor Market Statistics Center within the Department of Economic Opportunity and the Labor Market Estimating Conference ~~created in s. 216.136~~;

(c) Strategies to provide shared, maximum use of private sector facilities and personnel;

(d) Strategies to ~~that~~ ensure instruction by industry-certified faculty and standards and strategies to maintain current industry credentials and for recruiting and retaining faculty to meet those standards;

(e) Strategies to provide personalized student advisement, including a parent-participation component, and coordination with middle grades to promote and support career-themed courses and education planning;

(f) Alignment of requirements for middle school career planning, middle and high school career and professional academies or career-themed courses leading to industry certification or postsecondary credit, and high school graduation requirements;

(g) Provisions to ensure that career-themed courses and courses offered through career and professional academies are academically rigorous, meet or exceed appropriate state-adopted



subject area standards, result in attainment of industry certification, and, when appropriate, result in postsecondary credit;

(h) Plans to sustain and improve career-themed courses and career and professional academies;

(i) Strategies to improve the passage rate for industry certification examinations if the rate falls below 50 percent;

(j) Strategies to recruit students into career-themed courses and career and professional academies which include opportunities for students who have been unsuccessful in traditional classrooms but who are interested in enrolling in career-themed courses or a career and professional academy. School boards shall provide opportunities for students who may be deemed as potential dropouts or whose cumulative grade point average drops below a 2.0 to enroll in career-themed courses or participate in career and professional academies. Such students must be provided in-person academic advising that includes information on career education programs by a certified school counselor or the school principal or his or her designee during any semester the students are at risk of dropping out or have a cumulative grade point average below a 2.0;

(k) Strategies to provide sufficient space within academies to meet workforce needs and to provide access to all interested and qualified students;

(l) Strategies to implement career-themed courses or career and professional academy training that lead to industry certification in juvenile justice education programs;

(m) Opportunities for high school students to earn weighted or dual enrollment credit for higher-level career and technical



courses;

(n) Promotion of the benefits of the Gold Seal Bright Futures Scholarship;

(o) Strategies to ensure the review of district pupil-progression plans and to amend such plans to include career-themed courses and career and professional academy courses and to include courses that may qualify as substitute courses for core graduation requirements and those that may be counted as elective courses;

(p) Strategies to provide professional development for secondary certified school counselors on the benefits of career and professional academies and career-themed courses that lead to industry certification; and

(q) Strategies to redirect appropriated career funding in secondary and postsecondary institutions to support career academies and career-themed courses that lead to industry certification.

Section 25. Paragraph (b) of subsection (1) and paragraph (a) of subsection (2) of section 1003.5716, Florida Statutes, are amended to read:

1003.5716 Transition to postsecondary education and career opportunities.—All students with disabilities who are 3 years of age to 21 years of age have the right to a free, appropriate public education. As used in this section, the term “IEP” means individual education plan.

(1) To ensure quality planning for a successful transition of a student with a disability to postsecondary education and career opportunities, during the student’s seventh grade year or when the student attains the age of 12, whichever occurs first,



an IEP team shall begin the process of, and develop an IEP for, identifying the need for transition services before the student with a disability enters high school or attains the age of 14 years, whichever occurs first, in order for his or her postsecondary goals and career goals to be identified. The plan must be operational and in place to begin implementation on the first day of the student's first year in high school. This process must include, but is not limited to:

(b) Preparation for the student to graduate from high school with a standard high school diploma pursuant to s. 1003.4282 with a Scholar designation unless the parent chooses an Industry Scholar ~~a Merit~~ designation; and

(2) Beginning not later than the first IEP to be in effect when the student enters high school, attains the age of 14, or when determined appropriate by the parent and the IEP team, whichever occurs first, the IEP must include the following statements that must be updated annually:

(a) A statement of intent to pursue a standard high school diploma and a Scholar or an Industry Scholar ~~Merit~~ designation, pursuant to s. 1003.4285, as determined by the parent.

1. The statement must document discussion of the process for a student with a disability who meets the requirements for a standard high school diploma to defer the receipt of such diploma pursuant to s. 1003.4282(9)(c).

2. For the IEP in effect at the beginning of the school year the student is expected to graduate, the statement must include a signed statement by the parent, the guardian, or the student, if the student has reached the age of majority and rights have transferred to the student, that he or she



understands the process for deferment and identifying if the student will defer the receipt of his or her standard high school diploma.

Section 26. Paragraph (a) of subsection (3) of section 1004.013, Florida Statutes, is amended to read:

1004.013 SAIL to 60 Initiative.—

(3) There is created within the SAIL to 60 Initiative the Strategic Efforts to Achieve Self-Sufficiency (SEAS) which consists of:

(a) The consumer-first workforce system ~~opportunity portal~~ under s. 14.36, which provides the public with more effective access to available federal, state, and local services and a systemwide, global view of workforce related program data across various programs through actionable qualitative and quantitative information.

Section 27. Subsection (7) is added to section 1004.015, Florida Statutes, to read:

1004.015 Florida Talent Development Council.—

(7) The council shall identify barriers and best practices in the facilitation of work-based learning opportunities for students in middle and high school. By December 1, 2023, the council shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives recommendations on best practices for collaboration between district school boards, local workforce development boards, and local businesses and business groups. The recommendations must include any necessary legislative action to facilitate work-based learning opportunities for students in middle and high school, including the identification of potential targeted


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financial incentives that may help to facilitate work-based learning opportunities for students.

Section 28. Section 1007.331, Florida Statutes, is created to read:

1007.331 Site-determined associate in applied science and associate in science degree access.—

(1) Any career center that offers one or more associate in applied science or associate in science degree programs must maintain an open-door admission policy for associate-level degree programs and workforce education programs.

(2) A career center may not terminate its existing programs as a result of being authorized to offer one or more associate in applied science or associate in science degree programs.

(3) A career center may:

(a) Offer associate in applied science or associate in science degree programs through formal agreements between the local Florida College System institution and other accredited postsecondary educational institutions pursuant to s. 1007.22.

(b) Establish an associate in applied science or associate in science degree program for purposes of meeting district, regional, or statewide workforce needs if approved by the State Board of Education under this section, beginning July 1, 2024.

(4) The approval process for associate in applied science or associate in science degree programs must require:

(a) Each career center to submit a notice of its intent to propose an associate in applied science or associate in science degree program to the Division of Career and Adult Education at least 100 days before the submission of its proposal under paragraph (d). The notice must include a brief description of


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the program, the workforce demand and unmet need for graduates of the program to include evidence from entities independent of the institution, the geographic region to be served, and an estimated timeframe for implementation. Notices of intent may be submitted by a career center at any time throughout the year. The notice must also include evidence that the career center engaged in need, demand, and impact discussions with one or more Florida College System institutions and other accredited postsecondary education providers in its service district.

(b) The Division of Career and Adult Education to forward the notice of intent to the Chancellor of the Florida College System within 10 business days after receiving such notice. State colleges shall have 60 days following receipt of the notice by the Chancellor of the Florida College System to submit objections to the proposed new program or submit an alternative proposal to offer the associate in applied science or associate in science degree program. Objections or alternative proposals shall be submitted to the Division of Career and Adult Education and must be considered by the State Board of Education in making its decision to approve or deny a career center's proposal.

(c) An alternative proposal submitted by a Florida College System institution or private college to address all of the following:

1. The extent to which the workforce demand and unmet need described in the notice of intent will be met.

2. The extent to which students will be able to complete the degree in the geographic region proposed to be served by the career center.

3. The level of financial commitment of the Florida College



System institution to the development, implementation, and maintenance of the specified degree program, including timelines.

4. The extent to which faculty at both the career center and the Florida College System institution will collaborate in the development and offering of the curriculum.

5. The ability of the career center and the Florida College System institution to develop and approve the curriculum for the specified degree program within 6 months after an agreement between the career center and Florida College System institution is signed.

6. The extent to which the student may incur additional costs above what the student would expect to incur if the program were offered by the career center.

(d) Each proposal submitted by a career center to, at a minimum, include all of the following:

1. A description of the planning process and timeline for implementation.

2. An analysis of workforce demand and unmet need for graduates of the program on a district, regional, or statewide basis, as appropriate, including evidence from entities independent of the institution.

3. Identification of the facilities, equipment, and library and academic resources that will be used to deliver the program.

4. The program cost analysis of creating a new associate in applied science or associate in science degree when compared to alternative proposals and other program delivery options.

5. The program's admission requirements, academic content, curriculum, faculty credentials, student-to-teacher ratios, and


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accreditation plan.

6. The program's enrollment projections and funding requirements.

7. A plan of action if the program is terminated.

(e) The Division of Career and Adult Education to review the proposal, notify the career center in writing of any deficiencies within 30 days following receipt of the proposal, and provide the career center with an opportunity to correct the deficiencies. Within 45 days following receipt of a completed proposal by the Division of Career and Adult Education, the Commissioner of Education shall recommend approval or disapproval of the proposal to the State Board of Education. The State Board of Education shall consider such recommendation, the proposal, and any objections or alternative proposals at its next meeting. If the State Board of Education rejects the career center's proposal, it shall provide the career center with written reasons for that determination.

(f) The career center to obtain from the Council on Occupational Education accreditation as an associate in applied science or associate in science degree-granting institution if approved by the State Board of Education to offer its first associate in applied science or associate in science degree program.

(g) The career center to notify the Council on Occupational Education of any subsequent degree programs that are approved by the State Board of Education and to comply with the council's required substantive change protocols for accreditation purposes.

(h) The career center to annually, and upon request of the



State Board of Education, the Commissioner of Education, the Chancellor of the Division of Career and Adult Education, or the Legislature, report its status using the following performance and compliance indicators:

1. Obtaining and maintaining Council on Occupational Education accreditation;

2. Maintaining qualified faculty and institutional resources;

3. Maintaining enrollment in previously approved programs;

4. Managing fiscal resources appropriately;

5. Complying with the primary mission and responsibility requirements in subsections (2) and (3); and

6. Other indicators of success, including program completions, placements, and surveys of graduates and employers. The State Board of Education, upon review of the performance and compliance indicators, may require a career center to modify or terminate an associate in applied science or associate in science degree program authorized under this section.

(5) The State Board of Education shall adopt rules to prescribe format and content requirements and submission procedures for notices of intent, proposals, alternative proposals, and compliance reviews under subsection (4).

Section 29. Present paragraph (f) of subsection (3) of section 1008.41, Florida Statutes, is redesignated as paragraph (g), and a new paragraph (f) is added to that subsection, to read:

1008.41 Workforce education; management information system.—

(3) Planning and evaluation of job-preparatory programs


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shall be based on standard sources of data and use standard occupational definitions and coding structures, including, but not limited to:

(f) The Labor Market Statistics Center within the Department of Economic Opportunity.

Section 30. Subsections (1), (2), and (4) of section 1008.44, Florida Statutes, are amended to read:

1008.44 CAPE Industry Certification Funding List.—

(1) The State Board of Education shall adopt, at least annually, based upon recommendations by the Commissioner of Education, the CAPE Industry Certification Funding List that assigns additional full-time equivalent membership to certifications identified in the Master Credentials List under s. 445.004(4) that meets a statewide, regional, or local demand~~, and courses that lead to such certifications, in accordance with s. 1011.62(1)(o)~~. Additional full-time equivalent membership funding for regional and local demand certifications ~~and courses that lead to such certifications~~ may only be earned in those areas with regional or local demand as identified by the Credentials Review Committee. The CAPE Industry Certification Funding List may include the following certificates and~~,~~ certifications~~, and courses~~:

(a) CAPE industry certifications identified as credentials of value that meet the framework of quality under s. 445.004(4), that must be applied in the distribution of funding to school districts under s. 1011.62(1)(o). The CAPE Industry Certification Funding List shall incorporate by reference the industry certifications on the career pathways list approved for the Florida Gold Seal CAPE Scholars award.


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(b) CAPE Digital Tool certificates selected by the department under s. 1003.4203(2) ~~s. 1003.4203(3)~~ that do not articulate for college credit. The certificates must ~~shall~~ be made available to students in elementary school and middle school grades and, if earned by a student, must ~~shall~~ be eligible for additional full-time equivalent membership under s. 1011.62(1)(o)1. The Department shall annually review available assessments that meet the requirements for inclusion on the list.

(c) ~~CAPE ESE Digital Tool certificates, workplace industry certifications, and OSHA industry certifications for students with disabilities under s. 1003.4203(2). Such certificates and certifications shall, if earned by a student, be eligible for additional full-time equivalent membership under s. 1011.62(1)(o)1.~~

~~(d) CAPE Innovation Courses that combine academic and career performance outcomes with embedded industry certifications under s. 1003.4203(5)(a). Such courses shall, if completed by a student, be eligible for additional full-time equivalent membership under s. 1011.62(1)(o)1.~~

~~(e)~~ CAPE Acceleration Industry Certifications that articulate for 15 or more college credit hours under s. 1003.4203(4) ~~s. 1003.4203(5)(b)~~. Such certifications must ~~shall~~, if successfully completed, be eligible for additional full-time equivalent membership under s. 1011.62(1)(o)1.

(d) ~~(f)~~ The Commissioner of Education shall conduct a review of the methodology used to determine additional full-time equivalent membership weights assigned in s. 1011.62(1)(o) and, if necessary, recommend revised weights. The weights must factor


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in the prioritization of critical shortages of labor market demand and middle-level to high-level wage earning outcomes as identified by the Credentials Review Committee under s. 445.004. The results of the review and the commissioner's recommendations must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than December 1, 2023 ~~2021~~.

(2) The CAPE Industry Certification Funding List adopted under subsection (1) must ~~shall~~ be used to determine annual performance funding distributions to school districts or Florida College System institutions as specified in ss. 1011.80 and 1011.81, respectively.

(4)(a) CAPE industry certifications and CAPE Digital Tool certificates placed on the CAPE Industry Certification Funding List must include the version of the certifications and certificates available at the time of the adoption and, without further review and approval, include the subsequent updates to the certifications and certificates on the approved list, unless the certifications and certificates are specifically removed from the CAPE Industry Certification Funding List by the Commissioner of Education.

(b) The Commissioner of Education may limit CAPE industry certifications and CAPE Digital Tool certificates to students in certain grades ~~based on formal recommendations by providers of CAPE industry certifications and CAPE Digital Tool certificates~~.

(c) The Articulation Coordinating Committee shall review statewide articulation agreement proposals for industry certifications and make recommendations to the State Board of Education for approval. After an industry certification is



approved by CareerSource Florida, Inc., under s. 445.004(4), the Chancellor of Career and Adult Education, within 90 days, must provide to the Articulation Coordinating Committee recommendations for articulation of postsecondary credit for related degrees for the approved certifications.

Section 31. Present subsections (4) through (13) of section 1009.22, Florida Statutes, are redesignated as subsections (5) through (14), respectively, a new subsection (4) is added to that section, and subsection (1) and paragraph (c) of subsection (3) of that section are amended, to read:

1009.22 Workforce education postsecondary student fees.—

(1) This section applies to students enrolled in workforce education programs who are reported for funding and fees charged for college credit instruction leading to an associate in applied science degree or an associate in science degree authorized pursuant to s. 1007.331, except that college credit fees for the Florida College System institutions are governed by s. 1009.23.

(3)

(c) For programs leading to a career certificate or an applied technology diploma, the standard tuition shall be $2.33 per contact hour for residents and nonresidents and the out-of-state fee shall be $6.99 per contact hour. For adult general education programs, a block tuition of $45 per half year or $30 per term shall be assessed. Each district school board and Florida College System institution board of trustees shall adopt policies and procedures for the collection of and accounting for the expenditure of the block tuition. All funds received from the block tuition shall be used only for adult general education


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programs. Students enrolled in adult general education programs may not be assessed the fees authorized in subsection (6) ~~(5)~~, subsection (7) ~~(6)~~, or subsection (8) ~~(7)~~.

(4) For postsecondary vocational programs offered by career centers, the standard tuition shall be $71.98 per credit hour for residents and nonresidents, and the out-of-state fee shall be $215.94 per credit hour.

Section 32. Present subsections (9), (10), and (11) of section 1009.77, Florida Statutes, are redesignated as subsections (10), (11), and (12), respectively, a new subsection (9) is added to that section, and paragraph (c) of subsection (1), paragraph (a) of subsection (8), and present subsection (9) of that section are amended, to read:

1009.77 Florida Work Experience Program.—

(1) There is established the Florida Work Experience Program to be administered by the Department of Education. The purpose of the program is to introduce eligible students to work experience that will complement and reinforce their educational program and career goals and provide a self-help student aid program that reduces student loan indebtedness. Additionally, the program's opportunities for employment at a student's school will serve as a retention tool because students employed on campus are more likely to complete their postsecondary education. The program shall be available to:

(c) Any postsecondary student attending a career center operated by a district school board under s. 1001.44 or a charter technical career center under s. 1002.34; or

(8) A student is eligible to participate in the Florida


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Work Experience Program if the student:

(a) Is enrolled:

1. At an eligible college or university as no less than a half-time undergraduate student in good standing;

2. In an eligible postsecondary career certificate or applied technology diploma program as no less than a half-time student in good standing. Eligible programs must be approved by the Department of Education and must consist of no less than 450 clock hours of instruction. Such programs must be offered by a career center operated by a district school board under s. 1001.44, by a charter technical career center under s. 1002.34, or by a Florida College System institution; or

3. At an educator preparation institute established under s. 1004.85 as no less than a half-time student in good standing.

However, a student may be employed during the break between two consecutive terms or employed, although not enrolled, during a term if the student was enrolled at least half time during the preceding term and preregisters as no less than a half-time student for the subsequent academic term. A student who attends an institution that does not provide preregistration shall provide documentation of intent to enroll as no less than a half-time student for the subsequent academic term.

(9) A participating postsecondary educational institution is encouraged to provide academic credit to students who participate in the program, subject to State Board of Education rule.

(10) ~~(9)~~ The State Board of Education shall adopt rules for the program as are necessary for its administration, for the


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determination of eligibility and selection of institutions to receive funds for students, to ensure the proper expenditure of funds, and to provide an equitable distribution of funds between students at public and independent colleges and universities, ~~and~~ career centers operated by district school boards under s. 1001.44, and charter technical career centers under s. 1002.34.

(11) ~~(10)~~ A participating institution that receives funds from the program shall certify to the department the amount of funds disbursed to each student within 30 days after the end of each term.

Section 33. Section 1009.771, Florida Statutes, is created to read:

1009.771 Workforce education partnership programs.—

(1) A state university may establish a workforce education partnership program to provide assistance to a student who is enrolled at the state university and is employed by a private employer participating in the program. The Board of Governors shall create a template for a state university to establish such workforce education partnership program. The Board of Governors shall consult with state and local workforce and economic development agencies to develop the template. The template must include all of the following:

(a) The process for a private employer to participate in the program.

(b) Student eligibility criteria, including that a student be enrolled in a degree-granting program at a state university on at least a half-time basis and be a paid employee of a private employer participating in the program.



(c) The process for an eligible student to enroll in the program.

(d) Guidance and requirements for the state university and the private employer to:

1. Each designate a mentor to assist participating students.

2. Create a process to make a housing stipend available to participating students.

3. Create a process to provide life management and professional skills training to participating students.

(e) The requirement that the private employer establish an educational assistance program pursuant to s. 127 of the Internal Revenue Code of 1986 and provide tuition assistance for a student enrolled at the state university while the student works for the private employer, up to the maximum amount that the employer may exclude from the employer's gross income under that section.

(f) The requirement that the state university work with participating students to ensure that they have applied for and are receiving the maximum amount of financial aid in the form of scholarships and grants.

(g) The requirement that the state university and the private employer seek out additional sources of funding to pay for remaining costs for participating students.

(2) The Board of Governors shall evaluate the effectiveness of workforce education partnership programs established pursuant to this section to determine whether additional training and employment programs may use the template created pursuant to subsection (1) to establish a workforce education partnership

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program.

(3) The Board of Governors shall adopt regulations to administer this section.

Section 34. Section 1009.895, Florida Statutes, is amended to read:

1009.895 Open Door Grant Program.—

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

~~(a) "Cost of the program" means the cost of tuition, fees, examination, books, and materials to a student enrolled in an eligible program.~~

~~(b) "Department" means the Department of Education.~~

~~(c) "Institution" means school district postsecondary technical career centers under s. 1001.44, Florida College System institutions under s. 1000.21(3), charter technical career centers under s. 1002.34, and school districts with eligible integrated education and training programs.~~

~~(d) "Program" means a noncredit industry certification preparation, clock hour career certificate programs, or for-credit short-term career and technical education programs that result in the award of credentials identified under s. 445.004(4).~~

~~(e) "Student" means a person who is a resident of this state as determined under s. 1009.21 and is unemployed, underemployed, or furloughed.~~

~~(2)~~ ESTABLISHMENT; PURPOSE.—The Open Door Grant Program is established and shall be administered by participating institutions in accordance with rules of the State Board of Education ~~for the purpose of:~~

~~(a) Creating and sustaining a demand-driven supply of~~


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~~credentialed workers for high-demand occupations by addressing and closing the gap between the skills needed by workers in the state and the skills of the available workforce in the state.~~

~~(b) Expanding the affordability of workforce training and credentialing~~.

~~(c)~~ The program is created to incentivize ~~Increasing the interest of~~ current and future workers to enroll in ~~short-term, high-demand~~ career and technical education that leads to a credential, ~~credentialing and~~ certificate, or degree ~~programs~~.

(2) ELIGIBILITY.—In order to be eligible for the program, a student must:

(a) Meet the requirements under s. 1009.40(1)(a)2. and 3.;

(b) Be enrolled in a workforce education program as defined under s. 1011.80(1)(a)-(f); and

(c) Be enrolled at a school district postsecondary technical career center under s. 1001.44, a Florida College System institution under s. 1000.21(3), or a charter technical career center under s. 1002.34.

An institution may not impose additional criteria to determine a student's eligibility to receive a grant under this section.

(3) GRANT AWARD.—A student is eligible to receive a maximum award equal to the amount needed to cover 100 percent of tuition and fees, exam or assessment costs, books, and related materials for eligible programs after all other federal and state financial aid is applied. In addition, a student may receive a stipend up to $1,500, or an amount specified in the General Appropriations Act, per academic year to cover other education expenses related to the institutional cost of attendance. The


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institution shall make awards and stipends subject to availability of funding. Returning students must be given priority over new students.

(4) DISTRIBUTION OF FUNDS.—

(a) For the 2023-2024 fiscal year, funding for eligible institutions must consist of a base amount provided for in the General Appropriations Act plus each institution's proportionate share of full-time equivalent students enrolled in workforce education programs. Beginning in fiscal year 2024-2025, the funds appropriated for the Open Door Grant Program must be distributed to eligible institutions in accordance with a formula approved by the State Board of Education. The formula must consider at least the prior year's distribution of funds and the number of eligible applicants who did not receive awards.

(b) Subject to the appropriation of funds by the Legislature, the Department of Education shall transmit payment of grants to the institution in advance of the registration period. Institutions shall notify students of the amount of their awards.

(c) The eligibility status of each student to receive a disbursement must be determined by each institution as of the end of its regular registration period, inclusive of a drop-add period. Institutions may not be required to reevaluate a student's eligibility status after this date for purposes of changing eligibility determinations previously made.

(d) Each term, institutions shall certify to the department within 30 days after the end of the regular registration period the amount of funds disbursed to each student. Institutions


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shall remit to the department any undisbursed advances for the fall, spring, and summer terms within 30 days after the end of the summer term.

(5) INSTITUTIONAL REPORTING.—Each institution shall report to the department by the established date:

(a) The number of students eligible for the program for each academic term. Each institution shall also report to the department any necessary demographic and eligibility data for students; and

~~(3) The department shall provide grants to institutions on a first-come, first-serve basis for students who enroll in an eligible program. The department shall prioritize funding for integrated education and training programs in which institutions establish partnerships with local workforce development boards to provide basic skills instruction, contextually and concurrently, with workforce training that results in the award of credentials under s. 445.004(4). One-quarter of the appropriated funds must be prioritized to serve students attending rural institutions. No more than one-quarter of the appropriated funds may be disbursed annually to any eligible institution.~~

~~(4) Subject to the availability of funds:~~

~~(a) A student who enrolls in an eligible program offered by an institution and who does not receive state or federal financial aid may apply for and be awarded a grant to cover two-thirds of the cost of the program, if at the time of enrollment the student pays one-third of the cost of the program and signs an agreement to either complete the program or pay an additional one-third of the cost of the program in the event of~~


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~~noncompletion. The department shall reimburse the institution in an amount equal to one-third of the cost of the program upon a student's completion of the program. An additional one-third shall be provided upon attainment of a workforce credential or certificate by the student. Grant funds may be used to cover the student's one-third of the cost of the program for students in integrated education and training programs and students who do not have a high school diploma and meet the requirements established by the department. An institution may cover the student's one-third of the cost of the program based on student need, as determined by the institution.~~

~~(b) A student receiving state or federal financial aid who enrolls in an eligible program offered by an institution may apply for and be awarded a grant to cover the unmet need of the cost of the program after the application of all eligible financial aid. Financial aid and grants received by the student shall be credited first to the student's costs before the award of an open door grant. After a student is enrolled in an eligible program, the department shall award the grant to the institution for the amount of unmet need for the eligible student.~~

~~(5) The department may not reimburse any institution more than $3,000 per completed workforce training program by an eligible student.~~

~~(6) The department shall administer the grant and shall carry out the goals and purposes of the grant set forth in subsection (2). In administering the grant, the department shall:~~

~~(a) Require eligible institutions to provide student-~~



~~specific data.~~

(b) ~~Undertake periodic assessments of the overall success of the grant program and recommend modifications, interventions, and other actions based on such assessments.~~

~~(c) Establish the procedure by which eligible institutions shall notify the department when eligible students enroll in eligible programs.~~

~~(d) Require each eligible institution to~~ Submit a report with data from the previous fiscal year on program completion and credential attainment by students participating in the grant program that, at a minimum, includes:

1. A list of the programs offered.

2. The number of students who enrolled in the programs.

3. The number of students who completed the programs.

4. The number of students who attained workforce credentials, categorized by credential name and relevant occupation, after completing training programs.

~~5. The average cost per workforce credential attained, categorized by credential name and relevant occupation.~~

(6)~~(7)~~ REPORTING.—The department shall compile the data provided under paragraph (5)(b) ~~(6)(d)~~ and annually report such aggregate data~~, in the aggregate and categorize such information by eligible institution,~~ to the State Board of Education. ~~The report shall also include information on the average wage, age, gender, race, ethnicity, veteran status, and other relevant information, of students who have completed workforce training programs categorized by credential name and relevant occupation.~~

(7)~~(8)~~ RULES.—The State Board of Education shall adopt rules to implement this section.


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Section 35. Paragraphs (c), (i), and (o) of subsection (1) of section 1011.62, Florida Statutes, are amended to read:

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

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

(c) *Determination of programs.*—Cost factors based on desired relative cost differences between the following programs shall be established in the annual General Appropriations Act. The cost factor for secondary career education programs must be greater than the cost factor for ~~and~~ basic programs grade 9 through 12 ~~shall be equal~~. The Commissioner of Education shall specify a matrix of services and intensity levels to be used by districts in the determination of the two weighted cost factors for exceptional students with the highest levels of need. For these students, the funding support level shall fund the exceptional students' education program, with the exception of extended school year services for students with disabilities.

1. Basic programs.—

a. Kindergarten and grades 1, 2, and 3.

b. Grades 4, 5, 6, 7, and 8.

c. Grades 9, 10, 11, and 12.

2. Programs for exceptional students.—



a. Support Level IV.

b. Support Level V.

3. Secondary career education programs.

4. English for Speakers of Other Languages.

(i) *Calculation of full-time equivalent membership with respect to dual enrollment instruction.*—

1. Full-time equivalent students.—Students enrolled in dual enrollment instruction pursuant to s. 1007.271 may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. Instructional time for dual enrollment may vary from 900 hours; however, the full-time equivalent student membership value shall be subject to the provisions in s. 1011.61(4). Dual enrollment full-time equivalent student membership shall be calculated in an amount equal to the hours of instruction that would be necessary to earn the full-time equivalent student membership for an equivalent course if it were taught in the school district. Students in dual enrollment courses may also be calculated as the proportional shares of full-time equivalent enrollments they generate for a Florida College System institution or university conducting the dual enrollment instruction. Early admission students shall be considered dual enrollments for funding purposes. Students may be enrolled in dual enrollment instruction provided by an eligible independent college or university and may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. However, those provisions of law which exempt dual enrolled and early admission students from payment of instructional materials and tuition and



fees, including laboratory fees, shall not apply to students who select the option of enrolling in an eligible independent institution. An independent college or university, which is not for profit, is accredited by a regional or national accrediting agency recognized by the United States Department of Education, and confers degrees as defined in s. 1005.02 shall be eligible for inclusion in the dual enrollment or early admission program. Students enrolled in dual enrollment instruction shall be exempt from the payment of tuition and fees, including laboratory fees. No student enrolled in college credit mathematics or English dual enrollment instruction shall be funded as a dual enrollment unless the student has successfully completed the relevant section of the entry-level examination required pursuant to s. 1008.30.

2. Additional full-time equivalent student membership.—For students enrolled in an early college program pursuant to s. 1007.273, a value of 0.16 full-time equivalent student membership shall be calculated for each student who completes a general education core course through the dual enrollment program with a grade of "A" or better. For students who are not enrolled in an early college program, a value of 0.08 full-time equivalent student membership shall be calculated for each student who completes a general education core course through the dual enrollment program with a grade of "A." A value of 0.08 full-time equivalent student membership must be calculated for each student who completes a career course through the dual enrollment program with a grade of "A" in a pathway that leads to an industry certification that is included on the CAPE Industry Certification Funding List. In addition, a value of 0.3


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full-time equivalent student membership shall be calculated for any student who receives an associate degree through the dual enrollment program with a 3.0 grade point average or better. This value shall be added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. This section shall be effective for credit earned by dually enrolled students for courses taken in the 2020-2021 school year and each school year thereafter. If the associate degree described in this paragraph is earned in 2020-2021 following completion of courses taken in the 2020-2021 school year, then courses taken toward the degree as part of the dual enrollment program before 2020-2021 may not preclude eligibility for the 0.3 additional full-time equivalent student membership bonus. Each school district shall allocate at least 50 percent of the funds received from the dual enrollment bonus FTE funding, in accordance with this paragraph, to the schools that generated the funds to support student academic guidance and postsecondary readiness.

3. Qualifying courses.—For the purposes of this paragraph, general education core courses are those that are identified in rule by the State Board of Education and in regulation by the Board of Governors pursuant to s. 1007.25(3).

(o) *Calculation of additional full-time equivalent membership based on successful completion of a career-themed course pursuant to ss. 1003.491, 1003.492, and 1003.493, or courses with embedded CAPE industry certifications or CAPE Digital Tool certificates, and issuance of industry certification identified on the CAPE Industry Certification Funding List pursuant to rules adopted by the State Board of*


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Education or CAPE Digital Tool certificates pursuant to s. 1003.4203.—

1.a. A value of 0.025 full-time equivalent student membership shall be calculated for CAPE Digital Tool certificates earned by students in elementary and middle school grades.

b. A value of 0.1 or 0.2 full-time equivalent student membership shall be calculated for each student who completes a course as defined in s. 1003.493(1)(b) or courses with embedded CAPE industry certifications and who is issued an industry certification identified annually on the CAPE Industry Certification Funding List approved under rules adopted by the State Board of Education. A value of 0.2 full-time equivalent membership shall be calculated for each student who is issued a CAPE industry certification that has a statewide articulation agreement for college credit approved by the State Board of Education. For CAPE industry certifications that do not articulate for college credit, the Department of Education shall assign a full-time equivalent value of 0.1 for each certification. Middle grades students who earn additional FTE membership for a CAPE Digital Tool certificate pursuant to sub-subparagraph a. may not <u>rely solely on</u> ~~use~~ the previously funded examination to satisfy the requirements for earning an industry certification under this sub-subparagraph. ~~Additional FTE membership for an elementary or middle grades student may not exceed 0.1 for certificates or certifications earned within the same fiscal year.~~ The State Board of Education shall include the assigned values on the CAPE Industry Certification Funding List under rules adopted by the state board. Such value shall be



added to the total full-time equivalent student membership for grades 6 through 12 in the subsequent year. CAPE industry certifications earned through dual enrollment must be reported and funded pursuant to s. 1011.80. However, if a student earns a certification through a dual enrollment course and the certification is not a fundable certification on the postsecondary certification funding list, or the dual enrollment certification is earned as a result of an agreement between a school district and a nonpublic postsecondary institution, the bonus value shall be funded in the same manner as other nondual enrollment course industry certifications. In such cases, the school district may provide for an agreement between the high school and the technical center, or the school district and the postsecondary institution may enter into an agreement for equitable distribution of the bonus funds.

c. A value of 0.3 full-time equivalent student membership shall be calculated for student completion of at least three courses and an industry certification in a single career and technical education program or program of study ~~the courses and the embedded certifications identified on the CAPE Industry Certification Funding List and approved by the commissioner pursuant to ss. 1003.4203(5)(a) and 1008.44~~.

d. A value of 0.5 full-time equivalent student membership shall be calculated for CAPE Acceleration Industry Certifications that articulate for 15 to 29 college credit hours, and 1.0 full-time equivalent student membership shall be calculated for CAPE Acceleration Industry Certifications that articulate for 30 or more college credit hours pursuant to CAPE Acceleration Industry Certifications approved by the



commissioner pursuant to ss. 1003.4203(4) and 1008.44 ~~ss. 1003.4203(5)(b) and 1008.44~~.

2. Each district must allocate at least 80 percent of the funds provided for CAPE industry certification, in accordance with this paragraph, to the program that generated the funds, and any remaining funds provided for CAPE industry certification for school district career and technical education programs. This allocation may not be used to supplant funds provided for basic operation of the program.

3. For CAPE industry certifications earned in the 2013-2014 school year and in subsequent years, the school district shall distribute to each classroom teacher who provided direct instruction toward the attainment of a CAPE industry certification that qualified for additional full-time equivalent membership under subparagraph 1.:

a. A bonus of $25 for each student taught by a teacher who provided instruction in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.1.

b. A bonus of $50 for each student taught by a teacher who provided instruction in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.2.

c. A bonus of $75 for each student taught by a teacher who provided instruction in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.3.

d. A bonus of $100 for each student taught by a teacher who provided instruction in a course that led to the attainment of a



CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.5 or 1.0.

Bonuses awarded pursuant to this paragraph shall be provided to teachers who are employed by the district in the year in which the additional FTE membership calculation is included in the calculation. Bonuses shall be calculated based upon the associated weight of a CAPE industry certification on the CAPE Industry Certification Funding List for the year in which the certification is earned by the student. Any bonus awarded to a teacher pursuant to this paragraph is in addition to any regular wage or other bonus the teacher received or is scheduled to receive. A bonus may not be awarded to a teacher who fails to maintain the security of any CAPE industry certification examination or who otherwise violates the security or administration protocol of any assessment instrument that may result in a bonus being awarded to the teacher under this paragraph.

Section 36. Subsection (2) and paragraph (b) of subsection (7) of section 1011.80, Florida Statutes, are amended, and notwithstanding the expiration date in section 32 of chapter 2022-157, Laws of Florida, paragraph (b) of subsection (8) of that section is reenacted, to read:

1011.80 Funds for operation of workforce education programs.—

(2) ~~Upon approval by the State Board of Education,~~ Any workforce education program may be conducted by a Florida College System institution or a school district career center as described in this subsection and, if applicable, as approved by



the State Board of Education pursuant to s. 1001.03(15)~~, except that college credit in an associate in applied science or an associate in science degree may be awarded only by a Florida College System institution. However, if an associate in applied science or an associate in science degree program contains within it an occupational completion point that confers a certificate or an applied technology diploma, that portion of the program may be conducted by a school district career center~~. Any instruction designed to articulate to a degree program is subject to guidelines and standards adopted by the State Board of Education under s. 1007.25.

(a) To be responsive to industry needs for a skilled workforce, Florida College System institutions and school districts may offer continuing workforce education courses or programs without prior State Board of Education approval. Each Florida College System institution and school district offering continuing workforce education courses or programs must maintain adequate and accurate records of instructional activity. For purposes of measuring program performance and responsiveness to industry needs, institutions must report continuing workforce education instructional activity in a format prescribed by the Department of Education. Continuing workforce education courses and programs are exempt from the requirements in paragraphs (b) and (c) and are ineligible for performance funding.

(b) The State Board of Education shall establish criteria, based on the framework of quality established by the Credentials Review Committee under s. 445.004(4), for review and approval of new workforce education programs by a Florida College System institution or a school district that are not included in the


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statewide curriculum framework.

(c) ~~(b)~~ A Florida College System institution or school district offering a new workforce education program that is in the statewide curriculum framework must be ~~may not receive performance funding and additional full-time equivalent membership funding until the workforce education program is reviewed, through an expedited review process, and~~ approved by the board of trustees of the Florida College System institution or the district school board ~~State Board of Education~~ based on criteria that must include, but are ~~is~~ not limited to, the following:

1. A description of the new workforce education program that includes all of the following:

a. An analysis of workforce demand and unmet need consistent with the information provided by the Labor Market Statistics Center within the Department of Economic Opportunity for graduates of the program on a district, regional, or statewide basis, as appropriate, including evidence from entities independent of the technical center or institution.

b. The geographic region to be served.

2. Documentation of collaboration among technical centers and institutions serving the same students in a geographical or service area that enhances program offerings and prevents program duplication that exceeds workforce need. Unnecessary duplication of programs offered by public and private institutions must be avoided.

3. Alignment ~~Beginning with the 2022-2023 academic year, alignment~~ of program offerings with credentials or degree programs identified on the Master Credentials List under s.



445.004(4).

4. Articulation agreements between technical centers and Florida College System institutions for the enrollment of graduates in related workforce education programs.

5. Documentation of alignment between the exit requirements of a technical center and the admissions requirements of a Florida College System institution into which students typically transfer.

6. Performance and compliance indicators that will be used in determining the program's success.

(7)

(b) Performance funding for industry certifications for school district workforce education programs is contingent upon specific appropriation in the General Appropriations Act and must ~~shall~~ be determined as follows:

1. Postsecondary industry certifications identified on the CAPE Industry Certification Funding List approved by the State Board of Education under s. 1008.44 are eligible for performance funding.

2. Unless otherwise specified in the General Appropriations Act, each district school board ~~Each school district~~ shall be provided $1,000 for each industry certification earned by a workforce education student. If funds are insufficient to fully fund the calculated total award, such funds must ~~shall~~ be prorated. The department shall annually, by October 1, report to the Legislature industry certifications sorted into three tiers based upon the anticipated average wages of the highest earning occupation to which each certification is linked on the Master Credentials List ~~Beginning with the 2022-2023 fiscal year, the~~


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~~Credentials Review Committee established in s. 445.004 shall develop a returned-value funding formula to allocate school district performance funds that rewards student job placements and wages for students earning industry certifications, with a focus on increasing the economic mobility of underserved populations. One-third of the performance funds shall be allocated based on student job placements. The remaining two-thirds shall be allocated using a tiered weighted system based on aggregate student wages that exceed minimum wage, with the highest weight applied to the highest wage tier, with additional weight for underserved populations. Student wages above minimum wage are considered to be the value added by the institution's training. At a minimum, the formula must take into account variables such as differences in population and wages across school districts~~.

(8)

(b) Notwithstanding s. 1011.81(4), state funds provided for the operation of postsecondary workforce programs may be expended for the education of state inmates with 24 months or less of time remaining to serve on their sentences.

Section 37. Section 1011.801, Florida Statutes, is amended to read:

1011.801 Workforce Development Capitalization Incentive Grant Program.—The Legislature recognizes that the need for school districts and Florida College System institutions to be able to respond to emerging local or statewide economic development needs is critical to the workforce development system. The Workforce Development Capitalization Incentive Grant Program is created to provide grants to school districts and


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Florida College System institutions ~~on a competitive basis~~ to fund some or all of the costs associated with the creation or expansion of workforce development programs that serve secondary students in career and technical education programs, including dual enrollment programs and other programs that lead to industry certifications included on the CAPE Industry Certification Funding List ~~specific employment workforce needs~~.

(1) Funds awarded for a workforce development capitalization incentive grant may be used for instructional equipment, laboratory equipment, supplies, personnel, student services, or other expenses associated with the creation or expansion of a ~~workforce development program~~ career and technical education program that serves secondary students. Expansion of a program may include either the expansion of enrollments in a program or expansion into new areas of specialization within a program. No grant funds may be used for recurring instructional costs or for institutions' indirect costs.

(2) The Department of Education shall administer the ~~State Board of Education shall accept applications from school districts or Florida College System institutions for workforce development capitalization incentive grants. Applications from school districts or Florida College System institutions shall contain projected enrollments and projected costs for the new or expanded workforce development~~ program. The State Board of Education may adopt rules for program administration~~, in consultation with CareerSource Florida, Inc., shall review and rank each application for a grant according to subsection (3) and shall submit to the Legislature a list in priority order of~~


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~~applications recommended for a grant award~~.

~~(3) The State Board of Education shall give highest priority to programs that train people to enter high-skill, high-wage occupations identified by the Labor Market Estimating Conference and other programs approved by the state board as defined in s. 445.002, programs that train people to enter occupations under the welfare transition program, or programs that train for the workforce adults who are eligible for public assistance, economically disadvantaged, disabled, not proficient in English, or dislocated workers.~~ The State Board of Education shall consider the statewide geographic dispersion of grant funds in ranking the applications and shall give priority to applications from education agencies that are making maximum use of their workforce development funding by offering high-performing, high-demand programs.

Section 38. Section 1011.802, Florida Statutes, is amended to read:

1011.802 Florida Pathways to Career Opportunities Grant Program.—

(1) Subject to appropriations provided in the General Appropriations Act, the Florida Pathways to Career Opportunities Grant Program is created to provide grants to high schools, career centers, charter technical career centers, Florida College System institutions, and other entities authorized to sponsor an apprenticeship or preapprenticeship program, as defined in s. 446.021(6) and (5), respectively, ~~s. 446.021, on a competitive basis~~ to establish, ~~new apprenticeship or preapprenticeship programs and~~ expand, and operate new and existing apprenticeship or preapprenticeship programs. An


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individual applicant may not receive more than 10 percent of the total amount appropriated ~~The Department of Education shall administer the grant program~~.

(2) The department shall administer the grant, identify projects, solicit proposals, and make funding recommendations to the Commissioner of Education, who is authorized to approve grant awards ~~Applications must contain projected enrollment and projected costs for the new or expanded apprenticeship program.~~

~~(3)(a) The department shall award grants~~ for preapprenticeship or apprenticeship programs with demonstrated statewide or regional demand that:

(a)~~1.~~ Address a critical statewide or regional shortage, with consideration given to the information provided ~~as identified~~ by the Labor Market Statistics Center within the Department of Economic Opportunity, the Labor Market Estimating Conference, and the Credentials Review Committee ~~created in s. 216.136 and are industry sectors not adequately represented throughout the state, such as health care;~~

~~2. Address a critical statewide or regional shortage~~, ~~as identified by the Labor Market Estimating Conference created in s. 216.136~~; or

(b)~~3.~~ Expand existing programs that exceed the median completion rate and employment rate 1 year after completion of similar programs in the region, or the state if there are no similar programs in the region.

(3)~~(b)~~ Grant funds may be used to fund the cost of providing related technical instruction, for instructional equipment, supplies, instructional personnel, student services, and other expenses associated with the creation, ~~or~~ expansion,


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or operation of an apprenticeship program. Grant funds may not be used for administrative or indirect costs. Grant recipients must submit quarterly reports in a format prescribed by the department.

(4) The department may grant a bonus in the award amount to applicants that submit a joint application for shared resources.

(5) The department shall annually report on its website:

(a) The number of programs funded and represented throughout the state under this section.

(b) Retention, completion, and employment rates, categorized by program and provider.

(c) Starting and ending salaries, as categorized by program and provider, for participants who complete the program.

(6) ~~(5)~~ The department may use up to $400,000 ~~$200,000~~ of the total amount allocated to administer the grant program.

(7) ~~(6)~~ The State Board of Education shall adopt rules to administer this section.

Section 39. Subsection (2) of section 1011.803, Florida Statutes, is amended to read:

1011.803 Money-back Guarantee Program.—

(2) ~~Beginning in the 2022-2023 academic year,~~ Each school district and Florida College System institution shall establish a money-back guarantee program to:

(a) Offer a money-back guarantee on at least three programs ~~that prepare individuals to enter in-demand, middle-level to high-level wage occupations identified by the Labor Market Estimating Conference created in s. 216.136. School districts or Florida College System institutions must offer a money-back guarantee on at least 50 percent of workforce education programs~~


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~~if they offer six or fewer programs~~.

(b) ~~Offer a money-back guarantee for all workforce education programs that are established to meet a critical local economic industry need, but are not linked to the statewide needs list as identified by the Labor Market Estimating Conference created in s. 216.136.~~

~~(c)~~ Establish student eligibility criteria for the money-back guarantee program that includes:

1. Student attendance.

2. Student program performance.

3. Career Service or Career Day attendance.

4. Participation in internship or work-study programs.

5. Job search documentation.

6. Development of a student career plan with the institution's career services department.

Section 40. Paragraph (b) of subsection (2) of section 1011.81, Florida Statutes, is amended to read:

1011.81 Florida College System Program Fund.—

(2) Performance funding for industry certifications for Florida College System institutions is contingent upon specific appropriation in the General Appropriations Act and shall be determined as follows:

(b) Unless otherwise specified in the General Appropriations Act, each Florida College System institution shall be provided $1,000 for each industry certification earned by a student under paragraph (a). If funds are insufficient to fully fund the calculated total award, such funds must ~~shall~~ be prorated. The Department shall annually, by October 1, report to the Legislature industry certifications sorted into three tiers


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based upon the anticipated average wages of the highest earning occupation to which each certification is linked on the Master Credentials List ~~Beginning with the 2022-2023 fiscal year, the Credentials Review Committee established in s. 445.004 shall develop a returned-value funding formula to allocate institution performance funds that rewards student job placements and wages for students earning industry certifications, with a focus on increasing the economic mobility of underserved populations. One-third of the performance funds shall be allocated based on student job placements. The remaining two-thirds shall be allocated using a tiered, weighted system based on aggregate student wages that exceed minimum wage, with the highest weight applied to the highest wage tier, with additional weight for underserved populations. Student wages above minimum wage are considered to be the value added by the institution's training. At a minimum, the formula must take into account variables such as differences in population and wages across the state~~.

Section 41. Paragraph (c) of subsection (1) of section 1012.39, Florida Statutes, is amended to read:

1012.39 Employment of substitute teachers, teachers of adult education, nondegreed teachers of career education, and career specialists; students performing clinical field experience.—

(1) Notwithstanding ss. 1012.32, 1012.55, 1012.56, and 1012.57, or any other provision of law or rule to the contrary, each district school board shall establish the minimal qualifications for:

(c) Part-time and full-time nondegreed teachers of career programs. Qualifications must ~~shall~~ be established for



nondegreed teachers of career and technical education courses for program clusters that are recognized in the state and are based primarily on successful occupational experience rather than academic training. The qualifications for such teachers must ~~shall~~ require:

1. The filing of a complete set of fingerprints in the same manner as required by s. 1012.32. Faculty employed solely to conduct postsecondary instruction may be exempted from this requirement.

2. Documentation of education and successful occupational experience including documentation of:

a. A high school diploma or the equivalent.

b. Completion of 3 ~~6~~ years of full-time successful occupational experience or the equivalent of part-time experience in the teaching specialization area. The district school board may establish alternative qualifications for teachers with an industry certification in the career area in which they teach.

c. ~~Completion of career education training conducted through the local school district inservice master plan or through an educator preparation institute approved by the Department of Education pursuant to s. 1004.85.~~

~~d.~~ For full-time teachers, completion of professional education training in teaching methods, course construction, lesson planning and evaluation, and teaching special needs students. This training may be completed through coursework from an accredited or approved institution or an approved district teacher education program, or the local school district inservice master plan.



~~e. Demonstration of successful teaching performance.~~

d.~~f.~~ Documentation of industry certification when state or national industry certifications are available and applicable.

Section 42. Subsection (1) of section 1012.57, Florida Statutes, is amended to read:

1012.57 Certification of adjunct educators.—

(1) Notwithstanding the provisions of ss. 1012.32, 1012.55, and 1012.56, or any other provision of law or rule to the contrary, district school boards shall adopt rules to allow for the issuance of an adjunct teaching certificate to any applicant who fulfills the requirements of s. 1012.56(2)(a)-(f) and (10) and who has expertise in the subject area to be taught. An applicant is ~~shall be~~ considered to have expertise in the subject area to be taught if the applicant demonstrates sufficient subject area mastery through passage of a subject area test or has achieved an industry certification in the subject area to be taught.

Section 43. Paragraph (a) of subsection (3) of section 1012.585, Florida Statutes, is amended to read:

1012.585 Process for renewal of professional certificates.—

(3) For the renewal of a professional certificate, the following requirements must be met:

(a) The applicant must earn a minimum of 6 college credits or 120 inservice points or a combination thereof. For each area of specialization to be retained on a certificate, the applicant must earn at least 3 of the required credit hours or equivalent inservice points in the specialization area. Education in "clinical educator" training pursuant to s. 1004.04(5)(b); participation in mentorship and induction activities, including


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as a mentor, pursuant to s. 1012.56(8)(a); and credits or points that provide training in the area of scientifically researched, knowledge-based reading literacy, including explicit, systematic, and sequential approaches to reading instruction, developing phonemic awareness, and implementing multisensory intervention strategies, and computational skills acquisition, exceptional student education, normal child development, and the disorders of development may be applied toward any specialization area. Credits or points that provide training in the areas of drug abuse, child abuse and neglect, strategies in teaching students having limited proficiency in English, or dropout prevention, or training in areas identified in the educational goals and performance standards adopted pursuant to ss. 1000.03(5) and 1008.345 may be applied toward any specialization area, except specialization areas identified by State Board of Education rule that include reading instruction or intervention for any students in kindergarten through grade 6. Each district school board shall include in its inservice master plan the ability for teachers to receive inservice points for supporting students in extracurricular career and technical education activities, such as career and technical student organization activities outside of regular school hours and training related to supervising students participating in a career and technical student organization. Credits or points earned through approved summer institutes may be applied toward the fulfillment of these requirements. Inservice points may also be earned by participation in professional growth components approved by the State Board of Education and specified pursuant to s. 1012.98 in the district’s approved master plan for



inservice educational training; however, such points may not be used to satisfy the specialization requirements of this paragraph.

Section 44. Subsection (38) of section 1001.64, Florida Statutes, is amended to read:

1001.64 Florida College System institution boards of trustees; powers and duties.—

(38) Each board of trustees is authorized to enter into short-term loans and installment, lease-purchase, and other financing contracts for a term of not more than 5 years, including renewals, extensions, and refundings. Payments on short-term loans and installment, lease-purchase, and other financing contracts pursuant to this subsection shall be subject to annual appropriation by the board of trustees. Each board of trustees is authorized to borrow funds and incur long-term debt, including promissory notes, installment sales agreements, lease-purchase agreements, certificates of participation, and other similar long-term financing arrangements, only as specifically provided in ss. 1009.22(7) and (10) ~~1009.22(6) and (9)~~ and 1009.23(11) and (12). At the option of the board of trustees, bonds issued pursuant to ss. 1009.22(7) and (10) ~~1009.22(6) and (9)~~ and 1009.23(11) and (12) may be secured by a combination of revenues authorized to be pledged to bonds pursuant to such subsections. Revenue bonds may not be secured by or paid from, directly or indirectly, tuition, financial aid fees, the Florida College System Program Fund, or any other operating revenues of a Florida College System institution. Lease-purchase agreements may be secured by a combination of revenues as specifically authorized pursuant to ss. 1009.22(7) and 1009.23(10).



Section 45. Subsection (2) of section 1009.534, Florida Statutes, is amended to read:

1009.534 Florida Academic Scholars award.—

(2) A Florida Academic Scholar who is enrolled in a certificate, diploma, associate, or baccalaureate degree program at a public or nonpublic postsecondary education institution is eligible for an award equal to the amount necessary to pay 100 percent of tuition and fees established under ss. 1009.22(3), (6) ~~(5)~~, (7) ~~(6)~~, and (8) ~~(7)~~; 1009.23(3), (4), (7), (8), (10), and (11); and 1009.24(4), (7)-(13), (14)(r), and (16), as applicable, and is eligible for an additional stipend for textbooks, to assist with the payment of educational expenses as funds are specifically appropriated in the General Appropriations Act.

Section 46. Subsection (2) of section 1009.535, Florida Statutes, is amended to read:

1009.535 Florida Medallion Scholars award.—

(2) A Florida Medallion Scholar who is enrolled in a certificate, diploma, associate, or baccalaureate degree program at a public or nonpublic postsecondary education institution is eligible, beginning in the fall 2018 semester, for an award equal to the amount necessary to pay 75 percent of tuition and fees established under ss. 1009.22(3), (6) ~~(5)~~, (7) ~~(6)~~, and (8) ~~(7)~~; 1009.23(3), (4), (7), (8), (10), and (11); and 1009.24(4), (7)-(13), (14)(r), and (16), as applicable, to assist with the payment of educational expenses. Beginning in the fall 2021 semester, a Florida Medallion Scholar who is enrolled in an associate degree program at a Florida College System institution is eligible for an award equal to the amount necessary to pay


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100 percent of tuition and fees established under s. 1009.23(3), (4), (7), (8), (10), and (11) to assist with the payment of educational expenses.

Section 47. Subsection (4) of section 1009.894, Florida Statutes, is amended to read:

1009.894 Florida Farmworker Student Scholarship Program.—The Legislature recognizes the vital contribution of farmworkers to the economy of this state. The Florida Farmworker Student Scholarship Program is created to provide scholarships for farmworkers, as defined in s. 420.503, and the children of such farmworkers.

(4) A scholarship recipient may receive an award for a maximum of 100 percent of the number of credit hours required to complete an associate or baccalaureate degree program or receive an award for a maximum of 100 percent of the credit hours or clock hours required to complete up to 90 credit hours of a program that terminates in a career certificate. The scholarship recipient is eligible for an award equal to the amount required to pay the tuition and fees established under ss. 1009.22(3), (6) ~~(5)~~, (7) ~~(6)~~, and (8) ~~(7)~~; 1009.23(3), (4), (7), (8), (10), and (11); and 1009.24(4), (7)-(13), (14)(r), and (16), as applicable, at a public postsecondary educational institution in this state. Renewal scholarship awards must take precedence over new scholarship awards in a year in which funds are not sufficient to accommodate both initial and renewal awards. The scholarship must be prorated for any such year.

Section 48. Paragraph (b) of subsection (6) of section 1009.896, Florida Statutes, is amended to read:

1009.896 Florida Law Enforcement Academy Scholarship



Program.—

(6) The award to eligible trainees shall be an amount equal to any costs and fees described in this subsection which are necessary to complete the basic recruit training program, less any state financial aid received by the trainee. The award to trainees shall cover:

(b) Any applicable fees required by ss. 1009.22(3), (6) ~~(5)~~, (7) ~~(6)~~, and (8) ~~(7)~~, and 1009.23 (3), (4), (7), (8), (10), and (11); however, any award for a nonresident trainee shall not include the out-of-state fee.

Section 49. Paragraph (a) of subsection (4) of section 1013.841, Florida Statutes, is amended to read:

1013.841 End of year balance of Florida College System institution funds.—

(4) A Florida College System institution identified in paragraph (3)(b) must include in its carry forward spending plan the estimated cost per planned expenditure and a timeline for completion of the expenditure. Authorized expenditures in a carry forward spending plan may include:

(a) Commitment of funds to a public education capital outlay project for which an appropriation was previously provided, which requires additional funds for completion, and which is included in the list required by s. 1001.03(19)(d) ~~s. 1001.03(18)(d)~~;

Section 50. The Office of Program Policy Analysis and Government Accountability shall conduct a review of approved career statewide articulation agreements. Such career articulation agreements include industry certification, career certificate, and applied technology diploma programs that


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articulate to associate in applied science or associate in science degrees; early childhood education programs; and associate in science to baccalaureate degree programs.

(1) The review must include, but is not limited to:

(a) The number of CAPE industry certifications on the Master Credentials List established pursuant to s. 445.004 which are included in a statewide articulation agreement.

(b) The number of career programs or degrees offered by career centers and Florida College System institutions compared to the number of such certifications or programs included in a statewide articulation agreement.

(c) The extent to which articulated programs included in a statewide articulation agreement are offered in a region or service area.

(d) The number and percentage of students in an articulated career program who transfer to and then complete the linked program specified in the statewide articulation agreement.

(e) Recommendations to strengthen the process of developing statewide articulation agreements, and on the role of such agreements in a Florida stackable credential framework.

(2) The office shall report its findings to the President of the Senate and the Speaker of the House of Representatives by November 1, 2023.

Section 51. For the 2023-2024 fiscal year, the sum of $100 million in nonrecurring funds from the General Revenue Fund is provided to the Department of Education to implement the Workforce Development Capitalization Incentive Grant Program pursuant to s. 1011.801, Florida Statutes. Notwithstanding s. 216.301, Florida Statutes, and pursuant to s. 216.351, Florida


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Statutes, funds allocated for the purpose of this section which are not disbursed by June 30 of the fiscal year in which the funds are allocated may be carried forward for up to 2 years after the effective date of this appropriation.

Section 52. For the 2023-2024 fiscal year, the nonrecurring sum of $2 million from the General Revenue Fund is appropriated to the Department of Financial Services to make reimbursements as required under s. 446.54, Florida Statutes, as amended by this act.

Section 53. This act shall take effect July 1, 2023.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to education; amending s. 14.36, F.S.; requiring the Office of Reimagining Education and Career Help to develop certain criteria and display public information; requiring the office to work with other specified entities to accomplish specified tasks and provide certain information relating to workforce development boards; revising the goals of workforce development boards and duties of the office; amending s. 216.135, F.S.; requiring state agencies to ensure certain work product is consistent with information produced by specified entities; amending s. 216.136, F.S.; deleting a provision relating to the Labor Market Estimating Conference; making technical



changes; amending s. 220.198, F.S.; revising and defining terms; providing a tax credit for eligible businesses that employ an apprentice or preapprentice under certain conditions; authorizing the department to adopt emergency rules; amending s. 413.615, F.S.; revising what the Florida Endowment Foundation for the Division of Vocational Rehabilitation may expend funds on; amending s. 445.003, F.S.; revising requirements for training providers to be included on a state or local eligible training provider list; deleting requirements and eligibility criteria for the Department of Economic Opportunity and the Department of Education regarding the establishment of minimum criteria for an eligible training provider list; amending s. 445.004, F.S.; providing that CareerSource Florida, Inc., may assist the state board in developing approaches to workforce development; revising the list of credentials that must be included on the Master Credentials List; requiring the director of the Office of Reimagining Education and Career Help to serve as the chair of the Credentials Review Committee; revising the criteria used to determine the value for nondegree credentials and degree programs; requiring that credentials remain on the list for a specified time; requiring the Credentials Review Committee to send a notice of deficiency under certain conditions; deleting the requirement that the Credentials Review Committee develop a returned-value funding formula; conforming provisions to changes made



by the act; amending s. 445.007, F.S.; requiring each local workforce development board to create an education and industry consortium; requiring the consortia to provide quarterly reports to their local boards containing specified information and requiring local boards to consider the information provided for a specified purpose; providing for the appointment and terms of consortia members and the filling of vacancies; prohibiting local workforce development board members from serving as a consortium member; amending s. 445.009, F.S.; conforming a provision to changes made by the act; removing a requirement for certain training services; amending s. 445.038, F.S.; providing requirements for certain jobs to be eligible for job training; amending s. 446.071, F.S.; revising the entities that may be a local apprenticeship sponsor; amending s. 446.0915, F.S.; providing that diversified education programs as a paid work-based learning experience should be prioritized; requiring district school boards to ensure access to at least one work-based learning opportunity to certain students; amending s. 446.54, F.S.; authorizing specified employers to apply to the Department of Financial Services for reimbursement of workers' compensation premiums paid for students participating in work-based learning opportunities; providing requirements for the application for reimbursement and verification of information provided on such applications; requiring that reimbursements be made on


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a first-come, first-served basis; defining the term "educational institution"; amending s. 464.0195, F.S.; revising the primary goals of the Florida Center for Nursing; requiring the center to submit a specified report to the Governor and the Legislature by a specified date each year; amending s. 1001.03, F.S.; requiring the State Board of Education to provide for the review and approval of certain proposals by district career centers; amending s. 1001.43, F.S.; encouraging the district school board to adopt policies and procedures to consult with certain entities to determine how to expose students to industries, businesses, and careers; requiring each district school board to require each high school in its jurisdiction to host a career fair; amending s. 1001.706, F.S.; revising requirements used by the Board of Governors to determine criteria for designating baccalaureate degree and master's degree programs as high-demand programs of emphasis; amending s. 1002.31, F.S.; requiring that the process used by each district school board regarding controlled open enrollment include enabling a student who completed certain courses or a certain industry certification in middle school to continue a sequential program of career and technical education in the same concentration if such program is offered by a high school in the district; amending s. 1003.02, F.S.; modifying requirements for parental notification of acceleration options for students; amending s.


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1003.4156, F.S.; adding requirements for a student's personalized academic and career plan; amending s. 1003.4203, F.S.; deleting a requirement that each district school board provide to schools certain digital tools and materials; amending s. 1003.4282, F.S.; revising the credit requirements for a high school diploma; authorizing credit to be awarded for participation in certain career and technical student organizations; requiring the department to convene a workgroup to review and identify certain education programs and pathways; amending s. 1003.4285, F.S.; renaming the "Merit" designation as the "Industry Scholar" designation; amending s. 1003.491, F.S.; revising the data used in creating the strategic 3-year plan developed by the local school district and specified entities; amending s. 1003.5716, F.S.; conforming a provision to changes made by the act; amending s. 1004.013, F.S.; renaming the "workforce opportunity portal" as the "consumer-first workforce system"; amending s. 1004.015, F.S.; providing additional duties for the Florida Talent Development Council; requiring the council to submit recommendations to the Governor and the Legislature by a specified date; requiring the State Board of Education to adopt rules; creating s. 1007.331, F.S.; providing admissions policies for career centers that offer certain science degree programs; providing requirements for certain science degree programs; requiring the State Board of Education to adopt rules;


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amending s. 1008.41, F.S.; conforming a provision to changes made by the act; amending s. 1008.44, F.S.; revising which courses must be included on the CAPE Industry Certification Funding List; providing the Department of Education with authority to select certain digital tool certificates; requiring the department to annually review certain assessments; removing criteria used by the Commissioner of Education in limiting certain certifications and certificates; conforming cross-references; amending s. 1009.22, F.S.; providing that certain provisions apply to fees charged for college credit for certain science degrees; establishing tuition rates; amending s. 1009.77, F.S.; providing that the Florida Work Experience Program is available to a postsecondary student at a charter technical career center; encouraging participating postsecondary educational institutions to provide academic credit for the program; creating s. 1009.771, F.S.; authorizing a state university to establish a workforce education partnership program; requiring the Board of Governors to create a template for the program; providing requirements for the template; requiring the Board of Governors to adopt regulations; amending s. 1009.895, F.S.; deleting definitions; providing that the Open Door Grant Program shall be administered by specified entities; providing eligibility requirements; providing what the grant award may cover; providing requirements for the distribution of funds; deleting



the requirement to distribute a specified grant in certain ratios; amending s. 1011.62, F.S.; revising the cost factor for secondary career education programs; revising the calculation for full-time equivalent student membership with respect to dual enrollment students; revising how funds are allocated for certain certifications and education programs; reenacting and amending s. 1011.80, F.S.; removing requirements relating to the award of college credit under certain conditions; authorizing certain entities to offer continuing workforce education courses and programs without prior approval by the State Board of Education; requiring certain Florida College System institutions and school districts to maintain certain adequate records and produce certain reports; deleting a requirement that a workforce education program must be reviewed by the State Board of Education subject to certain criteria for a Florida College System Institution or school district to receive certain funding; providing that new workforce education programs must be approved by the board of trustees of the institution or by the district school board; requiring each district school board to be provided funds for each industry certification earned by a student in specified areas; requiring the board to adopt tiers for certain certifications; revising funding requirements for industry certification earned by workforce education students; amending s. 1011.801, F.S.; requiring certain secondary students to be



included on the CAPE Industry Certification Funding List; revising how certain funds may be used; requiring the Department of Education, rather than the State Board of Education, to administer the Workforce Development Capitalization Incentive Grant Program and conforming provisions to that change; authorizing the State Board of Education to adopt rules governing program administration; amending s. 1011.802, F.S.; revising requirements for the Florida Pathways to Career Opportunities Grant Program; limiting the potential grant award for each recipient; providing duties for the Department of Education regarding the grant program; authorizing the department to grant a bonus in the award amount to certain applicants; revising the amount of funding the department may expend to administer the program; amending s. 1011.803, F.S.; revising requirements for the Money-back Guarantee Program; amending s. 1011.81, F.S.; requiring the State Board of Education to annually report industry certification tiers to the Legislature; revising how awards are funded for certain certifications; amending s. 1012.39, F.S.; revising experience requirements for nondegreed teachers; amending s. 1012.57, F.S.; revising requirements for the award of an adjunct teaching certificate; amending s. 1012.585, F.S.; revising the process by which teachers may earn inservice points; amending ss. 1001.64, 1009.534, 1009.535, 1009.894, 1009.896, and 1013.841, F.S.; conforming cross


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references; requiring the Office of Program Policy Analysis and Government Accountability to conduct a review of career statewide articulation agreements; providing requirements for the review; requiring the office to present its report to the Legislature by a specified date; providing an appropriation; providing that nondisbursed funds may be carried forward for up to 2 years; providing an appropriation; providing an effective date.

By the Committee on Education Pre-K -12; and Senator Hutson

581-02537-23 2023240c1

A bill to be entitled

An act relating to education; amending s. 14.36, F.S.; requiring the Office of Reimagining Education and Career Help to work with other specified entities to provide certain information relating to workforce development boards; revising the goals of workforce development boards and duties of the office; amending s. 216.135, F.S.; requiring state agencies to ensure certain work product is consistent with information produced by specified entities; amending s. 216.136, F.S.; deleting a provision relating to the Labor Market Estimating Conference; making technical changes; amending s. 445.003, F.S.; revising requirements for training providers to be included on a state or local eligible training provider list; deleting requirements and eligibility criteria for the Department of Economic Opportunity and the Department of Education regarding the establishment of minimum criteria for an eligible training provider list; amending s. 445.004, F.S.; revising the list of credentials that must be included on the Master Credentials List; requiring the director of the Office of Reimagining Education and Career Help to serve as the chair of the Credentials Review Committee; revising the criteria used to determine the value for nondegree credentials and degree programs; requiring that credentials remain on the list for a specified time; deleting the requirement that the Credentials Review Committee develop a returned-value funding

formula; conforming provisions to changes made by the act; amending s. 445.006, F.S.; removing a provision relating to federal waivers; amending s. 445.007, F.S.; requiring each local workforce development board to create an education and industry consortium; requiring the consortia to provide quarterly reports to their local boards containing specified information and requiring local boards to consider the information provided for a specified purpose; providing for the appointment and terms of consortia members and the filling of vacancies; prohibiting local workforce development board members from serving as a consortium member; amending s. 445.009, F.S.; conforming a provision to changes made by the act; removing a requirement for certain training services; amending s. 445.038, F.S.; providing requirements for certain jobs to be eligible for job training; amending s. 446.071, F.S.; revising the entities that may be a local apprenticeship sponsor; amending s. 446.0915, F.S.; providing that diversified education programs as a paid work-based learning experience should be prioritized; requiring that district school boards ensure access to at least one work-based learning opportunity to certain students; amending s. 446.54, F.S.; authorizing specified employers to apply to the Department of Financial Services for reimbursement of workers' compensation premiums paid for students participating in work-based learning opportunities; providing requirements for the application for

reimbursement and verification of information provided on such applications; requiring that reimbursements be made on a first-come, first-served basis; defining the term "educational institution"; amending s. 464.0195, F.S.; revising the primary goals of the Florida Center for Nursing; requiring the center to submit a specified report to the Governor and the Legislature by a specified date each year; amending s. 1001.706, F.S.; revising requirements used by the Board of Governors to determine criteria for designating baccalaureate degree and master's degree programs as high-demand programs of emphasis; amending s. 1002.31, F.S.; requiring that the process used by each district school board regarding controlled open enrollment include enabling a student who completed certain courses or a certain industry certification in middle school to continue a sequential program of career and technical education in the same concentration if such program is offered by a high school in the district; amending s. 1003.02, F.S.; modifying requirements for parental notification of acceleration options for students; amending s. 1003.4156, F.S.; adding requirements for a student's personalized academic and career plan; amending s. 1003.4203,F.S.; deleting a requirement that each district school board provide to schools certain digital tools and materials; amending s. 1003.4282, F.S.; revising the credit requirements for a high school diploma; authorizing credit to be awarded for participation in certain career and

technical student organizations; requiring the State Board of Education to collaborate with certain entities to facilitate the award of such credit; requiring the department to convene a workgroup to review and identify certain education programs and pathways; amending s. 1003.4285, F.S.; renaming the "Merit" designation as the "Industry Scholar" designation; amending s. 1003.491, F.S.; revising the data used in creating the strategic 3-year plan developed by the local school district and specified entities; amending s. 1004.013, F.S.; renaming the "workforce opportunity portal" as the "consumer-first workforce system"; amending s. 1004.015, F.S.; providing additional duties for the Florida Talent Development Council; requiring the council to submit recommendations to the Governor and the Legislature by a specified date; amending s. 1008.41, F.S.; conforming a provision to changes made by the act; amending s. 1008.44, F.S.; revising which courses must be included on the CAPE Industry Certification Funding List; providing the Department of Education with authority to select certain digital tool certificates; requiring the department to annually review certain assessments; requiring that the CAPE Industry Certification Funding List include three funding tier designations; removing criteria used by the Commissioner of Education in limiting certain certifications and certificates; conforming cross-references; amending s. 1009.895, F.S.; deleting

definitions; providing that the Open Door Grant Program shall be administered by specified entities; providing eligibility requirements; providing what the grant award may cover; providing requirements for the distribution of funds; deleting the requirement to distribute a specified grant in certain ratios; amending s. 1011.62, F.S.; revising the cost factor for secondary career education programs; revising the calculation for full-time equivalent student membership with respect to dual enrollment students; revising how funds are allocated for certain certifications and education programs; reenacting and amending s. 1011.80, F.S.; removing requirements relating to the award of college credit under certain conditions; authorizing certain entities to offer continuing workforce education courses and programs without prior approval by the State Board of Education; requiring certain Florida College System institutions and school districts to maintain certain adequate records and produce certain reports; deleting a requirement that a workforce education program must be reviewed by the State Board of Education subject to certain criteria for a Florida College System Institution or school district to receive certain funding; providing that new workforce education programs must be approved by the board of trustees of the institution or the district school board; requiring each district school board to be provided funds for each industry certification earned by a

student in specified areas; requiring the board to adopt tiers for certain certifications; revising funding requirements for industry certification earned by workforce education students; amending s. 1011.801, F.S.; requiring the Department of Education, rather than the State Board of Education, to administer the Workforce Development Capitalization Incentive Grant Program and conforming provisions to that change; authorizing the State Board of Education to adopt rules governing program administration; amending s. 1011.802, F.S.; revising requirements for the Florida Pathways to Career Opportunities Grant Program; limiting the potential grant award for each recipient; providing duties for the Department of Education regarding the grant program; authorizing the department to grant a bonus in the award amount to certain applicants; revising the amount of funding the department may expend to administer the program; amending s. 1011.803, F.S.; revising requirements for the Money-back Guarantee Program; amending s. 1011.81, F.S.; requiring that each Florida College System institution receive funds for a specified purpose; requiring the State Board of Education to adopt tiers for specified certifications; revising how awards are funded for certain certifications; amending s. 1012.39, F.S.; revising experience requirements for nondegreed teachers; amending s. 1012.57, F.S.; revising requirements for the award of an adjunct teaching certificate; amending s. 1012.585, F.S.;

revising the process by which teachers may earn inservice points; amending s. 1014.05, F.S.; requiring each school district to adopt a policy to inform parents or guardians about certain apprenticeships, programs, and certifications; requiring the Office of Program Policy Analysis and Government Accountability to conduct a review of career statewide articulation agreements; providing requirements for the review; requiring the office to present its report to the Legislature by a specified date; providing an appropriation; providing that nondisbursed funds may be carried forward for up to 2 years; providing an appropriation; providing an effective date.

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

Section 1. Paragraph (h) of subsection (3) and subsection (5) of section 14.36, Florida Statutes, are amended to read:

14.36 Reimagining Education and Career Help Act.—The Reimagining Education and Career Help Act is created to address the evolving needs of Florida's economy by increasing the level of collaboration and cooperation among state businesses and education communities while improving training within and equity and access to a more integrated workforce and education system for all Floridians.

(3) The duties of the office are to:

(h) Develop ~~the~~ criteria, in consultation with the Department of Economic Opportunity and CareerSource Florida, Inc., to provide information to the public which allows

consumers of the state's workforce system to be notified of performance and accountability measures and return on investment ~~for assigning a letter grade~~ for each local workforce development board under s. 445.004. ~~The criteria shall, in part, be based on local workforce development board performance accountability measures and return on investment.~~ The main goal is to provide information to the public in a manner that will display ~~majority of the grade shall be based on~~ the improvement by each local workforce development board in the long-term self-sufficiency of participants through outcome measures such as reduction in long-term public assistance and the percentage of participants whose wages were higher after program completion compared to wages before participation in a program. At a minimum, the information shall include the assignment of a letter grade for each local workforce development board representing the improvement and other criteria adopted by the office. The office may also develop criteria and display public information that will assist the public in making informed decisions when deciding to access the local workforce board or one-stop career center.

(5) The office shall provide the public with access to available federal, state, and local services and provide stakeholders with a systemwide, global view of workforce related program data across various programs through actionable qualitative and quantitative information. The office shall:

(a) Minimize duplication and maximize the use of existing resources by facilitating the adaptation and integration of state information systems to improve usability and seamlessly link to the consumer-first workforce system ~~opportunity portal~~

and other compatible state information systems and applications to help residents of the state:

1. Explore and identify career opportunities.

2. Identify in-demand jobs and associated earning potential.

3. Identify the skills and credentials needed for specific jobs.

4. Access a broad array of federal, state, and local workforce related programs.

5. Determine the quality of workforce related programs offered by public postsecondary educational institutions and public and private training providers, based on employment, wages, continued education, student loan debt, and receipt of public assistance by graduates of workforce, certificate, or degree programs. To gather this information, the office shall review each workforce related program 1 year after the program's first graduating class and every 5 years after the first review.

6. Identify opportunities and resources to support individuals along their career pathway.

7. Provide information to help individuals understand their potential earnings through paid employment and cope with the loss of public assistance as they progress through career pathways toward self-sufficiency.

8. Map the timing and magnitude of the loss of public assistance for in-demand occupations across the state to help individuals visualize how their incomes will increase over time as they move toward self-sufficiency.

(b) Provide access to labor market data consistent with the ~~official~~ information developed by the Labor Market Estimating

Conference and the Labor Market Statistics Center within the Department of Economic Opportunity and provide guidance on how to analyze the data, the appropriate use of the data, and any limitations of the data, including instances in which such data may not be used.

(c) Maximize the use of the consumer-first workforce system ~~opportunity portal~~ at locations within the workforce development system.

(d) Maximize the use of ~~available federal and private~~ funds appropriated for the development and initial operation of the consumer-first workforce system ~~opportunity portal~~. Any incidental costs to state agencies must be derived from existing resources.

(e) Annually, by December 1, ~~2022, and annually thereafter,~~ report to the Legislature on the implementation and outcomes of the consumer-first workforce system ~~opportunity portal~~, including the increase of economic self-sufficiency of individuals.

Section 2. Section 216.135, Florida Statutes, is amended to read:

216.135 Use of official information by state agencies and the judicial branch.—Each state agency and the judicial branch shall use the official information developed by the consensus estimating conferences in carrying out their duties under the state planning and budgeting system. State agencies, including their divisions, bureaus, and statutorily created entities, must ensure that any related work product is consistent with the official information developed by the Economic Estimating Conference, the Demographic Estimating Conference, and the Labor

Market Estimating Conference.

Section 3. Paragraph (a) of subsection (7) of section 216.136, Florida Statutes, is amended to read:

216.136 Consensus estimating conferences; duties and principals.—

(7) LABOR MARKET ESTIMATING CONFERENCE.—

(a) The Labor Market Estimating Conference shall develop such official information with respect to ~~real-time~~ supply and demand in Florida's statewide and~~,~~ regional~~, and local~~ labor markets as the conference determines is needed by the state's near-term and long-term ~~state~~ planning and budgeting system. Such information must ~~shall~~ include labor supply by education level, analyses of labor demand by occupational groups and occupations compared to labor supply, and a ranking of critical areas of concern~~, and identification of in-demand, high-skill, middle-level to high-level wage occupations~~ prioritized by level of statewide or regional shortages. The Office of Economic and Demographic Research is designated as the official lead for the United States Census Bureau's State Data Center Program or its successor. All state agencies shall ~~must~~ provide the Office of Economic and Demographic Research with the necessary data to accomplish the goals of the conference. ~~In accordance with s. 216.135, state agencies must ensure that any related work product regarding labor demand and supply is consistent with the official information developed by the Labor Market Estimating Conference created in s. 216.136.~~

Section 4. Paragraph (b) of subsection (7) of section 445.003, Florida Statutes, is amended to read:

445.003 Implementation of the federal Workforce Innovation

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and Opportunity Act.—

(7) DUTIES OF THE DEPARTMENT.—The department shall adopt rules to implement the requirements of this chapter, including:

(b) Initial and subsequent eligibility criteria, based on input from the state board, local workforce development boards, the Department of Education, and other stakeholders, for the Workforce Innovation and Opportunity Act eligible training provider list. This list directs training resources to programs leading to employment in high-demand and high-priority occupations that provide economic security, particularly those occupations facing a shortage of skilled workers. A training provider ~~who offers training to obtain a credential on the Master Credentials List under s. 445.004(4)(h)~~ may not be included on a state or local eligible training provider list if the provider fails to submit the required information or fails to meet initial or subsequent eligibility criteria. ~~Subsequent eligibility criteria must use the performance and outcome measures defined and reported under s. 1008.40, to determine whether each program offered by a training provider is qualified to remain on the list.~~

~~1. For the 2021-2022 program year, The Department of Economic Opportunity and the Department of Education shall establish the minimum criteria a training provider must achieve for completion, earnings, and employment rates of eligible participants. The minimum program criteria may not exceed the threshold at which more than 20 percent of all eligible training providers in the state would fall below.~~

~~2. Beginning with the 2022-2023 program year, each program offered by a training provider must, at a minimum, meet all of~~

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~~the following:~~

~~a. Income earnings for all individuals who complete the program that are equivalent to or above the state's minimum wage in a calendar quarter.~~

~~b. An employment rate of at least 75 percent for all individuals. For programs linked to an occupation, the employment rate is calculated based on obtaining employment in the field in which the participant was trained.~~

~~c. A completion rate of at least 75 percent for all individuals, beginning with the 2023-2024 program year.~~

Section 5. Paragraph (h) of subsection (4) and subsection (8) of section 445.004, Florida Statutes, are amended to read:

445.004 CareerSource Florida, Inc., and the state board; creation; purpose; membership; duties and powers.—

(4)

(h)1. The state board shall appoint a Credentials Review Committee to identify nondegree credentials and degree credentials of value for approval by the state board and inclusion in the Master Credentials List. Such credentials must include registered apprenticeship programs, industry certifications, including industry certifications for agricultural occupations submitted pursuant to s. 570.07(43), licenses, advanced technical certificates, college credit certificates, career certificates, applied technology diplomas, and associate degrees, but may not include baccalaureate degrees~~,~~ and graduate degrees. The Credentials Review Committee must include:

a. The Chancellor of the Division of Public Schools.

b. The Chancellor of the Division of Career and Adult

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Education.

c. The Chancellor of the Florida College System.

d. The Chancellor of the State University System.

e. The director of the Office of Reimagining Education and Career Help, who must serve as chair of the committee.

f. Four members from local workforce development boards, with equal representation from urban and rural regions.

g. Two members from nonpublic postsecondary institutions.

h. Two members from industry associations.

i. Two members from Florida-based businesses.

j. Two members from the Department of Economic Opportunity.

k. One member from the Department of Agriculture and Consumer Services.

2. All information pertaining to the Credentials Review Committee, the process for the approval of credentials of value, and the Master Credentials List must be made available and be easily accessible to the public on all relevant state agency websites.

3. The Credentials Review Committee shall establish a definition for credentials of value and create a framework of quality. The framework must align with federally funded workforce accountability requirements and undergo biennial review.

4. The criteria to determine value for nondegree credentials should, at a minimum, require:

a. Evidence that the credential meets labor market demand ~~as identified by the Labor Market Estimating Conference created in s. 216.136~~ or meets local demand as identified in the criteria adopted by the Credentials Review Committee. Evidence

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to be considered by the Credentials Review Committee must include, but is not limited to, information provided by the Labor Market Statistics Center within the Department of Economic Opportunity and employer information on present credential use or emerging opportunities.

b. Evidence that the competencies mastered upon completion of the credential are aligned with labor market demand.

c. Evidence of the employment and earnings outcomes for individuals after obtaining the credential. Earnings outcomes must provide middle-level to high-level wages with preference given to credentials generating high-level wages. Credentials that do not meet the earnings outcomes criteria must be part of a sequence of credentials that are required for the next level occupation that does meet the earnings outcomes criteria in order to be identified as a credential of value. For new credentials, this criteria may be met with conditional eligibility until measurable labor market outcomes are obtained.

5. The Credentials Review Committee shall establish the criteria to determine value for degree programs. This criteria must ~~shall~~ include evidence that the program meets statewide, regional, or local ~~the~~ labor market demand ~~as identified by the Labor Market Estimating Conference created in s. 216.136 or meets local demand~~ as determined by the committee. The committee shall consider both the information provided by the Labor Market Statistics Center within the Department of Economic Opportunity related to short-term demand and the long-term data of the Labor Market Estimating Conference as factors in the criteria ~~Such criteria must be used to designate programs of emphasis under s. 1001.706 and to guide the development of program standards and~~

~~benchmarks under s. 1004.92~~.

6. The Credentials Review Committee shall establish a process for prioritizing nondegree credentials and degree programs based on critical statewide or regional shortages.

7. The Credentials Review Committee shall establish a process for:

a. At a minimum, quarterly review and approval of credential applications. Approved credentials of value shall be used by the committee to develop the Master Credentials List.

b. Annual review of the Master Credentials List.

c. Phasing out credentials on the Master Credentials List that no longer meet the framework of quality. Credentials must remain on the list for at least 1 year after identification for removal.

d. Designating performance funding eligibility under ss. 1011.80 and 1011.81, based upon the highest available certification for postsecondary students.

e. Upon approval ~~Beginning with the 2022-2023 school year~~, the state board shall submit the Master Credentials List to the State Board of Education. The list must, at a minimum, identify nondegree credentials and degree programs determined to be of value for purposes of the CAPE Industry Certification Funding List adopted under ~~of~~ ss. 1008.44 and 1011.62(1); if the credential or degree program meets statewide, regional, or local level demand; the type of certificate, credential, or degree; and the primary standard occupation classification code. ~~For the 2021-2022 school year, the Master Credentials List shall be comprised of the CAPE Industry Certification Funding List and the CAPE Postsecondary Industry Certification Funding List under~~

~~ss. 1008.44 and 1011.62(1) and adopted by the State Board of Education before October 1, 2021.~~

8. The Credentials Review Committee shall establish a process for linking Classifications of Instructional Programs (CIP) to Standard Occupational Classifications (SOC) for all new credentials of value identified on the Master Credentials List. The CIP code aligns instructional programs to occupations. A CIP to SOC link indicates that programs classified in the CIP code category prepare individuals for jobs classified in the SOC code category. The state board shall submit approved CIP to SOC linkages to the State Board of Education with each credential that is added to the Master Credentials List.

9. The Credentials Review Committee shall identify all data elements necessary to collect information on credentials by the Florida Education and Training Placement Program automated system under s. 1008.39.

~~10. The Credentials Review Committee shall develop a returned-value funding formula as provided under ss. 1011.80(7)(b) and 1011.81(2)(b). When developing the formula, the committee may not penalize Florida College System institutions or school districts if students postpone employment to continue their education.~~

(8) Each October 15 ~~Annually, beginning July 1~~, ~~2022,~~ the state board shall ~~assign and~~ make the public information available and easily accessible on its website ~~a letter grade~~ for each local workforce development board using the criteria established by the Office of Reimagining Education and Career Help under s. 14.36, including the most recently assigned letter grade.

Section 6. Subsection (4) of section 445.006, Florida Statutes, is amended to read:

445.006 State plan for workforce development.—

~~(4) WAIVERS.—The department shall prepare a federal waiver to be submitted by the Governor to the United States Department of Labor that:~~

~~(a) Allows the state board to fulfill the roles and responsibilities of local workforce development boards or that reduces the number of local workforce development boards based on population size and commuting patterns in order to:~~

~~1. Eliminate multiple layers of administrative entities to improve coordination of the workforce development system.~~

~~2. Establish consistent eligibility standards across the state to improve the accountability of workforce related programs.~~

~~3. Provide greater flexibility in the allocation of resources to maximize the funds directed to training and business services.~~

~~(b) Allows the Governor to reallocate funds among local areas that have a demonstrated need for additional funding and programmatic outcomes that will maximize the use of the additional funds to serve low-income individuals, public assistance recipients, dislocated workers, and unemployment insurance claimants.~~

Section 7. Subsection (15) is added to section 445.007, Florida Statutes, to read:

445.007 Local workforce development boards.—

(15) Each local workforce development board shall create an education and industry consortium composed of representatives of

educational entities and businesses in the designated service delivery area. Each consortium shall provide quarterly reports to the applicable local board which provide community-based information related to educational programs and industry needs to assist the local board in making decisions on programs, services, and partnerships in the service delivery area. The local board shall consider the information obtained from the consortium to determine the most effective ways to grow, retain, and attract talent to the service delivery area. The chair of the local workforce development board shall appoint the consortium members. A member of a local workforce development board may not serve as a member of the consortium. Consortium members shall be appointed for 2-year terms beginning on January 1 of the year of appointment, and any vacancy on the consortium must be filled for the remainder of the unexpired term in the same manner as the original appointment.

Section 8. Paragraphs (a) and (e) of subsection (8) of section 445.009, Florida Statutes, are amended to read:

445.009 One-stop delivery system.—

(8)

(a) Individual Training Accounts must be expended on programs that prepare people to enter occupations identified by the Labor Market Statistics Center within the Department of Economic Opportunity ~~Estimating Conference created by s. 216.136,~~ and on other programs recommended and approved by the state board following a review by the department to determine the program's compliance with federal law.

(e) Training services provided through Individual Training Accounts must be performance-based~~, with successful job~~

~~placement triggering final payment of at least 10 percent~~.

Section 9. Section 445.038, Florida Statutes, is amended to read:

445.038 Digital media; job training.—CareerSource Florida, Inc., through the Department of Economic Opportunity, may use funds dedicated for incumbent worker training for the digital media industry. Training may be provided by public or private training providers for broadband digital media jobs listed on the occupations list developed by the Labor Market Statistics Center within the Department of Economic Opportunity and on other programs recommended and approved by the state board following a review by the department to determine the program's compliance with federal law ~~Estimating Conference~~. Programs that operate outside the normal semester time periods and coordinate the use of industry and public resources must ~~should~~ be given priority status for funding.

Section 10. Subsection (2) of section 446.071, Florida Statutes, is amended to read:

446.071 Apprenticeship sponsors.—

(2) A local apprenticeship sponsor may be a committee, a group of employers, an employer, ~~or~~ a group of employees, an educational institution, a local workforce board, a community or faith-based organization, an association, or any combination thereof.

Section 11. Present subsection (3) of section 446.0915, Florida Statutes, is redesignated as subsection (4), a new subsection (3) is added to that section, and subsection (2) of that section is amended, to read:

446.0915 Work-based learning opportunities.—

(2) A work-based learning opportunity must meet all of the following criteria:

(a) Be developmentally appropriate.

(b) Identify learning objectives for the term of experience.

(c) Explore multiple aspects of an industry.

(d) Develop workplace skills and competencies.

(e) Assess performance.

(f) Provide opportunities for work-based reflection.

(g) Link to next steps in career planning and preparation in a student's chosen career pathway.

(h) Be provided in an equal and fair manner.

(i) Be documented and reported in compliance with state and federal labor laws.

A work-based learning opportunity should prioritize paid experiences, such as apprenticeship, ~~and~~ preapprenticeship, and diversified education programs.

(3) Each district school board shall ensure that each student enrolled in grades 9 through 12 has access to at least one work-based learning opportunity.

Section 12. Section 446.54, Florida Statutes, is amended to read:

446.54 Reimbursement for workers' compensation insurance premiums.—

(1) A student 18 years of age or younger who is in a paid work-based learning opportunity must ~~shall~~ be covered by the workers' compensation insurance of his or her employer in accordance with chapter 440. For purposes of chapter 440, a

school district or Florida College System institution is considered the employer of a student 18 years of age or younger who is providing unpaid services under a work-based learning opportunity provided by the school district or Florida College System institution.

(2) Subject to appropriation, ~~the Department of Education may reimburse~~ employers, including school districts and Florida College System institutions, may apply to the Department of Financial Services for reimbursement of the proportionate cost of workers' compensation premiums paid during the fiscal year for students participating in work-based learning opportunities in the previous state fiscal year ~~in accordance with department rules~~.

(a) An application for reimbursement must include the following information:

1. The number of students participating in work-based learning opportunities with the employer, including the number of those who are participating in paid and unpaid work-based learning opportunities with the employer;

2. An attestation that:

a. The students were 18 years of age or younger during the time when participating in the work-based learning opportunity; and

b. For an employer who paid the students, the employer is seeking reimbursement for the proportionate cost of workers' compensation premiums related to those students only; or

c. For a school district or Florida College System institution that is considered the employer, the employer is seeking reimbursement for the proportionate cost of workers'

compensation premiums related to those students only;

3. A description of the method used by the employer to determine the proportionate share of the cost of workers' compensation premiums attributable to students;

4. The total amount of reimbursement requested;

5. The employer's name, point of contact, and contact information;

6. A statement by the employer agreeing to maintain documentation supporting the information in the application for 5 years; and

7. Any other information requested by the department.

(b) Within 45 days after receipt of a complete application, the Department of Financial Services must process the application and provide the applicant with notification of approval or denial of the application. The Department of Financial Services shall coordinate with the educational institution to verify the information on the application related to the employer and the students participating in the work-based learning opportunity. Reimbursements must be made on a first-come, first-served basis.

(c) For purposes of this section, the term "educational institution" means a school as defined in s. 1003.01(2) operated by a district school board, a charter school formed under s. 1002.33, a career center operated by a district school board under s. 1001.44, a charter technical career center operated by a district school board under s. 1002.34, or a Florida College System institution identified in s. 1000.21.

Section 13. Paragraph (a) of subsection (2) of section 464.0195, Florida Statutes, is amended, paragraph (c) is added

to that subsection, and subsection (5) is added to that section, to read:

464.0195 Florida Center for Nursing; goals.—

(2) The primary goals for the center shall be to:

(a) Develop a strategic statewide plan for nursing manpower in this state by:

1. Conducting a statistically valid biennial data-driven gap analysis of the supply and demand of the health care workforce. Demand must align with information developed by the Labor Market Statistics Center within the Department of Economic Opportunity and the long-term estimates of the Labor Market Estimating Conference created in s. 216.136. The center shall:

a. Establish and maintain a database on nursing supply and demand in the state, to include current supply and demand.

b. Analyze the current and future supply and demand in the state and the impact of this state's participation in the Nurse Licensure Compact under s. 464.0095.

2. Developing recommendations to increase nurse faculty and clinical preceptors, support nurse faculty development, and promote advanced nurse education.

3. Developing best practices in the academic preparation and continuing education needs of qualified nurse educators, nurse faculty, and clinical preceptors.

4. Collecting data on nurse faculty, employment, distribution, and retention.

5. Piloting innovative projects to support the recruitment, development, and retention of qualified nurse faculty and clinical preceptors.

6. Encouraging and coordinating the development of

academic-practice partnerships to support nurse faculty employment and advancement.

7. Developing distance learning infrastructure for nursing education and advancing faculty competencies in the pedagogy of teaching and the evidence-based use of technology, simulation, and distance learning techniques.

(c) Convene various groups representative of nurses, other health care providers, business and industry, consumers, lawmakers, and educators to:

1. Review and comment on data analysis prepared for the center;

2. Recommend systemic changes, including strategies for implementation of recommended changes; and

3. Evaluate and report the results of these efforts to the Legislature and others.

(5) No later than each January 10, the center shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives providing details of its activities during the preceding calendar year in pursuit of its goals and in the execution of its duties under subsection (2), including a nursing education program report.

Section 14. Paragraph (b) of subsection (5) of section 1001.706, Florida Statutes, is amended to read:

1001.706 Powers and duties of the Board of Governors.—

(5) POWERS AND DUTIES RELATING TO ACCOUNTABILITY.—

(b) The Board of Governors shall develop a strategic plan specifying goals and objectives for the State University System and each constituent university, including each university's contribution to overall system goals and objectives. The

strategic plan must:

1. Include performance metrics and standards common for all institutions and metrics and standards unique to institutions depending on institutional core missions, including, but not limited to, student admission requirements, retention, graduation, percentage of graduates who have attained employment, percentage of graduates enrolled in continued education, licensure passage, average wages of employed graduates, average cost per graduate, excess hours, student loan burden and default rates, faculty awards, total annual research expenditures, patents, licenses and royalties, intellectual property, startup companies, annual giving, endowments, and well-known, highly respected national rankings for institutional and program achievements.

2. Consider reports and recommendations of the Florida Talent Development Council under s. 1004.015 and the Articulation Coordinating Committee under s. 1007.01, and the information provided by the Labor Market Statistics Center within the Department of Economic Opportunity related to short-term demand and the long-term data of the Labor Market Estimating Conference.

3. Include student enrollment and performance data delineated by method of instruction, including, but not limited to, traditional, online, and distance learning instruction.

4. Include criteria for designating baccalaureate degree and master's degree programs at specified universities as high-demand programs of emphasis. ~~The programs of emphasis list adopted by the Board of Governors before July 1, 2021, shall be used for the 2021-2022 academic year. Beginning in the 2022-2023~~

~~academic year, the Board of Governors shall adopt the criteria to determine value for and prioritization of degree credentials and degree programs established by the Credentials Review Committee under s. 445.004 for designating high-demand programs of emphasis. The Board of Governors must review designated programs of emphasis, at a minimum, every 3 years to ensure alignment with the prioritization of degree credentials and degree programs identified by the Credentials Review Committee.~~

Section 15. Paragraph (l) is added to subsection (3) of section 1002.31, Florida Statutes, to read:

1002.31 Controlled open enrollment; public school parental choice.—

(3) Each district school board shall adopt by rule and post on its website the process required to participate in controlled open enrollment. The process must:

(l) Enable a student who, in middle school, completed a career and technical education course or an industry certification included in the CAPE Industry Certification Funding List to continue a sequential program of career and technical education in the same concentration, if a high school in the district offers the program.

Section 16. Paragraph (i) of subsection (1) of section 1003.02, Florida Statutes, is amended to read:

1003.02 District school board operation and control of public K-12 education within the school district.—As provided in part II of chapter 1001, district school boards are constitutionally and statutorily charged with the operation and control of public K-12 education within their school districts. The district school boards must establish, organize, and operate

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their public K-12 schools and educational programs, employees, and facilities. Their responsibilities include staff development, public K-12 school student education including education for exceptional students and students in juvenile justice programs, special programs, adult education programs, and career education programs. Additionally, district school boards must:

(1) Provide for the proper accounting for all students of school age, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students in the following areas:

(i) ~~*Parental*~~ *Notification of acceleration, academic, and career planning options.*—At the beginning of each school year, notify ~~parents of~~ students in or entering high school and the students' parents, in a language that is understandable to students and parents, of the opportunity and benefits of advanced placement, International Baccalaureate, Advanced International Certificate of Education, and dual enrollment courses; career and professional academies; career-themed courses; the career and technical education pathway to earn a standard high school diploma under s. 1003.4282(10); work-based learning opportunities, including internships and apprenticeship and preapprenticeship programs;~~, and~~ Florida Virtual School courses; and options for early graduation under s. 1003.4281; and provide those students and parents with the contact information of a certified school counselor who can advise students on these options.

Section 17. Paragraph (e) of subsection (1) of section

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1003.4156, Florida Statutes, is amended to read:

1003.4156 General requirements for middle grades promotion.—

(1) In order for a student to be promoted to high school from a school that includes middle grades 6, 7, and 8, the student must successfully complete the following courses:

(e) One course in career and education planning to be completed in grades 6, 7, or 8, which may be taught by any member of the instructional staff. The course must be Internet-based, customizable to each student, and include research-based assessments to assist students in determining educational and career options and goals. In addition, the course must result in a completed personalized academic and career plan for the student, which must ~~that may~~ be revised at least annually as the student progresses through middle school and high school, ~~;~~ must emphasize the importance of entrepreneurship and employability skills, ~~;~~ and must include information from the Department of Economic Opportunity's economic security report under s. 445.07 and other state career planning resources. The required personalized academic and career plan must inform students of high school graduation requirements, including a detailed explanation of the requirements for earning a high school diploma designation under s. 1003.4285 and the career and technical education pathway to earn a standard high school diploma under s. 1003.4282(10); the requirements for each scholarship in the Florida Bright Futures Scholarship Program; state university and Florida College System institution admission requirements; available opportunities to earn college credit in high school, including Advanced Placement courses; the

International Baccalaureate Program; the Advanced International Certificate of Education Program; dual enrollment, including career dual enrollment; work-based learning opportunities, including internships and preapprenticeship and apprenticeship programs; and career education courses, including career-themed courses~~, preapprenticeship and apprenticeship programs,~~ and course sequences that lead to industry certification pursuant to s. 1003.492 or s. 1008.44. The course may be implemented as a stand-alone course or integrated into another course or courses.

Section 18. Present subsections (2) and (5) of section 1003.4203, Florida Statutes, are amended to read:

1003.4203 Digital materials, CAPE Digital Tool certificates, and technical assistance.—

~~(2) CAPE ESE DIGITAL TOOLS.—Each district school board, in consultation with the district school superintendent, shall make available digital and instructional materials, including software applications, to students with disabilities who are in prekindergarten through grade 12. Beginning with the 2015-2016 school year:~~

~~(a) Digital materials may include CAPE Digital Tool certificates, workplace industry certifications, and OSHA industry certifications identified pursuant to s. 1008.44 for students with disabilities; and~~

~~(b) Each student's individual educational plan for students with disabilities developed pursuant to this chapter must identify the CAPE Digital Tool certificates and CAPE industry certifications the student seeks to attain before high school graduation.~~

(4) ~~(5)~~ ~~CAPE INNOVATION AND~~ CAPE ACCELERATION.—

~~(a) *CAPE Innovation.*—Courses, identified in the CAPE Industry Certification Funding List, that combine academic and career content, and performance outcome expectations that, if achieved by a student, shall articulate for college credit and be eligible for additional full-time equivalent membership under s. 1011.62(1)(o)1.c. Such approved courses must incorporate at least two third-party assessments that, if successfully completed by a student, shall articulate for college credit. At least one of the two third-party assessments must be associated with an industry certification that is identified on the CAPE Industry Certification Funding List. Each course that is approved by the commissioner must be specifically identified in the Course Code Directory as a CAPE Innovation Course.~~

~~(b) *CAPE Acceleration.*—~~Industry certifications that articulate for 15 or more college credit hours and, if successfully completed, are eligible for additional full-time equivalent membership under s. 1011.62(1)(o)1.d. Each approved industry certification must be specifically identified in the CAPE Industry Certification Funding List as a CAPE Acceleration Industry Certification.

Section 19. Present subsection (11) of section 1003.4282, Florida Statutes, is redesignated as subsection (12), a new subsection (11) is added to that section, and paragraph (e) of subsection (3) and paragraph (a) of subsection (8) of that section are amended, to read:

1003.4282 Requirements for a standard high school diploma.—

(3) STANDARD HIGH SCHOOL DIPLOMA; COURSE AND ASSESSMENT REQUIREMENTS.—

(e) *One credit in fine or performing arts, speech and*

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debate, or career and technical education.—A student must earn one credit in fine or performing arts, speech and debate, or career and technical education.~~*, or practical arts.*—The practical arts course must incorporate artistic content and techniques of creativity, interpretation, and imagination. Eligible practical arts courses are identified in the Course Code Directory.~~

(8) CAREER EDUCATION COURSES THAT SATISFY HIGH SCHOOL CREDIT REQUIREMENTS.—

(a) Participation in career education courses engages students in their high school education, increases academic achievement, enhances employability, and increases postsecondary success. The department shall develop, for approval by the State Board of Education, multiple, additional career education courses or a series of courses that meet the requirements set forth in s. 1003.493(2), (4), and (5) and this subsection and allow students to earn credit in both the career education course and courses required for high school graduation under this section and s. 1003.4281.

1. The state board must determine at least biennially if sufficient academic standards are covered to warrant the award of academic credit, including satisfaction of graduation, assessment, and state university admissions requirements under this section.

2. Career education courses must:

a. Include workforce and digital literacy skills.

b. Integrate required course content with practical applications and designated rigorous coursework that results in one or more industry certifications or clearly articulated

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credit or advanced standing in a 2-year or 4-year certificate or degree program, which may include high school junior and senior year work-related internships or apprenticeships. The department shall negotiate state licenses for material and testing for industry certifications.

The instructional methodology used in these courses must comprise authentic projects, problems, and activities for contextual academic learning and emphasize workplace skills identified under s. 445.06.

3. A student who earns credit upon completion of an apprenticeship or preapprenticeship program registered with the Department of Education under chapter 446 may use such credit to satisfy the high school graduation credit requirements in paragraph (3)(e) or paragraph (3)(g). The state board shall approve and identify in the Course Code Directory the apprenticeship and preapprenticeship programs from which earned credit may be used pursuant to this subparagraph.

4. Student completion of a supervised agricultural experience by a student member in the Florida Future Farmers of America is eligible under this paragraph for an award of an elective or a work-based learning credit as provided in this section.

5. The State Board of Education shall, by rule, establish a process that enables a student to receive academic credit for completing a threshold level of demonstrable participation in extracurricular activities associated with career and technical student organizations.

(11) CAREER AND TECHNICAL EDUCATION CREDIT.—The Department

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of Education shall convene a workgroup to:

(a) Identify best practices in career and technical education pathways from middle school to high school to aid middle school students in career planning and facilitate their transition to high school programs. The career pathway must be linked to postsecondary programs.

(b) Establish three mathematics pathways for students enrolled in secondary grades by aligning mathematics courses to programs, postsecondary education, and careers. The workgroup shall collaborate to identify the three mathematics pathways and the mathematics course sequence within each pathway which align to the mathematics skills needed for success in the corresponding academic programs, postsecondary education, and careers.

Section 20. Paragraph (b) of subsection (1) of section 1003.4285, Florida Statutes, is amended to read:

1003.4285 Standard high school diploma designations.—

(1) Each standard high school diploma shall include, as applicable, the following designations if the student meets the criteria set forth for the designation:

(b) *Industry Scholar* ~~*Merit*~~ *designation.*—In addition to the requirements of s. 1003.4282, in order to earn the Industry Scholar ~~Merit~~ designation, a student must attain one or more industry certifications from the list established under s. 1003.492.

Section 21. Subsection (3) of section 1003.491, Florida Statutes, is amended to read:

1003.491 Florida Career and Professional Education Act.—The Florida Career and Professional Education Act is created to

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provide a statewide planning partnership between the business and education communities in order to attract, expand, and retain targeted, high-value industry and to sustain a strong, knowledge-based economy.

(3) The strategic 3-year plan developed jointly by the local school district, local workforce development boards, economic development agencies, and state-approved postsecondary institutions must ~~shall~~ be constructed and based on:

(a) Research conducted to objectively determine local and regional workforce needs for the ensuing 3 years, using labor projections as identified by the Labor Market Statistics Center within the Department of Economic Opportunity related to short-term demand and long-term data of the Labor Market Estimating Conference as factors in the criteria for the plan ~~created in s. 216.136~~;

(b) Strategies to develop and implement career academies or career-themed courses based on occupations identified by the Labor Market Statistics Center within the Department of Economic Opportunity and the long-term data of the Labor Market Estimating Conference created in s. 216.136;

(c) Strategies to provide shared, maximum use of private sector facilities and personnel;

(d) Strategies to ~~that~~ ensure instruction by industry-certified faculty and standards and strategies to maintain current industry credentials and for recruiting and retaining faculty to meet those standards;

(e) Strategies to provide personalized student advisement, including a parent-participation component, and coordination with middle grades to promote and support career-themed courses

and education planning;

(f) Alignment of requirements for middle school career planning, middle and high school career and professional academies or career-themed courses leading to industry certification or postsecondary credit, and high school graduation requirements;

(g) Provisions to ensure that career-themed courses and courses offered through career and professional academies are academically rigorous, meet or exceed appropriate state-adopted subject area standards, result in attainment of industry certification, and, when appropriate, result in postsecondary credit;

(h) Plans to sustain and improve career-themed courses and career and professional academies;

(i) Strategies to improve the passage rate for industry certification examinations if the rate falls below 50 percent;

(j) Strategies to recruit students into career-themed courses and career and professional academies which include opportunities for students who have been unsuccessful in traditional classrooms but who are interested in enrolling in career-themed courses or a career and professional academy. School boards shall provide opportunities for students who may be deemed as potential dropouts or whose cumulative grade point average drops below a 2.0 to enroll in career-themed courses or participate in career and professional academies. Such students must be provided in-person academic advising that includes information on career education programs by a certified school counselor or the school principal or his or her designee during any semester the students are at risk of dropping out or have a

cumulative grade point average below a 2.0;

(k) Strategies to provide sufficient space within academies to meet workforce needs and to provide access to all interested and qualified students;

(l) Strategies to implement career-themed courses or career and professional academy training that lead to industry certification in juvenile justice education programs;

(m) Opportunities for high school students to earn weighted or dual enrollment credit for higher-level career and technical courses;

(n) Promotion of the benefits of the Gold Seal Bright Futures Scholarship;

(o) Strategies to ensure the review of district pupil-progression plans and to amend such plans to include career-themed courses and career and professional academy courses and to include courses that may qualify as substitute courses for core graduation requirements and those that may be counted as elective courses;

(p) Strategies to provide professional development for secondary certified school counselors on the benefits of career and professional academies and career-themed courses that lead to industry certification; and

(q) Strategies to redirect appropriated career funding in secondary and postsecondary institutions to support career academies and career-themed courses that lead to industry certification.

Section 22. Paragraph (a) of subsection (3) of section 1004.013, Florida Statutes, is amended to read:

1004.013 SAIL to 60 Initiative.—

(3) There is created within the SAIL to 60 Initiative the Strategic Efforts to Achieve Self-Sufficiency (SEAS) which consists of:

(a) The consumer-first workforce system ~~opportunity portal~~ under s. 14.36, which provides the public with more effective access to available federal, state, and local services and a systemwide, global view of workforce related program data across various programs through actionable qualitative and quantitative information.

Section 23. Subsection (7) is added to section 1004.015, Florida Statutes, to read:

1004.015 Florida Talent Development Council.—

(7) The council shall identify barriers and best practices in the facilitation of work-based learning opportunities for students in middle and high school. By December 1, 2023, the council shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives recommendations on best practices for collaboration between district school boards, local workforce development boards, and local businesses and business groups. The recommendations must include any necessary legislative action to facilitate work-based learning opportunities for students in middle and high school, including the identification of potential targeted financial incentives that may help to facilitate work-based learning opportunities for students.

Section 24. Present paragraph (f) of subsection (3) of section 1008.41, Florida Statutes, is redesignated as paragraph (g), and a new paragraph (f) is added to that subsection, to read:

1008.41 Workforce education; management information system.—

(3) Planning and evaluation of job-preparatory programs shall be based on standard sources of data and use standard occupational definitions and coding structures, including, but not limited to:

(f) The Labor Market Statistics Center within the Department of Economic Opportunity.

Section 25. Subsections (1), (2), and (4) of section 1008.44, Florida Statutes, are amended to read:

1008.44 CAPE Industry Certification Funding List.—

(1) The State Board of Education shall adopt, at least annually, based upon recommendations by the Commissioner of Education, the CAPE Industry Certification Funding List that assigns additional full-time equivalent membership to certifications identified in the Master Credentials List under s. 445.004(4) that meets a statewide, regional, or local demand~~, and courses that lead to such certifications, in accordance with s. 1011.62(1)(o)~~. Additional full-time equivalent membership funding for regional and local demand certifications ~~and courses that lead to such certifications~~ may only be earned in those areas with regional or local demand as identified by the Credentials Review Committee. The CAPE Industry Certification Funding List may include the following certificates and~~,~~ certifications~~, and courses~~:

(a) CAPE industry certifications identified as credentials of value that meet the framework of quality under s. 445.004(4), that must be applied in the distribution of funding to school districts under s. 1011.62(1)(o). The CAPE Industry

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Certification Funding List shall incorporate by reference the industry certifications on the career pathways list approved for the Florida Gold Seal CAPE Scholars award.

(b) CAPE Digital Tool certificates selected by the department under s. 1003.4203(2) ~~s. 1003.4203(3)~~ that do not articulate for college credit. The certificates must ~~shall~~ be made available to students in elementary school and middle school grades and, if earned by a student, must ~~shall~~ be eligible for additional full-time equivalent membership under s. 1011.62(1)(o)1. The Department shall annually review available assessments that meet the requirements for inclusion on the list.

(c) ~~CAPE ESE Digital Tool certificates, workplace industry certifications, and OSHA industry certifications for students with disabilities under s. 1003.4203(2). Such certificates and certifications shall, if earned by a student, be eligible for additional full-time equivalent membership under s. 1011.62(1)(o)1.~~

~~(d) CAPE Innovation Courses that combine academic and career performance outcomes with embedded industry certifications under s. 1003.4203(5)(a). Such courses shall, if completed by a student, be eligible for additional full-time equivalent membership under s. 1011.62(1)(o)1.~~

~~(c)~~ CAPE Acceleration Industry Certifications that articulate for 15 or more college credit hours under s. 1003.4203(4) ~~s. 1003.4203(5)(b)~~. Such certifications must ~~shall~~, if successfully completed, be eligible for additional full-time equivalent membership under s. 1011.62(1)(o)1.

(d)~~(f)~~ The Commissioner of Education shall conduct a review

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of the methodology used to determine additional full-time equivalent membership weights assigned in s. 1011.62(1)(o) and, if necessary, recommend revised weights. The weights must factor in the prioritization of critical shortages of labor market demand and middle-level to high-level wage earning outcomes as identified by the Credentials Review Committee under s. 445.004. The results of the review and the commissioner's recommendations must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than December 1, 2023 ~~2021~~.

(2) The CAPE Industry Certification Funding List adopted under subsection (1) must include three funding tier designations for eligible postsecondary certifications and must ~~shall~~ be used to determine annual performance funding distributions to school districts or Florida College System institutions as specified in ss. 1011.80 and 1011.81, respectively.

(4)(a) CAPE industry certifications and CAPE Digital Tool certificates placed on the CAPE Industry Certification Funding List must include the version of the certifications and certificates available at the time of the adoption and, without further review and approval, include the subsequent updates to the certifications and certificates on the approved list, unless the certifications and certificates are specifically removed from the CAPE Industry Certification Funding List by the Commissioner of Education.

(b) The Commissioner of Education may limit CAPE industry certifications and CAPE Digital Tool certificates to students in certain grades ~~based on formal recommendations by providers of~~

~~CAPE industry certifications and CAPE Digital Tool certificates~~.

(c) The Articulation Coordinating Committee shall review statewide articulation agreement proposals for industry certifications and make recommendations to the State Board of Education for approval. After an industry certification is approved by CareerSource Florida, Inc., under s. 445.004(4), the Chancellor of Career and Adult Education, within 90 days, must provide to the Articulation Coordinating Committee recommendations for articulation of postsecondary credit for related degrees for the approved certifications.

Section 26. Section 1009.895, Florida Statutes, is amended to read:

1009.895 Open Door Grant Program.—

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

~~(a) "Cost of the program" means the cost of tuition, fees, examination, books, and materials to a student enrolled in an eligible program.~~

~~(b) "Department" means the Department of Education.~~

~~(c) "Institution" means school district postsecondary technical career centers under s. 1001.44, Florida College System institutions under s. 1000.21(3), charter technical career centers under s. 1002.34, and school districts with eligible integrated education and training programs.~~

~~(d) "Program" means a noncredit industry certification preparation, clock hour career certificate programs, or for-credit short-term career and technical education programs that result in the award of credentials identified under s. 445.004(4).~~

~~(e) "Student" means a person who is a resident of this~~

~~state as determined under s. 1009.21 and is unemployed, underemployed, or furloughed.~~

~~(2)~~ ESTABLISHMENT; PURPOSE.—The Open Door Grant Program is established and shall be administered by participating institutions in accordance with rules of the State Board of Education. ~~for the purpose of:~~

~~(a) Creating and sustaining a demand-driven supply of credentialed workers for high-demand occupations by addressing and closing the gap between the skills needed by workers in the state and the skills of the available workforce in the state.~~

~~(b) Expanding the affordability of workforce training and credentialing.~~

~~(c)~~ The program is created to incentivize ~~Increasing the interest of~~ current and future workers to enroll in ~~short-term, high-demand~~ career and technical education that leads to a credential, ~~credentialing and~~ certificate, or degree ~~programs~~.

(2) ELIGIBILITY.—In order to be eligible for the program, a student must:

(a) Meet the requirements under s. 1009.40(1)(a)2. and 3.;

(b) Be enrolled in a workforce education program as defined under s. 1011.80(1)(a)-(f); and

(c) Be enrolled at a school district postsecondary technical career center under s. 1001.44, a Florida College System institution under s. 1000.21(3), or a charter technical career center under s. 1002.34.

An institution may not impose additional criteria to determine a student's eligibility to receive a grant under this section.

(3) GRANT AWARD.—A student is eligible to receive an award

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equal to the amount needed to cover 100 percent of the cost for the eligible program after all other federal and state financial aid is applied. These costs may include, but are not limited to, tuition and fees, exam or assessment costs, books, materials, or other college-related expenses such as personal computers, housing, or transportation. The institution shall make awards subject to availability of funding. Returning students must be given priority over new students.

(4) DISTRIBUTION OF FUNDS.—

(a) For the 2023-2024 fiscal year, funding for eligible institutions must consist of a base amount provided for in the General Appropriations Act plus each institution's proportionate share of full-time equivalent students enrolled in career and technical education programs. Beginning in fiscal year 2024-2025, the funds appropriated for the Open Door Grant Program must be distributed to eligible institutions in accordance with a formula approved by the State Board of Education. The formula must consider at least the prior year's distribution of funds and the number of eligible applicants who did not receive awards.

(b) Subject to the appropriation of funds by the Legislature, the Department of Education shall transmit payment of grants to the institution in advance of the registration period. Institutions shall notify students of the amount of their awards.

(c) The eligibility status of each student to receive a disbursement must be determined by each institution as of the end of its regular registration period, inclusive of a drop-add period. Institutions may not be required to reevaluate a

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student's eligibility status after this date for purposes of changing eligibility determinations previously made.

(d) Each term, institutions shall certify to the department within 30 days after the end of the regular registration period the amount of funds disbursed to each student. Institutions shall remit to the department any undisbursed advances for the fall, spring, and summer terms within 30 days after the end of the summer term.

(5) INSTITUTIONAL REPORTING.—Each institution shall report to the department by the established date:

(a) The number of students eligible for the program for each academic term. Each institution shall also report to the department any necessary demographic and eligibility data for students; and

~~(3) The department shall provide grants to institutions on a first-come, first-serve basis for students who enroll in an eligible program. The department shall prioritize funding for integrated education and training programs in which institutions establish partnerships with local workforce development boards to provide basic skills instruction, contextually and concurrently, with workforce training that results in the award of credentials under s. 445.004(4). One-quarter of the appropriated funds must be prioritized to serve students attending rural institutions. No more than one-quarter of the appropriated funds may be disbursed annually to any eligible institution.~~

~~(4) Subject to the availability of funds:~~

~~(a) A student who enrolls in an eligible program offered by an institution and who does not receive state or federal~~

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~~financial aid may apply for and be awarded a grant to cover two-thirds of the cost of the program, if at the time of enrollment the student pays one-third of the cost of the program and signs an agreement to either complete the program or pay an additional one-third of the cost of the program in the event of noncompletion. The department shall reimburse the institution in an amount equal to one-third of the cost of the program upon a student's completion of the program. An additional one-third shall be provided upon attainment of a workforce credential or certificate by the student. Grant funds may be used to cover the student's one-third of the cost of the program for students in integrated education and training programs and students who do not have a high school diploma and meet the requirements established by the department. An institution may cover the student's one-third of the cost of the program based on student need, as determined by the institution.~~

~~(b) A student receiving state or federal financial aid who enrolls in an eligible program offered by an institution may apply for and be awarded a grant to cover the unmet need of the cost of the program after the application of all eligible financial aid. Financial aid and grants received by the student shall be credited first to the student's costs before the award of an open door grant. After a student is enrolled in an eligible program, the department shall award the grant to the institution for the amount of unmet need for the eligible student.~~

~~(5) The department may not reimburse any institution more than $3,000 per completed workforce training program by an eligible student.~~

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~~(6) The department shall administer the grant and shall carry out the goals and purposes of the grant set forth in subsection (2). In administering the grant, the department shall:~~

~~(a) Require eligible institutions to provide student-specific data.~~

(b) ~~Undertake periodic assessments of the overall success of the grant program and recommend modifications, interventions, and other actions based on such assessments.~~

~~(c) Establish the procedure by which eligible institutions shall notify the department when eligible students enroll in eligible programs.~~

~~(d) Require each eligible institution to~~ Submit a report with data from the previous fiscal year on program completion and credential attainment by students participating in the grant program that, at a minimum, includes:

1. A list of the programs offered.

2. The number of students who enrolled in the programs.

3. The number of students who completed the programs.

4. The number of students who attained workforce credentials, categorized by credential name and relevant occupation, after completing training programs.

~~5. The average cost per workforce credential attained, categorized by credential name and relevant occupation.~~

(6)~~(7)~~ REPORTING.—The department shall compile the data provided under paragraph (5)(b) ~~(6)(d)~~ and annually report such aggregate data~~, in the aggregate and categorize such information by eligible institution,~~ to the State Board of Education. ~~The report shall also include information on the average wage, age,~~

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~~gender, race, ethnicity, veteran status, and other relevant information, of students who have completed workforce training programs categorized by credential name and relevant occupation.~~

(7)~~(8)~~ RULES.—The State Board of Education shall adopt rules to implement this section.

Section 27. Paragraphs (c), (i), and (o) of subsection (1) of section 1011.62, Florida Statutes, are amended to read:

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

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

(c) *Determination of programs.*—Cost factors based on desired relative cost differences between the following programs shall be established in the annual General Appropriations Act. The cost factor for secondary career education programs must be greater than the cost factor for ~~and~~ basic programs grade 9 through 12 ~~shall be equal~~. The Commissioner of Education shall specify a matrix of services and intensity levels to be used by districts in the determination of the two weighted cost factors for exceptional students with the highest levels of need. For these students, the funding support level shall fund the exceptional students' education program, with the exception of extended school year services for students with disabilities.

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1. Basic programs.—

a. Kindergarten and grades 1, 2, and 3.

b. Grades 4, 5, 6, 7, and 8.

c. Grades 9, 10, 11, and 12.

2. Programs for exceptional students.—

a. Support Level IV.

b. Support Level V.

3. Secondary career education programs.

4. English for Speakers of Other Languages.

(i) *Calculation of full-time equivalent membership with respect to dual enrollment instruction.*—

1. Full-time equivalent students.—Students enrolled in dual enrollment instruction pursuant to s. 1007.271 may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. Instructional time for dual enrollment may vary from 900 hours; however, the full-time equivalent student membership value shall be subject to the provisions in s. 1011.61(4). Dual enrollment full-time equivalent student membership shall be calculated in an amount equal to the hours of instruction that would be necessary to earn the full-time equivalent student membership for an equivalent course if it were taught in the school district. Students in dual enrollment courses may also be calculated as the proportional shares of full-time equivalent enrollments they generate for a Florida College System institution or university conducting the dual enrollment instruction. Early admission students shall be considered dual enrollments for funding purposes. Students may be enrolled in dual enrollment instruction provided by an eligible independent

college or university and may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. However, those provisions of law which exempt dual enrolled and early admission students from payment of instructional materials and tuition and fees, including laboratory fees, shall not apply to students who select the option of enrolling in an eligible independent institution. An independent college or university, which is not for profit, is accredited by a regional or national accrediting agency recognized by the United States Department of Education, and confers degrees as defined in s. 1005.02 shall be eligible for inclusion in the dual enrollment or early admission program. Students enrolled in dual enrollment instruction shall be exempt from the payment of tuition and fees, including laboratory fees. No student enrolled in college credit mathematics or English dual enrollment instruction shall be funded as a dual enrollment unless the student has successfully completed the relevant section of the entry-level examination required pursuant to s. 1008.30.

2. Additional full-time equivalent student membership.—For students enrolled in an early college program pursuant to s. 1007.273, a value of 0.16 full-time equivalent student membership shall be calculated for each student who completes a general education core course through the dual enrollment program with a grade of "A" or better. For students who are not enrolled in an early college program, a value of 0.08 full-time equivalent student membership shall be calculated for each student who completes a general education core course through the dual enrollment program with a grade of "A." A value of 0.08

full-time equivalent student membership must be calculated for each student who completes a career course through the dual enrollment program with a grade of "A" in a pathway that leads to an industry certification that is included on the CAPE Industry Certification Funding List. In addition, a value of 0.3 full-time equivalent student membership shall be calculated for any student who receives an associate degree through the dual enrollment program with a 3.0 grade point average or better. This value shall be added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. This section shall be effective for credit earned by dually enrolled students for courses taken in the 2020-2021 school year and each school year thereafter. If the associate degree described in this paragraph is earned in 2020-2021 following completion of courses taken in the 2020-2021 school year, then courses taken toward the degree as part of the dual enrollment program before 2020-2021 may not preclude eligibility for the 0.3 additional full-time equivalent student membership bonus. Each school district shall allocate at least 50 percent of the funds received from the dual enrollment bonus FTE funding, in accordance with this paragraph, to the schools that generated the funds to support student academic guidance and postsecondary readiness.

3. Qualifying courses.—For the purposes of this paragraph, general education core courses are those that are identified in rule by the State Board of Education and in regulation by the Board of Governors pursuant to s. 1007.25(3).

(o) *Calculation of additional full-time equivalent membership based on successful completion of a career-themed*

course pursuant to ss. 1003.491, 1003.492, and 1003.493, or courses with embedded CAPE industry certifications or CAPE Digital Tool certificates, and issuance of industry certification identified on the CAPE Industry Certification Funding List pursuant to rules adopted by the State Board of Education or CAPE Digital Tool certificates pursuant to s. 1003.4203.—

1.a. A value of 0.025 full-time equivalent student membership shall be calculated for CAPE Digital Tool certificates earned by students in elementary and middle school grades.

b. A value of 0.1 or 0.2 full-time equivalent student membership shall be calculated for each student who completes a course as defined in s. 1003.493(1)(b) or courses with embedded CAPE industry certifications and who is issued an industry certification identified annually on the CAPE Industry Certification Funding List approved under rules adopted by the State Board of Education. A value of 0.2 full-time equivalent membership shall be calculated for each student who is issued a CAPE industry certification that has a statewide articulation agreement for college credit approved by the State Board of Education. For CAPE industry certifications that do not articulate for college credit, the Department of Education shall assign a full-time equivalent value of 0.1 for each certification. Middle grades students who earn additional FTE membership for a CAPE Digital Tool certificate pursuant to sub-subparagraph a. may not rely solely on ~~use~~ the previously funded examination to satisfy the requirements for earning an industry certification under this sub-subparagraph. ~~Additional FTE~~

~~membership for an elementary or middle grades student may not exceed 0.1 for certificates or certifications earned within the same fiscal year.~~ The State Board of Education shall include the assigned values on the CAPE Industry Certification Funding List under rules adopted by the state board. Such value shall be added to the total full-time equivalent student membership for grades 6 through 12 in the subsequent year. CAPE industry certifications earned through dual enrollment must be reported and funded pursuant to s. 1011.80. However, if a student earns a certification through a dual enrollment course and the certification is not a fundable certification on the postsecondary certification funding list, or the dual enrollment certification is earned as a result of an agreement between a school district and a nonpublic postsecondary institution, the bonus value shall be funded in the same manner as other nondual enrollment course industry certifications. In such cases, the school district may provide for an agreement between the high school and the technical center, or the school district and the postsecondary institution may enter into an agreement for equitable distribution of the bonus funds.

c. A value of 0.3 full-time equivalent student membership shall be calculated for student completion of at least three courses and an industry certification in a single career and technical education program or program of study ~~the courses and the embedded certifications identified on the CAPE Industry Certification Funding List and approved by the commissioner pursuant to ss. 1003.4203(5)(a) and 1008.44~~.

d. A value of 0.5 full-time equivalent student membership shall be calculated for CAPE Acceleration Industry

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Certifications that articulate for 15 to 29 college credit hours, and 1.0 full-time equivalent student membership shall be calculated for CAPE Acceleration Industry Certifications that articulate for 30 or more college credit hours pursuant to CAPE Acceleration Industry Certifications approved by the commissioner pursuant to ss. 1003.4203(4) and 1008.44 ~~ss. 1003.4203(5)(b) and 1008.44~~.

2. Each district must allocate at least 80 percent of the funds provided for CAPE industry certification, in accordance with this paragraph, to the program that generated the funds, and any remaining funds provided for CAPE industry certification for school district career and technical education programs. This allocation may not be used to supplant funds provided for basic operation of the program.

3. For CAPE industry certifications earned in the 2013-2014 school year and in subsequent years, the school district shall distribute to each classroom teacher who provided direct instruction toward the attainment of a CAPE industry certification that qualified for additional full-time equivalent membership under subparagraph 1.:

a. A bonus of $25 for each student taught by a teacher who provided instruction in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.1.

b. A bonus of $50 for each student taught by a teacher who provided instruction in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.2.

c. A bonus of $75 for each student taught by a teacher who

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provided instruction in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.3.

d. A bonus of $100 for each student taught by a teacher who provided instruction in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.5 or 1.0.

Bonuses awarded pursuant to this paragraph shall be provided to teachers who are employed by the district in the year in which the additional FTE membership calculation is included in the calculation. Bonuses shall be calculated based upon the associated weight of a CAPE industry certification on the CAPE Industry Certification Funding List for the year in which the certification is earned by the student. Any bonus awarded to a teacher pursuant to this paragraph is in addition to any regular wage or other bonus the teacher received or is scheduled to receive. A bonus may not be awarded to a teacher who fails to maintain the security of any CAPE industry certification examination or who otherwise violates the security or administration protocol of any assessment instrument that may result in a bonus being awarded to the teacher under this paragraph.

Section 28. Subsection (2) and paragraph (b) of subsection (7) of section 1011.80, Florida Statutes, are amended, and notwithstanding the expiration date in section 32 of chapter 2022-157, Laws of Florida, paragraph (b) of subsection (8) of that section is reenacted, to read:

1011.80 Funds for operation of workforce education

programs.—

(2) ~~Upon approval by the State Board of Education,~~ Any workforce education program may be conducted by a Florida College System institution or a school district as described in this subsection~~, except that college credit in an associate in applied science or an associate in science degree may be awarded only by a Florida College System institution. However, if an associate in applied science or an associate in science degree program contains within it an occupational completion point that confers a certificate or an applied technology diploma, that portion of the program may be conducted by a school district career center~~. Any instruction designed to articulate to a degree program is subject to guidelines and standards adopted by the State Board of Education under s. 1007.25.

(a) To be responsive to industry needs for a skilled workforce, Florida College System institutions and school districts may offer continuing workforce education courses or programs without prior State Board of Education approval. Each Florida College System institution and school district offering continuing workforce education courses or programs must maintain adequate and accurate records of instructional activity. For purposes of measuring program performance and responsiveness to industry needs, institutions must report continuing workforce education instructional activity in a format prescribed by the Department of Education. Continuing workforce education courses and programs are exempt from the requirements in paragraphs (b) and (c) and are ineligible for performance funding.

(b) The State Board of Education shall establish criteria, based on the framework of quality established by the Credentials

Review Committee under s. 445.004(4), for review and approval of new workforce education programs by a Florida College System institution or a school district that are not included in the statewide curriculum framework.

(c) ~~(b)~~ A Florida College System institution or school district offering a new workforce education program that is in the statewide curriculum framework must be ~~may not receive performance funding and additional full-time equivalent membership funding until the workforce education program is reviewed, through an expedited review process, and~~ approved by the board of trustees of the Florida College System institution or the district school board ~~State Board of Education~~ based on criteria that must include, but are ~~is~~ not limited to, the following:

1. A description of the new workforce education program that includes all of the following:

a. An analysis of workforce demand and unmet need consistent with the information provided by the Labor Market Statistics Center within the Department of Economic Opportunity for graduates of the program on a district, regional, or statewide basis, as appropriate, including evidence from entities independent of the technical center or institution.

b. The geographic region to be served.

2. Documentation of collaboration among technical centers and institutions serving the same students in a geographical or service area that enhances program offerings and prevents program duplication that exceeds workforce need. Unnecessary duplication of programs offered by public and private institutions must be avoided.

3. Alignment ~~Beginning with the 2022-2023 academic year, alignment~~ of program offerings with credentials or degree programs identified on the Master Credentials List under s. 445.004(4).

4. Articulation agreements between technical centers and Florida College System institutions for the enrollment of graduates in related workforce education programs.

5. Documentation of alignment between the exit requirements of a technical center and the admissions requirements of a Florida College System institution into which students typically transfer.

6. Performance and compliance indicators that will be used in determining the program's success.

(7)

(b) Performance funding for industry certifications for school district workforce education programs is contingent upon specific appropriation in the General Appropriations Act and must ~~shall~~ be determined as follows:

1. Postsecondary industry certifications identified on the CAPE Industry Certification Funding List approved by the State Board of Education under s. 1008.44 are eligible for performance funding.

2. Unless otherwise specified in the General Appropriations Act, each district school board shall be provided funds for each industry certification earned by a student in a career certificate, applied technology diploma, or apprenticeship program. The State Board of Education shall adopt the tiers for each certification based upon the anticipated average wages of the highest earning occupation to which the certification is

linked on the Master Credentials List established under s. 445.004(4)(h)8. The amount awarded for each tier must be specified in the General Appropriations Act ~~Each school district shall be provided $1,000 for each industry certification earned by a workforce education student~~. If funds are insufficient to fully fund the calculated total award, such funds must ~~shall~~ be prorated. ~~Beginning with the 2022-2023 fiscal year, the Credentials Review Committee established in s. 445.004 shall develop a returned-value funding formula to allocate school district performance funds that rewards student job placements and wages for students earning industry certifications, with a focus on increasing the economic mobility of underserved populations. One-third of the performance funds shall be allocated based on student job placements. The remaining two-thirds shall be allocated using a tiered weighted system based on aggregate student wages that exceed minimum wage, with the highest weight applied to the highest wage tier, with additional weight for underserved populations. Student wages above minimum wage are considered to be the value added by the institution's training. At a minimum, the formula must take into account variables such as differences in population and wages across school districts.~~

(8)

(b) Notwithstanding s. 1011.81(4), state funds provided for the operation of postsecondary workforce programs may be expended for the education of state inmates with 24 months or less of time remaining to serve on their sentences.

Section 29. Subsections (2) and (3) of section 1011.801, Florida Statutes, are amended to read:

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1011.801 Workforce Development Capitalization Incentive Grant Program.—The Legislature recognizes that the need for school districts and Florida College System institutions to be able to respond to emerging local or statewide economic development needs is critical to the workforce development system. The Workforce Development Capitalization Incentive Grant Program is created to provide grants to school districts and Florida College System institutions ~~on a competitive basis~~ to fund some or all of the costs associated with the creation or expansion of workforce development programs that serve secondary students in career and technical education programs, including dual enrollment programs and other programs that lead to industry certifications included on the CAPE Industry Certification Funding List ~~specific employment workforce needs~~.

(2) The Department of Education shall administer the ~~State Board of Education shall accept applications from school districts or Florida College System institutions for workforce development capitalization incentive grants. Applications from school districts or Florida College System institutions shall contain projected enrollments and projected costs for the new or expanded workforce development~~ program. The State Board of Education may adopt rules for program administration~~, in consultation with CareerSource Florida, Inc., shall review and rank each application for a grant according to subsection (3) and shall submit to the Legislature a list in priority order of applications recommended for a grant award~~.

~~(3) The State Board of Education shall give highest priority to programs that train people to enter high-skill, high-wage occupations identified by the Labor Market Estimating~~

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~~Conference and other programs approved by the state board as defined in s. 445.002, programs that train people to enter occupations under the welfare transition program, or programs that train for the workforce adults who are eligible for public assistance, economically disadvantaged, disabled, not proficient in English, or dislocated workers. The State Board of Education shall consider the statewide geographic dispersion of grant funds in ranking the applications and shall give priority to applications from education agencies that are making maximum use of their workforce development funding by offering high-performing, high-demand programs.~~

Section 30. Section 1011.802, Florida Statutes, is amended to read:

1011.802 Florida Pathways to Career Opportunities Grant Program.—

(1) Subject to appropriations provided in the General Appropriations Act, the Florida Pathways to Career Opportunities Grant Program is created to provide grants to high schools, career centers, charter technical career centers, Florida College System institutions, and other entities authorized to sponsor an apprenticeship or preapprenticeship program, as defined in s. 446.021, ~~on a competitive basis~~ to establish new apprenticeship or preapprenticeship programs and expand existing apprenticeship or preapprenticeship programs. An individual applicant may not receive more than 10 percent of the total amount appropriated ~~The Department of Education shall administer the grant program~~.

(2) The department shall administer the grant, identify projects, solicit proposals, and make funding recommendations to

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the Commissioner of Education, who is authorized to approve grant awards ~~Applications must contain projected enrollment and projected costs for the new or expanded apprenticeship program.~~

~~(3)~~(a) ~~The department shall award grants~~ for preapprenticeship or apprenticeship programs with demonstrated statewide or regional demand that:

(a)~~1.~~ Address a critical statewide or regional shortage, with consideration given to the information provided ~~as identified~~ by the Labor Market Statistics Center within the Department of Economic Opportunity related to short-term demand, and the long-term data of the Labor Market Estimating Conference and the Credentials Review Committee, ~~created in s. 216.136~~ and are in industry sectors not adequately represented throughout the state, such as health care;

(b)~~2.~~ Address a critical statewide or regional shortage, with consideration given to the information provided ~~as identified~~ by the Labor Market Statistics Center within the Department of Economic Opportunity related to short-term demand, the long-term data of the Labor Market Estimating Conference, and the Credentials Review Committee ~~created in s. 216.136~~; ~~or~~

(c)~~3.~~ Expand existing programs that exceed the median completion rate and employment rate 1 year after completion of similar programs in the region, or the state if there are no similar programs in the region; or

(d) Address K-12 teacher shortages through advancement of the registered apprenticeship model as an alternative pathway to certify and train the future educator workforce in order to accelerate student achievement and outcomes.

(3)~~(b)~~ Grant funds may be used for instructional equipment,

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supplies, instructional personnel, student services, and other expenses associated with the creation or expansion of an apprenticeship program. Grant funds may not be used for indirect costs. Grant recipients must submit quarterly reports in a format prescribed by the department.

(4) The department may grant a bonus in the award amount to applicants that submit a joint application for shared resources.

(5) The department shall annually report on its website:

(a) The number of programs funded and represented throughout the state under this section.

(b) Retention, completion, and employment rates, categorized by program and provider.

(c) Starting and ending salaries, as categorized by program and provider, for participants who complete the program.

(6) ~~(5)~~ The department may use up to $400,000 ~~$200,000~~ of the total amount allocated to administer the grant program.

(7) ~~(6)~~ The State Board of Education shall adopt rules to administer this section.

Section 31. Subsection (2) of section 1011.803, Florida Statutes, is amended to read:

1011.803 Money-back Guarantee Program.—

(2) Each ~~Beginning in the 2022-2023 academic year, each~~ school district and Florida College System institution shall establish a money-back guarantee program to:

(a) Offer a money-back guarantee on at least three programs ~~that prepare individuals to enter in-demand, middle-level to high-level wage occupations identified by the Labor Market Estimating Conference created in s. 216.136~~. School districts or Florida College System institutions must offer a money-back

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guarantee on at least 50 percent of workforce education programs if they offer six or fewer programs.

(b) ~~Offer a money-back guarantee for all workforce education programs that are established to meet a critical local economic industry need, but are not linked to the statewide needs list as identified by the Labor Market Estimating Conference created in s. 216.136.~~

~~(c)~~ Establish student eligibility criteria for the money-back guarantee program that includes:

1. Student attendance.

2. Student program performance.

3. Career Service or Career Day attendance.

4. Participation in internship or work-study programs.

5. Job search documentation.

6. Development of a student career plan with the institution's career services department.

Section 32. Paragraph (b) of subsection (2) of section 1011.81, Florida Statutes, is amended to read:

1011.81 Florida College System Program Fund.—

(2) Performance funding for industry certifications for Florida College System institutions is contingent upon specific appropriation in the General Appropriations Act and shall be determined as follows:

(b) Unless otherwise specified in the General Appropriations Act, each Florida College System institution shall be provided funds for each industry certification earned by a student. The State Board of Education shall adopt the tiers for each certification based upon the anticipated average wages of the highest earning occupation to which the certification is

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linked on the Master Credentials List established in s. 445.004(4)(h)8. The amounts earned for each tier must be specified in the General Appropriations Act ~~Each Florida College System institution shall be provided $1,000 for each industry certification earned by a student under paragraph (a)~~. If funds are insufficient to fully fund the calculated total award, such funds must ~~shall~~ be prorated. ~~Beginning with the 2022-2023 fiscal year, the Credentials Review Committee established in s. 445.004 shall develop a returned-value funding formula to allocate institution performance funds that rewards student job placements and wages for students earning industry certifications, with a focus on increasing the economic mobility of underserved populations. One-third of the performance funds shall be allocated based on student job placements. The remaining two-thirds shall be allocated using a tiered, weighted system based on aggregate student wages that exceed minimum wage, with the highest weight applied to the highest wage tier, with additional weight for underserved populations. Student wages above minimum wage are considered to be the value added by the institution's training. At a minimum, the formula must take into account variables such as differences in population and wages across the state.~~

Section 33. Paragraph (c) of subsection (1) of section 1012.39, Florida Statutes, is amended to read:

1012.39 Employment of substitute teachers, teachers of adult education, nondegreed teachers of career education, and career specialists; students performing clinical field experience.—

(1) Notwithstanding ss. 1012.32, 1012.55, 1012.56, and

1012.57, or any other provision of law or rule to the contrary, each district school board shall establish the minimal qualifications for:

(c) Part-time and full-time nondegreed teachers of career programs. Qualifications must ~~shall~~ be established for nondegreed teachers of career and technical education courses for program clusters that are recognized in the state and are based primarily on successful occupational experience rather than academic training. The qualifications for such teachers must ~~shall~~ require:

1. The filing of a complete set of fingerprints in the same manner as required by s. 1012.32. Faculty employed solely to conduct postsecondary instruction may be exempted from this requirement.

2. Documentation of education and successful occupational experience including documentation of:

a. A high school diploma or the equivalent.

b. Completion of a minimum level, established by the district school board, of ~~6 years of~~ full-time successful occupational experience or the equivalent of part-time experience in the teaching specialization area. The district school board may establish alternative qualifications for teachers with an industry certification in the career area in which they teach.

c. ~~Completion of career education training conducted through the local school district inservice master plan or through an educator preparation institute approved by the Department of Education pursuant to s. 1004.85.~~

~~d. For full-time teachers, completion of professional~~

~~education training in teaching methods, course construction, lesson planning and evaluation, and teaching special needs students. This training may be completed through coursework from an accredited or approved institution or an approved district teacher education program.~~

~~e. Demonstration of successful teaching performance.~~

~~f.~~ Documentation of industry certification when state or national industry certifications are available and applicable.

Section 34. Subsection (1) of section 1012.57, Florida Statutes, is amended to read:

1012.57 Certification of adjunct educators.—

(1) Notwithstanding the provisions of ss. 1012.32, 1012.55, and 1012.56, or any other provision of law or rule to the contrary, district school boards shall adopt rules to allow for the issuance of an adjunct teaching certificate to any applicant who fulfills the requirements of s. 1012.56(2)(a)-(f) and (10) and who has expertise in the subject area to be taught. An applicant is ~~shall be~~ considered to have expertise in the subject area to be taught if the applicant demonstrates sufficient subject area mastery through passage of a subject area test or has achieved an industry certification in the subject area to be taught.

Section 35. Paragraph (a) of subsection (3) of section 1012.585, Florida Statutes, is amended to read:

1012.585 Process for renewal of professional certificates.—

(3) For the renewal of a professional certificate, the following requirements must be met:

(a) The applicant must earn a minimum of 6 college credits or 120 inservice points or a combination thereof. For each area

of specialization to be retained on a certificate, the applicant must earn at least 3 of the required credit hours or equivalent inservice points in the specialization area. Education in "clinical educator" training pursuant to s. 1004.04(5)(b); participation in mentorship and induction activities, including as a mentor, pursuant to s. 1012.56(8)(a); and credits or points that provide training in the area of scientifically researched, knowledge-based reading literacy, including explicit, systematic, and sequential approaches to reading instruction, developing phonemic awareness, and implementing multisensory intervention strategies, and computational skills acquisition, exceptional student education, normal child development, and the disorders of development may be applied toward any specialization area. Credits or points that provide training in the areas of drug abuse, child abuse and neglect, strategies in teaching students having limited proficiency in English, or dropout prevention, or training in areas identified in the educational goals and performance standards adopted pursuant to ss. 1000.03(5) and 1008.345 may be applied toward any specialization area, except specialization areas identified by State Board of Education rule that include reading instruction or intervention for any students in kindergarten through grade 6. Each district school board shall include in its inservice master plan the ability for teachers to receive inservice points for supporting students in extracurricular career and technical education activities, such as career and technical student organization activities outside of regular school hours and training related to supervising students participating in a career and technical student organization. Credits or points

earned through approved summer institutes may be applied toward the fulfillment of these requirements. Inservice points may also be earned by participation in professional growth components approved by the State Board of Education and specified pursuant to s. 1012.98 in the district's approved master plan for inservice educational training; however, such points may not be used to satisfy the specialization requirements of this paragraph.

Section 36. Present paragraph (f) of subsection (1) of section 1014.05, Florida Statutes, is redesignated as paragraph (g), and a new paragraph (f) is added to that subsection, to read:

1014.05 School district notifications on parental rights.—

(1) Each district school board shall, in consultation with parents, teachers, and administrators, develop and adopt a policy to promote parental involvement in the public school system. Such policy must include:

(f) Procedures for a parent or guardian to learn about workforce education options for students, such as apprenticeships and preapprenticeships, diversified education, career and technical education courses and programs, career and technical student organizations, and industry certifications, and the costs and benefits of career and technical education in comparison to other postsecondary pathways.

Section 37. The Office of Program Policy Analysis and Government Accountability shall conduct a review of approved career statewide articulation agreements. Such career articulation agreements include industry certification, career certificate, and applied technology diploma programs that

articulate to associate in science or associate in applied science degrees; early childhood education programs; and associate in science to baccalaureate degree programs.

(1) The review must include, but is not limited to:

(a) The number of CAPE industry certifications on the Master Credentials List established pursuant to s. 445.004 which are included in a statewide articulation agreement.

(b) The number of career programs or degrees offered by career centers and Florida College System institutions compared to the number of such certifications or programs included in a statewide articulation agreement.

(c) The extent to which articulated programs included in a statewide articulation agreement are offered in a region or service area.

(d) The number and percentage of students in an articulated career program who transfer to and then complete the linked program specified in the statewide articulation agreement.

(e) Recommendations to strengthen the process of developing statewide articulation agreements, and on the role of such agreements in a Florida stackable credential framework.

(2) The office shall report its findings to the President of the Senate and the Speaker of the House of Representatives by December 31, 2023.

Section 38. For the 2023-2024 fiscal year, the sum of $100,000,000 in nonrecurring funds from the General Revenue Fund is provided to the Department of Education to implement the Workforce Development Capitalization Incentive Grant Program pursuant to s. 1011.801, Florida Statutes. Notwithstanding s. 216.301, Florida Statutes, and pursuant to s. 216.351, Florida

Statutes, funds allocated for the purpose of this section which are not disbursed by June 30 of the fiscal year in which the funds are allocated may be carried forward for up to 2 years after the effective date of this appropriation.

Section 39. For the 2023-2024 fiscal year, the nonrecurring sum of $2 million from the General Revenue Fund is appropriated to the Department of Financial Services to make reimbursements as required under s. 446.54, Florida Statutes, as amended by this act.

Section 40. This act shall take effect July 1, 2023.

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Nancy Lawther, Ph.D (Florida PTA) Phone 407 855-7604

Address 1747 Orlando Central Pkwy Email legislation@flpta.org
Street

Orlando FL 32809
City State Zip

Speaking: ☒ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by: Florida PTA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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April 13, 2023
Meeting Date

Fiscal Policy
Committee

CS/SB 240
Bill Number or Topic

117816
Amendment Barcode (if applicable)

Name Marsan Carr

Phone 813-220-1578

Address 9210 SW 68th Dr.
Street

Email marsan.carr@gmail.com

Lake BUtler | Florida | 32054
City | *State* | *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Association for Career and Technical Education

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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4/13/2023
Meeting Date

Fiscal Policy
Committee

240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sarah Katherine Massey

Phone 850.545.0543

Address 136 S. Bronough St.
Street

Email smassey@flchamber.com

Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Florida Chamber of Commerce

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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April 13, 2023
Meeting Date

Fiscal Policy
Committee

240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 1454 Vieux Carre Drive
Street

Email Barney@BarneyBishop.com

Tallahassee FL 32308
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Fla. Smart Justice

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

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4/13/23
Meeting Date

SB 240
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name N. Sabrina Gates Phone

Address Email

Street

Lithia FL 33547

City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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Meeting Date

FISCAL POLICY
Committee

240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Shawntrel Jackson

Phone 3056067964

Address 15455 N.E. 6th Ave C319
Street

Miami, FL 33162
City State Zip

Email

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

4-13-23

Meeting Date

Fiscal Policy

Committee

The Florida Senate

APPEARANCE RECORD

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240

Bill Number or Topic

Amendment Barcode (if applicable)

Name André Brown

Phone 305-987-3879

Address 19031 N.W. 9ct.

Street

Miami FL 33169

City State Zip

Email

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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Meeting Date

Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Valerie Jessup

Phone 386 214 7067

Address

Street

Email

Port Orange FL 32127
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Elizabeth Albert

Phone 386-547-3463

Address
Street

Email

Ormond Beach FL 32174
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 0240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jean Federico

Phone

Address
Street

Email

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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Meeting Date

Fiscal Policy
Committee

240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Joseph D'Elia Phone

Address 19377 NE 10 avenue, 501 Email
Street

Miami FL 33179
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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240
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name James E. Birkins JR

Phone 786-416-2719

Address 3011 N.W. 186 Terr
Street

Email JbirkinsLaw@gmail.com

Miami Gardens FL 33056
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Diana Walker Phone

Address 61 S. Conch Ave Email
Street

Marathon, FL 33050
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Holly Hummell-Gorman

Phone

Address

Email

Street

Key West FL 33040
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

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Fiscal Policy
Committee

The Florida Senate
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240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Alice Kerce (K-ear-s)

Phone

Address 215 S Monroe St Ste 710
Street

Email alice@afloridapromise.org

Tallahassee Fl 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
The Foundation for Florida's Future

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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4/13/23
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Fiscal
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Michael Greenan

Phone 352-478-9621

Address 1235 S.W. Pointview Rd
Street

Email mikegreenan@hotmail.com

Keystone Heights FL 32656
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

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The Florida Senate

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SB240
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name MARIAN Phillips

Phone 904-206-0230

Address 724 South 6th St
Street

Email Islandgir179@Comcast.net

Fernandina Beach FL 32034
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

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Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kelley Stephenson

Phone 850 585 9594

Address 261 Wee Acres Rd.
Street

Email kelleystephenson@gmail.com

DeFuniak Springs, FL 32433
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:
FEA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

4/13/23
Meeting Date

The Florida Senate

APPEARANCE RECORD

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SB 240
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name ANTONIO WHITE Phone

Address Email

Street
MIAMI, FL 33056
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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04-13-23
Meeting Date

Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Joy Jackson

Phone 305-308-3754

Address 18130 N.W. 56th AVE
Street

Email JJackson@dadeschools

Miami Fla 33055
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/13/23
Meeting Date

SB 240
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Ronald Pollard

Phone 3214399093

Address 1869 Emerald Cove Blvd
Street

Email ron.pollard57@gmail.com

Apopka FL 32712
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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Meeting Date

Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Eric Rodriguez

Phone

Address

Email

Street

Cive Oak FL
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/2023
Meeting Date

Fla. Pol Comm
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jaye Botello

Phone

Address
Street

Email

Okeechobee FL 34974
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Meeting Date

Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Stephanie Yocum

Phone 863-533-0908

Address 730 E Davidson St
Street

Email

Bartow FL 33830
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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4/13/23
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Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Aimee Smith

Phone 863-781-4919

Address 5017 Central Ave
Street

Email aimeecsmith@gmail.com

Bowling Green FL 33834
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

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Fiscal Policy
Committee

240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Mark Mott

Phone 386-916-9275

Email mamott@gmail.com

Address 115 Vintage Ln
Street

Palatka FL 32177
City State Zip

Speaking: ☒ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

S-001 (08/10/2021)

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The Florida Senate

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4/13/2021
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Fiscal Policy
Committee

SB 240
Bill Number or Topic

117816
Amendment Barcode (if applicable)

Name Jessica Janasiewicz (Jan-ah-see-witz)

Phone 850-681-6788

Address 119 South Monroe Street, Suite 202
Street

Email jessica@rutledge-ecenia.com

Tallahassee FL 32301
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Marion, Osceola and Santa Rosa County Schools

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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The Florida Senate

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Fiscal Policy
Committee

SB 240
Bill Number or Topic

117816
Amendment Barcode (if applicable)

Name Danielle Thomas

Phone 850-414-2578

Address 203 South Monroe Street
Street

Email thomas@fsba.org

Tallahassee FL 32301
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida School Boards Association

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

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4-13-23
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Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Natalie King

Phone 813 924-8218

Address 235 W Brandon Blvd #640
Street

Email natalie@teamRSA.com

Brandon FL 33511
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: American Fire Sprinkler Association

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

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4-13-23
Meeting Date

Fiscal Policy
Committee

SB240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Natalie King

Phone 813 924-8218

Address 235 W Brandon Blvd #640
Street

Email Natalie@teamrsa.com

Brandon FL 33511
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Refrigeration and Air Conditioning Contractors Association

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

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04/13/23
Meeting Date

Fiscal Policy
Committee

240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Brun E. Hudson

Phone 386-585-5297

Address 73 Buttonwood Dr Unit B
Street

Palm Coast FL 32137
City State Zip

Email brunhudson@gmail.com

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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1/13/23.	SB 240
Meeting Date	Bill Number or Topic
Fiscal Policy	
Committee	Amendment Barcode (if applicable)

Name Lare Allen Phone

Address 3331 Pampas Willow Email N8tredeals@gmail.com

Street

Saint Cloud FL 34773

City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4-13-23
Meeting Date

FISCAL POLICY
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name FERNANDO RENDON Phone

Address Street

Email

ROCKLEDGE FL 32955
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4-13-23
Meeting Date

Fiscal Policy
Committee

SB240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lorraine Rendon

Phone

Address
Street

Email

Rockledge FL 32955
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

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4.13.2023
Meeting Date

Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Darrell Warren

Phone 850 266 4547

Address 8410 Ferlon Ave
Street

Email jade2721@aol.com

Pensacola FL 32526
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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Fiscal Policy
Committee

240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Gilda Morgan-Williams Phone

Address 1459 North Magnolia Circle Email
Street

W PB FL 33401
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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4/13/23
Meeting Date

FISA AFM
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name KEVIN Day

Phone

Address

Email

Street

FORT MYR FL 33908

City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kiara DeCoursey

Phone 352-317-5998

Address

Email

Street
Belle Glade FL 33430
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

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4/13
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Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Charla S Fox

Phone 239-940-5095

Address 16627 Kestrel Cir
Street

Email

Ft Myers FL 33966
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 0240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Charla S Fox

Phone 239-940-5095

Address 16627 Kestrel Cir
Street

Email

Ft Myers FL 33964
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB0240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Victoria Smith

Phone 352-442-1397

Address 7225 W. Riverbend
Street

Email victoriajoseph9@gmail.com

Dunnellon, FL 3433
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

APPEARANCE RECORD

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04/13/23
Meeting Date

SB 240
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Keith Hunter

Phone 850-209-8193

Address P.O. Box 155
Street

Email Keithvteach@gmail.com

Marianna Florida 32448
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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4-13-2023
Meeting Date

SB 240
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Resa Hunter

Phone 850-209-3088

Address P.O. Box 155
Street

Email resa.hunter@yahoo.com

Marianna FL 32448
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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4-13-23
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Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Roderick Wilson

Phone

Address
Street

Email

Cape Coral 33909
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lisa Massero

Phone 352-397-9276

Address 15468 Burbank Dr.
Street

Email

Brooksville FL 34604
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

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4-13-23
Meeting Date

Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Helen Hamel

Phone

Address
Street

Email

Summerfield FL 34491
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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4/13/23
Meeting Date

Fiscal
Committee

240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Pete Harris

Phone

Address 203 S Bougainvilles
Street

Email

Polk City FL 33868
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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4/18/2023
Meeting Date

Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Patrick Strong

Phone

Address
Street

Email phsgtp@aol.com

Baker FL 32531
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

4/13/23
Meeting Date

FISCAL POLICY
Committee

The Florida Senate

APPEARANCE RECORD

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240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barry Tillis

Phone

Address
Street

Email

Orlando FL 32809
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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4/13/2023
Meeting Date

Fiscal
Committee

The Florida Senate

APPEARANCE RECORD

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SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Serena James

Phone

Address
Street

Email

Orlando FL 32839
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

APPEARANCE RECORD

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4/13/22
Meeting Date

Social Policy
Committee

SB 0240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Caulette Hicks

Phone 386-590-1622

Address 7443 53rd Rd
Street

Email CauleFlower@yahoo.com

Ivie Oak FL 32026
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Melissa Merriweather

Phone 352-299-6456

Address 2416 NE 32nd St.
Street

Email mmkiad97@yahoo.com

Ocala FL 34479
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Stephanie Kunkel

Phone 850-320-4208

Address 213 S. Adams Street
Street

Email Stephanie.Kunkel@floridaea.org

Tallahassee FL 32301
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Education Association

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

SB 240
Bill Number or Topic

Fiscal Policy
Committee

Amendment Barcode (if applicable)

Name Cynthia Poole

Phone

Address

Email

Street

Ft Pierce FL 34947
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

4/13/23
Meeting Date

Fiscal Policy
Committee

SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Wendy CAREY

Phone

Address
Street

Email

Tampa FL
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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April 13, 2023
Meeting Date

Fiscal Policy
Committee

CS/SB 240
Bill Number or Topic

Amendment Barcode (if applicable)

Name Brian Moore

Phone 850-577-5784

Address 208 S. Monroe St
Street

Email bmoore@fadss.org

Tallahassee FL 32301
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
FADSS - Florida Association of District School Superintendents

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/CS/CS/SB 280
INTRODUCER:	Fiscal Policy Committee; Appropriations Committee on Criminal and Civil Justice; Criminal Justice Committee; and Senator Brodeur
SUBJECT:	Controlled Substances
DATE:	April 14, 2023
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Stokes	CJ	**Fav/CS**
2.	Atchley	Harkness	ACJ	**Fav/CS**
3.	Erickson	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 280 addresses prosecution and punishment of certain unlawful acts involving heroin, fentanyl, and fentanyl-related controlled substances.

The bill revises the causation requirement for the first degree murder offense of "death caused by the unlawful distribution of a controlled substance." Under current law, a controlled substance is required to be the proximate cause of the death of the user. The bill, instead, only requires that the substance be a "substantial factor" in producing the death of the user. "Substantial factor" means that the use of the substance or mixture alone is sufficient to cause death, regardless of whether any other substance or mixture used is also sufficient to cause death.

The bill also makes it a second degree felony or a first degree felony (second or subsequent offense) for an adult to unlawfully distribute heroin, fentanyl, fentanyl-related substances, and mixtures containing any of these substances, and an injury or overdose results, when such substance or mixture is proven to have caused or been a substantial factor in causing the injury or overdose. The bill ranks the second degree felony in level 6 of the Criminal Punishment Code offense severity ranking chart.

The bill also specifies that this unlawful distribution occurs if a person, either directly or indirectly through another person, distributed to the user who was injured or overdosed the fentanyl or other specified substances or mixture.

The bill also provides that the administration of medical care by an emergency responder is prima facie evidence that the person receiving medical care was injured or overdosed.

Finally, the bill provides that a person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related or drug-related overdose and receives medical assistance, or a person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, an alcohol-related or drug-related overdose, is afforded the protections provided under s. 893.21, F.S., which currently provides that a person seeking such medical assistance may not be arrested, charged, prosecuted, or penalized for drug possession or use or possession of drug paraphernalia.

The Legislature's Office of Economic and Demographic Research preliminarily estimates that the bill will have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds). See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

II. Present Situation:

Scheduling of Fentanyl as a Controlled Substance

Section 893.03, F.S., classifies controlled substances into five categories or classifications, known as schedules. The schedules regulate the manufacture, distribution, preparation, and dispensing of substances listed in the schedules. The most important factors in determining which schedule may apply to a substance are the "potential for abuse"[1] of the substance and whether there is a currently accepted medical use for the substance. The controlled substance schedules are described as follows:

- Schedule I substances (s. 893.03(1), F.S.) have a high potential for abuse and no currently accepted medical use in treatment in the United States. Use of these substances under medical supervision does not meet accepted safety standards.
- Schedule II substances (s. 893.03(2), F.S.) have a high potential for abuse and a currently accepted but severely restricted medical use in treatment in the United States. Abuse of these substances may lead to severe psychological or physical dependence.
- Schedule III substances (s. 893.03(3), F.S.) have a potential for abuse less than the Schedule I and Schedule II substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to moderate or low physical dependence or high psychological dependence. Abuse of anabolic steroids may lead to physical damage.
- Schedule IV substances (s. 893.03(4), F.S.) have a low potential for abuse relative to Schedule III substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule III substances.

[1] Section 893.035(3)(a), F.S., defines "potential for abuse" as a substance that has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of the substance being: used in amounts that create a hazard to the user's health or the safety of the community; diverted from legal channels and distributed through illegal channels; or taken on the user's own initiative rather than on the basis of professional medical advice.

- Schedule V substances (s. 893.03(5), F.S.) have a low potential for abuse relative to Schedule IV substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule IV substances.

"Fentanyl is a powerful synthetic opioid that is similar to morphine but is 50 to 100 times more potent. It is a prescription drug that is also used and made illegally."[2] "Synthetic opioids, including fentanyl, are now the most common drugs involved in drug overdose deaths in the United States."[3] According to Florida's Statewide Drug Policy Advisory Council, the majority of overdose deaths in Florida in 2021 were related to opioids, and "[t]he most significant increases [in overdose deaths relative to the previous year] were deaths involving fentanyl which increased by 11 percent, and deaths caused by fentanyl increased by 9 percent."[4]

Fentanyl and fentanyl-related substances (e.g., alfentanil, carfentanil, and sufentanil) are Schedule (2)(b) controlled substances.[5] Section 893.13, F.S., punishes various unlawful acts involving Schedule (2)(b) controlled substances:

- Selling, manufacturing, or delivering the substance, or possessing the substance with intent to sell, manufacture, or deliver[6] it are generally second degree felonies;[7]
- Purchasing or possessing the substance with intent to purchase it are generally second degree felonies;[8]
- Bringing the substance into this state (importing) is generally a second degree felony;[9]
- Possessing 10 grams of more of the substance is generally a first degree felony[10] but possessing a lesser amount is generally a third degree felony;[11] and

[2] *Fentanyl DrugFacts*, National Institute on Drug Abuse (footnotes omitted), available at https://nida.nih.gov/publications/drugfacts/fentanyl (last visited on Feb. 6, 2023). As a medicine, fentanyl is "typically used to treat patients with severe pain, especially after surgery[,]" and "is also sometimes used to treat patients with chronic pain who are physically tolerant to other opioids." *Id.*
[3] *Id.*
[4] *2020 Annual Repor*t (Dec. 1, 2022), p. 8, Statewide Drug Policy Advisory Council, available at https://www.floridahealth.gov/provider-and-partner-resources/dpac/_documents/2022_DPAC_Annual_Report.pdf (last visited on Feb. 6, 2023).
[5] Section 893.03(2)(b)1., 6., 9., and 30., F.S.
[6] "Deliver" means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship. Section 893.02(6), F.S.
[7] Section 893.13(1)(a)1., F.S. A second degree felony is punishable by not more than 15 years in state prison and a fine not exceeding $10,000. Section 775.082 and 775.083, F.S.
[8] Section 893.13(2)(a)1., F.S.
[9] Section 893.13(5)(a)1., F.S.
[10] Section 893.13(6)(c), F.S. A first degree felony is generally punishable by not more than 30 years in state prison and a fine not exceeding $10,000. Sections 775.082 and 775.083, F.S.
[11] Section 893.13(6)(a), F.S. A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding $5,000. Sections 775.082 and 775.083, F.S. *But see* ss. 775.082(10) and 921.00241, F.S. (prison diversion).

- Distributing [12] the substance, except through an authorized order form, is generally a third degree felony.[13]

Section 893.135, F.S., punishes drug trafficking, which consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state (importing), or knowingly being in actual or constructive possession of, certain Schedule I or Schedule II controlled substances, in a statutorily-specified quantity. The statute only applies to a limited number of such controlled substances, including fentanyl and fentanyl-related substances. The controlled substance involved in the trafficking must meet a specified weight or quantity threshold. Most drug trafficking offenses are first degree felonies and are subject to a mandatory minimum term of imprisonment and a mandatory fine, which is determined by the weight or quantity range applicable to the weight or quantity of the substance involved in the trafficking.

Trafficking in 4 grams or more of:
- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil;
- A fentanyl derivative;[14]
- A controlled substance analog[15] of any previously-described substance or a fentanyl derivative; or
- A mixture containing any previously-described substance or a fentanyl derivative or analog.[16]

If the quantity involved in the drug trafficking violation is:
- 4 grams or more, but less than 14 grams, the person must be sentenced to a mandatory minimum term of imprisonment of 7 years, and must be ordered to pay a fine of $50,000;
- 14 grams or more, but less than 28 grams, the person must be sentenced to a mandatory minimum term of imprisonment of 20 years, and must be ordered to pay a fine of $100,000; or
- 28 grams or more, the person must be sentenced to a mandatory minimum term of imprisonment of 25 years, and must be ordered to pay a fine of $500,000.[17]

Controlled Substance Analog

A "controlled substance analog" is a substance which, due to its chemical structure and potential for abuse, meets the following criteria:

[12] "Distribute" means to deliver, other than by administering or dispensing, a controlled substance. Section 893.02(8), F.S. "Dispense" means the transfer of possession of one or more doses of a medicinal drug by a pharmacist or other licensed practitioner to the ultimate consumer thereof or to one who represents that it is his or her intention not to consume or use the same but to transfer the same to the ultimate consumer or user for consumption by the ultimate consumer or user. Section 893.02(7), F.S. "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a person or animal. Section 893.02(1), F.S.
[13] Section 893.13(7)(a)4., F.S.
[14] *See* s. 893.03(1)(a)62., F.S.
[15] *See* s. 893.0356(2)(a), F.S.
[16] Section 893.135(1)(c)4.a.(I)-(VII), F.S.
[17] Section 893.135(1)(c)4.b.(I)-(III), F.S.

- The substance is substantially similar to that of a controlled substance listed in Schedule I or Schedule II of s. 893.03, F.S.; and
- The substance has a stimulant, depressant, or hallucinogenic effect on the central nervous system or is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance listed in Schedule I or Schedule II of s. 893.03, F.S.[18]

Murder by Unlawful Distribution of Certain Controlled Substances

Section 782.04(1)(a)3., F.S., provides that first degree murder includes unlawfully killing of a human being which resulted from the unlawful distribution by a person 18 years of age or older of any of the following substances, or a mixture containing any of the following substances, when such substance or mixture is proven to be the *proximate cause* of the death of the user:

- A Schedule I controlled substance;[19]
- Cocaine;
- Opium or any synthetic or natural salt, compound, derivative, or preparation of opium;
- Methadone;
- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil;
- Methamphetamine; or
- A controlled substance analog of any of the above-listed controlled substances.

First degree murder is a capital felony,[20] punishable by death or life imprisonment.[21]

Third Degree Murder – Exclusion of Unlawful Distribution of Certain Controlled Substances

Section 782.04(4), F.S., provides that it is third degree murder, a second degree felony, when an unlawful killing of a human being, was perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate any felony *other than* any felony listed in subsection (4). This list of excluded felonies includes unlawful distribution by a person 18 years of age or older of any of the following substances when such substance is proven to be the *proximate cause* of the death of the user:

- A Schedule I controlled substance;
- Cocaine;
- Opium or any synthetic or natural salt, compound, derivative, or preparation of opium;
- Methadone;
- Alfentanil;
- Carfentanil;
- Fentanyl;

[18] Section 893.0356(2)(a), F.S.
[19] *See* s. 893.03(1), F.S.
[20] Section 782.04(1)(a)3., F.S.
[21] Section 782.082, F.S.

- Sufentanil;
- Methamphetamine; or
- A controlled substance analog of any of the above-listed controlled substances.[22]

Crimes with an Element of Causation

The Florida Supreme Court has identified "two distinct subelements" of causation for crimes that include an element of causation.[23]

> As legal scholars have recognized, before a defendant can be convicted of a crime that includes an element of causation, the [s]tate must prove beyond a reasonable doubt that the defendant's conduct was (1) the "cause in fact" and (2) the "legal cause" (often called "proximate cause" of the relevant harm.[24]

Typically, to establish the "cause in fact" subelement, the state "must demonstrate that 'but for' the defendant's conduct, the harm would not have occurred."[25] "A defendant can rebut this showing by demonstrating that the harm would have occurred in any event, regardless of the defendant's conduct."[26] However, "[i]n those rare circumstances where 'two causes, each alone sufficient to bring about the harmful result, operate together to cause it,' the 'but for' test becomes impossible to prove"[27] and "the State may prove the "'cause-in-fact' causation by demonstrating that the defendants conduct was a 'substantial factor' in bringing about the harm."[28]

Additionally, the state must prove that the defendant's conduct was the "proximate cause" of the harm. "Florida courts have considered two basic questions in determining proximate cause: (1) whether the prohibited result of the defendant's conduct is beyond the scope of any fair assessment of the danger created by the defendant's conduct and (2) whether it would be otherwise unjust, based on fairness and policy considerations, to hold the defendant criminally responsible for the prohibited result."[29]

Florida Standard Jury Instructions for Murder by Unlawful Distribution of Certain Controlled Substances

The Florida Standard Jury instructions for murder by unlawful distribution of certain controlled substances defines "proximate cause" as conduct "that was the *primary* or moving cause in

[22] Section 782.04(4)(l), F.S.
[23] *Eversely v. State*, 748 So.2d 963, 966-67 (Fla. 1999) (citations omitted).
[24] *Id.* at 966-967 (citations omitted).
[25] *Id.* at 967 (citations omitted).
[26] *Id.* (citation omitted).
[27] *Id.*, quoting 1 Wayne R. LaFave & Austin W. Scott, Jr., *Substantive Criminal Law* s. 3.12, at 394 (footnote and other citations omitted).
[28] *Id.* (citations omitted).
[29] *Id.* (citations omitted).

producing the death, and without it, the death would not have happened."[30] Because the instruction requires the substance be the *primary* cause of death, a prosecutor may encounter certain scenarios where he or she cannot prove a specific substance was the primary cause of death. A victim may, for example, have ingested lethal amounts of both cocaine and opium, each of which could have caused his or her death. Prosecutors have reported difficulty obtaining convictions in scenarios such as this, as it is virtually impossible to determine if something was the *primary* cause if there are multiple sufficient possibilities that were all equally lethal.[31]

Medical Assistance for an Overdose -Immunity from Arrest, Charge, Prosecution, and Penalization

Section 893.21, F.S., provides that a person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, an alcohol-related or a drug-related overdose may not be arrested, charged, prosecuted, or penalized for drug possession or use or possession of drug paraphernalia, excluding possession of 10 grams or more of a Schedule (1)(a), (1)(b), or (2)(b) controlled substance, if the evidence for such offense was obtained as a result of the person's seeking medical assistance.[32]

A person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related or a drug-related overdose and is in need of medical assistance may not be arrested, charged, prosecuted, or penalized for drug possession or use or possession of drug paraphernalia, excluding possession of 10 grams or more of a Schedule (1)(a), (1)(b), or (2)(b) controlled substance, if the evidence for such offense was obtained as a result of the person's seeking medical assistance.[33]

A person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related or a drug-related overdose and receives medical assistance, or a person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, an alcohol-related or a drug-related overdose, may not be penalized for a violation of a condition of pretrial release, probation, or parole if the evidence for such violation was obtained as a result of the person's seeking medical assistance.[34]

Protection in this section from arrest, charge, prosecution, or penalization for an offense listed in this section may not be grounds for suppression of evidence in other criminal prosecutions.[35]

[30] Fla. Std. Jury Instr. (Crim.) 7.3(a) (emphasis added by staff), *available at* https://www.floridabar.org/rules/florida-standard-jury-instructions/criminal-jury-instructions-home/criminal-jury-instructions/sji-criminal-chapter-7/ (last visited on Feb. 6, 2023); and *Aumuller v. State*, 944 So 2d 1137, 1141-1142 (Fla. 2d DCA 2006).
[31] Office Memorandum to Bob Cortes from Daniel E. Faggard, Assistant State Attorney, Eighteenth Judicial Circuit, Re: Substantial Factor Test (Feb. 5, 2021) (on file with the Senate Committee on Criminal Justice).
[32] Sections 893.21(1) and 893.13(6)(c), F.S.
[33] Sections 893.21(2) and 893.13(6)(c), F.S.
[34] Section 893.21(3), F.S.
[35] Section 893.12(4), F.S.

Criminal Punishment Code

The Criminal Punishment Code[36] (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).[37] Points are assigned and accrue based upon the offense severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses. The lowest permissible sentence is any nonstate prison sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.[38] Absent mitigation,[39] the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.[40]

III. Effect of Proposed Changes:

The bill addresses unlawful acts involving heroin, fentanyl, and fentanyl-related controlled substances.

The bill amends s. 782.04(1)(a), F.S., to revise the causation requirement for the first degree murder offense of "death caused by the unlawful distribution of a controlled substance." Under current law, a controlled substance is required to be the *proximate cause* of the death of the user. The bill, instead, only requires that the substance be a "substantial factor" in producing the death of the user. "Substantial factor" means that the use of the substance or mixture alone is sufficient to cause death, regardless of whether any other substance or mixture used is also sufficient to cause death.

The bill also creates s. 893.131, F.S., which provides that it is a second degree felony or first degree felony (second or subsequent offense) for a person 18 years of age or older to unlawfully distribute any of the following substances if injury or overdose[41] results, when such substance or mixture is proven to have caused or been a substantial factor[42] in causing the injury or overdose:

- Heroin;[43]

[36] Sections 921.002-921.0027, F.S. *See* chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.
[37] Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.
[38] Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.
[39] The court may "mitigate" or "depart downward" from the scored lowest permissible sentence, if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.
[40] If the scored lowest permissible sentence exceeds the maximum penalty in s. 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment. Section 921.0024(2), F.S.
[41] "Injury or overdose" is defined in the bill as drug toxicity or the temporary loss of locomotor activity, motor coordination, or consciousness or cognitive impairment.
[42] "Substantial factor" means that the use of a substance or mixture alone is sufficient to cause an injury or overdose or that the use of the substance or mixture contributed to a resulting injury or overdose, regardless of whether any other substance or mixture used is also sufficient to cause an injury or overdose.
[43] Heroin is a Schedule (1)(b) controlled substance. *See* s. 893.03(1)(b)11. F.S.

- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil;
- Fentanyl derivatives;
- A controlled substance analog of any previously-described substance or a fentanyl derivative; or
- A mixture containing any previously-described substance or a fentanyl derivative or analog.

The bill ranks the second degree felony in level 6 of the Criminal Punishment Code offense severity ranking chart.

The bill also specifies that this unlawful distribution occurs if a person, either directly or indirectly through another person, distributed to the user who was injured or overdosed the fentanyl or other specified substances or mixture.

The bill also provides that the administration of medical care[44] by an emergency responder, including, but not limited to, a law enforcement officer, a paramedic, or an emergency medical technician, or the administration of an emergency opioid antagonist[45] by such emergency responder, is prima facie evidence that the person receiving medical care was injured or overdosed. [46]

Finally, the bill provides that a person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related or a drug-related overdose and receives medical assistance, or a person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, an alcohol-related or a drug-related overdose, is afforded the protections provided under s. 893.21, F.S., which currently provides that a person seeking such medical assistance may not be arrested, charged, prosecuted, or penalized for drug possession or use or possession of drug paraphernalia.[47]

The bill takes effect July 1, 2023.

[44] "Medical care" is defined as the administration of treatment for the purposes of preserving or sustaining life or the administration of an emergency opioid antagonist.
[45] "Emergency opioid antagonist" is defined in s. 381.887(1)(d), F.S., as naloxone hydrochloride or any similarly acting drug that blocks the effects of opioids administered from outside the body and that is approved by the United States Food and Drug Administration for the treatment of an opioid overdose.
[46] The bill appears to create a permissive inference. In criminal law, a "permissive inference" is legally permissible if it "allows, but does not require, the trier of fact to infer the elemental fact from proof of a basic fact and does not place any burden on the defendant. In this situation, the basic fact may constitute prima facie evidence of the elemental fact." *State v. Rygwelski*, 899 So.2d 498, 501 (Fla. 2d DCA 2005) (citations omitted).
[47] Section 893.21, F.S., does not apply to possession of more than 10 grams of fentanyl, which is a Schedule (2)(b) controlled substance. *See* ss. 893.21, 893.03(2)(b)9., and 893.13(6)(c), F.S. There is no comparable exclusion for distribution of 10 grams or more fentanyl, though 10 grams or more of fentanyl exceeds the threshold quantity for charging drug trafficking and drug trafficking is not an offense covered by s. 893.21, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. The Legislature's Office of Economic and Demographic Research (EDR) preliminarily estimates that the bill will have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds).[48]

The EDR provided the following information relevant to its estimate:

> In FY 18-19, the incarceration rate for a Level 4, 2nd degree felony was 28.7%, and in FY 19-20 the incarceration rate was 27.3%. In

[48] *HB 365 – Controlled Substances (Identical SB 280)*, Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice).

> FY 20-21, the incarceration rate for a Level 4, 2nd degree felony was 23.8%, and in FY 21-22 the incarceration rate was 29.7%. In FY 18-19, the incarceration rate for a Level 1, 1st degree felony was 67.1%, and in FY 19-20 the incarceration rate was 66.5%. In FY 20-21, the incarceration rate for a Level 1, 1st degree felony was 65.5%, and in FY 21-22 the incarceration rate was 63.1%.
>
> Per [Department of Corrections], in FY 18-19, there was 1 new commitment under s. 782.04, F.S. relating to drugs, and no new commitments in FY 19-20, FY 20-21, or FY 21-22. Per Florida Department of Health, in CY 2021, there were 50,803 non-fatal drug overdose emergency department visits and 8,093 fatal drug overdoses. While it is not known what drug or drugs were in their systems, prior reports have indicated mixtures of the drugs included in this bill. The drugs listed under s. 782.04(1), F.S. and s. 893.131, F.S. showed similar high numbers as contributing to fatal overdoses, so it is likely that the non-fatal overdoses also have these drugs involved. It is not known how prison admissions will be impacted by this new language, nor is it known if this language will expand how a non-fatal overdose is defined.[49]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 782.04 and 921.0022 of the Florida Statutes.

This bill creates section 893.131 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS/CS by Fiscal Policy on April 13, 2023:
The committee substitute:

- Revises the definition of "substantial factor."
- Removes references to delivery, sale, or dispensing from a new fentanyl distribution offense created by the bill.

[49] *Id.*

- Revises a provision relating to fentanyl distribution to provide that a person violates the new fentanyl distribution offense if the person, either directly, or indirectly through another person, distributed to the user who was injured or overdosed the substance or mixture.
- Ranks the new fentanyl distribution offense in level 6 of the Criminal Punishment Code ranking chart.

CS/CS by Appropriations Committee on Criminal and Civil Justice on March 21, 2023:
The committee substitute provides that protections under s. 893.21, F.S., apply to the fentanyl-related distribution offense created by the bill in s. 893.13, F.S., to a person seeking medical assistance for an overdose. Section 893.21, F.S., provides immunity from arrest, prosecution, and punishment for drug possession or use or, possession of drug paraphernalia.

CS by Criminal Justice on February 14, 2023:
The CS specifies that the unlawful distribution, etc., of the fentanyl, etc., or mixture may be from a person who directly, or indirectly through another person, provided the substance or mixture to the user who was injured or overdosed.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/13/2023	.	
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The Committee on Fiscal Policy (Brodeur) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (1) and subsections (4) and (5) of section 782.04, Florida Statutes, are amended to read:

782.04 Murder.—

(1)(a) The unlawful killing of a human being:

1. When perpetrated from a premeditated design to effect

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the death of the person killed or any human being;

2. When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any:

a. Trafficking offense prohibited by s. 893.135(1),

b. Arson,

c. Sexual battery,

d. Robbery,

e. Burglary,

f. Kidnapping,

g. Escape,

h. Aggravated child abuse,

i. Aggravated abuse of an elderly person or disabled adult,

j. Aircraft piracy,

k. Unlawful throwing, placing, or discharging of a destructive device or bomb,

l. Carjacking,

m. Home-invasion robbery,

n. Aggravated stalking,

o. Murder of another human being,

p. Resisting an officer with violence to his or her person,

q. Aggravated fleeing or eluding with serious bodily injury or death,

r. Felony that is an act of terrorism or is in furtherance of an act of terrorism, including a felony under s. 775.30, s. 775.32, s. 775.33, s. 775.34, or s. 775.35, or

s. Human trafficking; or

3. Which resulted from the unlawful distribution by a person 18 years of age or older of any of the following substances, or mixture containing any of the following

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substances, when such substance or mixture is proven to have caused, or is proven to be a substantial factor in producing, ~~be the proximate cause of~~ the death of the user:

a. A substance controlled under s. 893.03(1);

b. Cocaine, as described in s. 893.03(2)(a)4.;

c. Opium or any synthetic or natural salt, compound, derivative, or preparation of opium;

d. Methadone;

e. Alfentanil, as described in s. 893.03(2)(b)1.;

f. Carfentanil, as described in s. 893.03(2)(b)6.;

g. Fentanyl, as described in s. 893.03(2)(b)9.;

h. Sufentanil, as described in s. 893.03(2)(b)30.;

i. Methamphetamine, as described in s. 893.03(2)(c)5.; or

j. A controlled substance analog, as described in s. 893.0356, of any substance specified in sub-subparagraphs a.-i.,

is murder in the first degree and constitutes a capital felony, punishable as provided in s. 775.082.

(4) The unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than any:

(a) Trafficking offense prohibited by s. 893.135(1),

(b) Arson,

(c) Sexual battery,

(d) Robbery,

(e) Burglary,

(f) Kidnapping,

(g) Escape,

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(h) Aggravated child abuse,

(i) Aggravated abuse of an elderly person or disabled adult,

(j) Aircraft piracy,

(k) Unlawful throwing, placing, or discharging of a destructive device or bomb,

(l) Unlawful distribution of any substance listed in sub-subparagraphs (1)(a)3.a.-j. by a person 18 years of age or older, when such substance is proven to have caused, or is proven to have been a substantial factor in producing, ~~be the proximate cause of~~ the death of the user,

(m) Carjacking,

(n) Home-invasion robbery,

(o) Aggravated stalking,

(p) Murder of another human being,

(q) Aggravated fleeing or eluding with serious bodily injury or death,

(r) Resisting an officer with violence to his or her person, or

(s) Felony that is an act of terrorism or is in furtherance of an act of terrorism, including a felony under s. 775.30, s. 775.32, s. 775.33, s. 775.34, or s. 775.35,

is murder in the third degree and constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) As used in this section, the term:

(a) "Substantial factor" means that the use of the substance or mixture alone is sufficient to cause death,

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regardless of whether any other substance or mixture used is also sufficient to cause death.

(b) "Terrorism" means an activity that:

~~(a)~~1.a. Involves a violent act or an act dangerous to human life which is a violation of the criminal laws of this state or of the United States; or

b.~~2.~~ Involves a violation of s. 815.06; and

2.~~(b)~~ Is intended to:

a.~~1.~~ Intimidate, injure, or coerce a civilian population;

b.~~2.~~ Influence the policy of a government by intimidation or coercion; or

c.~~3.~~ Affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.

Section 2. Section 893.131, Florida Statutes, is created to read:

893.131 Distribution of controlled substances resulting in injury or overdose.—

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

(a) "Emergency opioid antagonist" has the same meaning as in s. 381.887.

(b) "Injury or overdose" means drug toxicity or the temporary loss of locomotor activity, motor coordination, or consciousness or cognitive impairment.

(c) "Medical care" means the administration of treatment for the purposes of preserving or sustaining life or the administration of an emergency opioid antagonist.

(d) "Substantial factor" means that the use of a substance or mixture alone is sufficient to cause an injury or overdose,

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regardless of whether any other substance or mixture used is also sufficient to cause an injury or overdose.

(2)(a) Except as provided in paragraph (b), a person 18 years of age or older who unlawfully distributes:

1. Heroin, as described in s. 893.03(1)(b)11.;

2. Alfentanil, as described in s. 893.03(2)(b)1.;

3. Carfentanil, as described in s. 893.03(2)(b)6.;

4. Fentanyl, as described in s. 893.03(2)(b)9.;

5. Sufentanil, as described in s. 893.03(2)(b)30.;

6. Fentanyl derivatives, as described in s. 893.03(1)(a)62.;

7. A controlled substance analog, as described in s. 893.0356, of any substance specified in subparagraphs 1.-6.; or

8. A mixture containing any substance specified in subparagraphs 1.-7.,

and an injury or overdose of the user results, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, when such substance or mixture is proven to have caused or been a substantial factor in causing the injury or overdose of the user.

(b) A person 18 years of age or older who commits a violation of paragraph (a) and who has previously been convicted of a violation of paragraph (a) commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person violates this section if he or she, either directly or indirectly through another person, distributed to the user who was injured or who overdosed the substance or

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mixture specified in subparagraphs (2)(a)1.-8.

(4) The administration of medical care by an emergency responder, including, but not limited to, a law enforcement officer, a paramedic, or an emergency medical technician, or the administration of an emergency opioid antagonist by such emergency responder, is prima facie evidence that the person receiving medical care was injured or overdosed.

Section 3. Paragraph (f) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(f) LEVEL 6

Florida Statute	Felony Degree	Description
316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
400.9935(4)(c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
499.0051(2)	2nd	Knowing forgery of transaction



			history, transaction information, or transaction statement.
174			
	499.0051(3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
175			
	499.0051(4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
176			
	775.0875(1)	3rd	Taking firearm from law enforcement officer.
177			
	784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
178			
	784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
179			
	784.041	3rd	Felony battery; domestic battery by strangulation.
180			
	784.048(3)	3rd	Aggravated stalking; credible threat.
181			
	784.048(5)	3rd	Aggravated stalking of person under 16.



784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
784.081(2)	2nd	Aggravated assault on specified official or employee.
784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
784.083(2)	2nd	Aggravated assault on code inspector.
787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
790.161(2)	2nd	Make, possess, or throw



			destructive device with intent to do bodily harm or damage property.
191			
	790.164(1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.
192			
	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
193			
	794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
194			
	794.05(1)	2nd	Unlawful sexual activity with specified minor.
195			
	800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.
196			
	800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or



		older.
806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
810.145(8)(b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
812.014(2)(b)1.	2nd	Property stolen $20,000 or more, but less than $100,000, grand theft in 2nd degree.
812.014(6)	2nd	Theft; property stolen $3,000 or more; coordination of others.
812.015(9)(a)	2nd	Retail theft; property stolen $750 or more; second or subsequent conviction.
812.015(9)(b)	2nd	Retail theft; aggregated property stolen within 30 days is $3,000 or more; coordination of others.



812.015(9)(d)	2nd	Retail theft; multiple thefts within specified period.
812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
817.49(2)(b)2.	2nd	Willful making of a false report of a crime resulting in death.
817.505(4)(b)	2nd	Patient brokering; 10 or more patients.
825.102(1)	3rd	Abuse of an elderly person or disabled adult.
825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
825.103(3)(c)	3rd	Exploiting an elderly person or



		disabled adult and property is valued at less than $10,000.
827.03(2)(c)	3rd	Abuse of a child.
827.03(2)(d)	3rd	Neglect of a child.
827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
828.126(3)	3rd	Sexual activities involving animals.
836.05	2nd	Threats; extortion.
836.10	2nd	Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.
843.12	3rd	Aids or assists person to escape.
847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.

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847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
893.131(2)(a)	2nd	Distribution of controlled substances resulting in injury or overdose.
914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
918.13(2)(b)	2nd	Tampering with or fabricating physical evidence relating to a capital felony.
944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
944.40	2nd	Escapes.



944.46	3rd	Harboring, concealing, aiding escaped prisoners.
944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
951.22(1)(i)	3rd	Firearm or weapon introduced into county detention facility.

Section 4. This act shall take effect July 1, 2023.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to controlled substances; amending s. 782.04, F.S.; revising the elements that constitute the capital offense of murder in the first degree; revising the elements that constitute the offense of murder in the third degree and constitute a felony of the second degree; defining the term "substantial factor"; creating s. 893.131, F.S.; defining terms; providing criminal penalties for adults who unlawfully distribute specified substances or mixtures and an injury or overdose of the user results; providing enhanced criminal penalties for repeat offenders;



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providing construction; amending s. 921.0022, F.S.; ranking an offense on the offense severity ranking chart of the Criminal Punishment Code; providing an effective date.

718760

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
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	.	

The Committee on Fiscal Policy (Brodeur) recommended the following:

Senate Substitute for Amendment (773068) (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (1) and subsections (4) and (5) of section 782.04, Florida Statutes, are amended to read:

782.04 Murder.—

(1)(a) The unlawful killing of a human being:



1. When perpetrated from a premeditated design to effect the death of the person killed or any human being;

2. When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any:

a. Trafficking offense prohibited by s. 893.135(1),

b. Arson,

c. Sexual battery,

d. Robbery,

e. Burglary,

f. Kidnapping,

g. Escape,

h. Aggravated child abuse,

i. Aggravated abuse of an elderly person or disabled adult,

j. Aircraft piracy,

k. Unlawful throwing, placing, or discharging of a destructive device or bomb,

l. Carjacking,

m. Home-invasion robbery,

n. Aggravated stalking,

o. Murder of another human being,

p. Resisting an officer with violence to his or her person,

q. Aggravated fleeing or eluding with serious bodily injury or death,

r. Felony that is an act of terrorism or is in furtherance of an act of terrorism, including a felony under s. 775.30, s. 775.32, s. 775.33, s. 775.34, or s. 775.35, or

s. Human trafficking; or

3. Which resulted from the unlawful distribution by a person 18 years of age or older of any of the following


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substances, or mixture containing any of the following substances, when such substance or mixture is proven to have caused, or is proven to be a substantial factor in producing, ~~be the proximate cause of~~ the death of the user:

a. A substance controlled under s. 893.03(1);

b. Cocaine, as described in s. 893.03(2)(a)4.;

c. Opium or any synthetic or natural salt, compound, derivative, or preparation of opium;

d. Methadone;

e. Alfentanil, as described in s. 893.03(2)(b)1.;

f. Carfentanil, as described in s. 893.03(2)(b)6.;

g. Fentanyl, as described in s. 893.03(2)(b)9.;

h. Sufentanil, as described in s. 893.03(2)(b)30.;

i. Methamphetamine, as described in s. 893.03(2)(c)5.; or

j. A controlled substance analog, as described in s. 893.0356, of any substance specified in sub-subparagraphs a.-i.,

is murder in the first degree and constitutes a capital felony, punishable as provided in s. 775.082.

(4) The unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than any:

(a) Trafficking offense prohibited by s. 893.135(1),

(b) Arson,

(c) Sexual battery,

(d) Robbery,

(e) Burglary,

(f) Kidnapping,


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(g) Escape,

(h) Aggravated child abuse,

(i) Aggravated abuse of an elderly person or disabled adult,

(j) Aircraft piracy,

(k) Unlawful throwing, placing, or discharging of a destructive device or bomb,

(l) Unlawful distribution of any substance listed in sub-subparagraphs (1)(a)3.a.-j. by a person 18 years of age or older, when such substance is proven to have caused, or is proven to have been a substantial factor in producing, ~~be the proximate cause of~~ the death of the user,

(m) Carjacking,

(n) Home-invasion robbery,

(o) Aggravated stalking,

(p) Murder of another human being,

(q) Aggravated fleeing or eluding with serious bodily injury or death,

(r) Resisting an officer with violence to his or her person, or

(s) Felony that is an act of terrorism or is in furtherance of an act of terrorism, including a felony under s. 775.30, s. 775.32, s. 775.33, s. 775.34, or s. 775.35,

is murder in the third degree and constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) As used in this section, the term:

(a) "Substantial factor" means that the use of the


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substance or mixture alone is sufficient to cause death, regardless of whether any other substance or mixture used is also sufficient to cause death.

(b) "Terrorism" means an activity that:

~~(a)~~1.a. Involves a violent act or an act dangerous to human life which is a violation of the criminal laws of this state or of the United States; or

b.~~2.~~ Involves a violation of s. 815.06; and

2.~~(b)~~ Is intended to:

a.~~1.~~ Intimidate, injure, or coerce a civilian population;

b.~~2.~~ Influence the policy of a government by intimidation or coercion; or

c.~~3.~~ Affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.

Section 2. Section 893.131, Florida Statutes, is created to read:

893.131 Distribution of controlled substances resulting in injury or overdose.—

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

(a) "Emergency opioid antagonist" has the same meaning as in s. 381.887.

(b) "Injury or overdose" means drug toxicity or the temporary loss of locomotor activity, motor coordination, or consciousness or cognitive impairment.

(c) "Medical care" means the administration of treatment for the purposes of preserving or sustaining life or the administration of an emergency opioid antagonist.

(d) "Substantial factor" means that the use of a substance


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or mixture alone is sufficient to cause an injury or overdose, regardless of whether any other substance or mixture used is also sufficient to cause an injury or overdose.

(2)(a) Except as provided in paragraph (b), a person 18 years of age or older who unlawfully distributes:

1. Heroin, as described in s. 893.03(1)(b)11.;

2. Alfentanil, as described in s. 893.03(2)(b)1.;

3. Carfentanil, as described in s. 893.03(2)(b)6.;

4. Fentanyl, as described in s. 893.03(2)(b)9.;

5. Sufentanil, as described in s. 893.03(2)(b)30.;

6. Fentanyl derivatives, as described in s. 893.03(1)(a)62.;

7. A controlled substance analog, as described in s. 893.0356, of any substance specified in subparagraphs 1.-6.; or

8. A mixture containing any substance specified in subparagraphs 1.-7.,

and an injury or overdose of the user results, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, when such substance or mixture is proven to have caused or been a substantial factor in causing the injury or overdose of the user.

(b) A person 18 years of age or older who commits a violation of paragraph (a) and who has previously been convicted of a violation of paragraph (a) commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person violates this section if he or she, either directly or indirectly through another person, distributed to


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the user who was injured or who overdosed the substance or mixture specified in subparagraphs (2)(a)1.-8.

(4) The administration of medical care by an emergency responder, including, but not limited to, a law enforcement officer, a paramedic, or an emergency medical technician, or the administration of an emergency opioid antagonist by such emergency responder, is prima facie evidence that the person receiving medical care was injured or overdosed.

(5) A person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related or a drug-related overdose and receives medical assistance, or a person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, an alcohol-related or a drug-related overdose, is afforded the protections provided under s. 893.21.

Section 3. Paragraph (f) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(f) LEVEL 6

Florida Statute	Felony Degree	Description
316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.



316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
400.9935(4)(c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
499.0051(2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
499.0051(3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
499.0051(4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
775.0875(1)	3rd	Taking firearm from law enforcement officer.
784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.

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784.041	3rd	Felony battery; domestic battery by strangulation.
784.048(3)	3rd	Aggravated stalking; credible threat.
784.048(5)	3rd	Aggravated stalking of person under 16.
784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
784.081(2)	2nd	Aggravated assault on specified official or employee.
784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
784.083(2)	2nd	Aggravated assault on code inspector.



787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
790.164(1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.
790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
794.05(1)	2nd	Unlawful sexual activity with specified minor.


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800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.
800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
810.145(8)(b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
812.014(2)(b)1.	2nd	Property stolen $20,000 or more, but less than $100,000, grand theft in 2nd degree.
812.014(6)	2nd	Theft; property stolen $3,000 or more; coordination of others.



812.015(9)(a)	2nd	Retail theft; property stolen $750 or more; second or subsequent conviction.
812.015(9)(b)	2nd	Retail theft; aggregated property stolen within 30 days is $3,000 or more; coordination of others.
812.015(9)(d)	2nd	Retail theft; multiple thefts within specified period.
812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
817.49(2)(b)2.	2nd	Willful making of a false report of a crime resulting in death.
817.505(4)(b)	2nd	Patient brokering; 10 or more patients.
825.102(1)	3rd	Abuse of an elderly person or disabled adult.



825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
825.103(3)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than $10,000.
827.03(2)(c)	3rd	Abuse of a child.
827.03(2)(d)	3rd	Neglect of a child.
827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
828.126(3)	3rd	Sexual activities involving animals.
836.05	2nd	Threats; extortion.
836.10	2nd	Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.



843.12	3rd	Aids or assists person to escape.
847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
893.131(2)(a)	2nd	Distribution of controlled substances resulting in injury or overdose.
914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
918.13(2)(b)	2nd	Tampering with or fabricating physical evidence relating to a capital felony.
944.35(3)(a)2.	3rd	Committing malicious battery

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			upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
944.40		2nd	Escapes.
944.46		3rd	Harboring, concealing, aiding escaped prisoners.
944.47(1)(a)5.		2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
951.22(1)(i)		3rd	Firearm or weapon introduced into county detention facility.

Section 4. This act shall take effect July 1, 2023.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to controlled substances; amending s. 782.04, F.S.; revising the elements that constitute


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the capital offense of murder in the first degree; revising the elements that constitute the offense of murder in the third degree and constitute a felony of the second degree; defining the term "substantial factor"; creating s. 893.131, F.S.; defining terms; providing criminal penalties for adults who unlawfully distribute specified substances or mixtures and an injury or overdose of the user results; providing enhanced criminal penalties for repeat offenders; providing applicability and construction; amending s. 921.0022, F.S.; ranking an offense on the offense severity ranking chart of the Criminal Punishment Code; providing an effective date.

By the Appropriations Committee on Criminal and Civil Justice; the Committee on Criminal Justice; and Senator Brodeur

604-02849-23 2023280c2

A bill to be entitled

An act relating to controlled substances; amending s. 782.04, F.S.; revising the elements that constitute the capital offense of murder in the first degree; revising the elements that constitute the offense of murder in the third degree and constitute a felony of the second degree; defining the term "substantial factor"; creating s. 893.131, F.S.; defining terms; providing criminal penalties for adults who unlawfully distribute, deliver, sell, or dispense specified substances or mixtures and an injury or overdose of the user results; providing enhanced criminal penalties for repeat offenders; providing applicability and construction; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) and subsections (4) and (5) of section 782.04, Florida Statutes, are amended to read:

782.04 Murder.—

(1)(a) The unlawful killing of a human being:

1. When perpetrated from a premeditated design to effect the death of the person killed or any human being;

2. When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any:

a. Trafficking offense prohibited by s. 893.135(1),

b. Arson,

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

604-02849-23 2023280c2

c. Sexual battery,

d. Robbery,

e. Burglary,

f. Kidnapping,

g. Escape,

h. Aggravated child abuse,

i. Aggravated abuse of an elderly person or disabled adult,

j. Aircraft piracy,

k. Unlawful throwing, placing, or discharging of a destructive device or bomb,

l. Carjacking,

m. Home-invasion robbery,

n. Aggravated stalking,

o. Murder of another human being,

p. Resisting an officer with violence to his or her person,

q. Aggravated fleeing or eluding with serious bodily injury or death,

r. Felony that is an act of terrorism or is in furtherance of an act of terrorism, including a felony under s. 775.30, s. 775.32, s. 775.33, s. 775.34, or s. 775.35, or

s. Human trafficking; or

3. Which resulted from the unlawful distribution by a person 18 years of age or older of any of the following substances, or mixture containing any of the following substances, when such substance or mixture is proven to have caused, or is proven to have been a substantial factor in producing, ~~be the proximate cause of~~ the death of the user:

a. A substance controlled under s. 893.03(1);

b. Cocaine, as described in s. 893.03(2)(a)4.;

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

c. Opium or any synthetic or natural salt, compound, derivative, or preparation of opium;

d. Methadone;

e. Alfentanil, as described in s. 893.03(2)(b)1.;

f. Carfentanil, as described in s. 893.03(2)(b)6.;

g. Fentanyl, as described in s. 893.03(2)(b)9.;

h. Sufentanil, as described in s. 893.03(2)(b)30.;

i. Methamphetamine, as described in s. 893.03(2)(c)5.; or

j. A controlled substance analog, as described in s. 893.0356, of any substance specified in sub-subparagraphs a.-i.,

is murder in the first degree and constitutes a capital felony, punishable as provided in s. 775.082.

(4) The unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than any:

(a) Trafficking offense prohibited by s. 893.135(1),

(b) Arson,

(c) Sexual battery,

(d) Robbery,

(e) Burglary,

(f) Kidnapping,

(g) Escape,

(h) Aggravated child abuse,

(i) Aggravated abuse of an elderly person or disabled adult,

(j) Aircraft piracy,

(k) Unlawful throwing, placing, or discharging of a

destructive device or bomb,

(l) Unlawful distribution of any substance listed in sub-subparagraphs (1)(a)3.a.-j. by a person 18 years of age or older, when such substance is proven to have caused, or is proven to have been a substantial factor in producing, ~~be the proximate cause of~~ the death of the user,

(m) Carjacking,

(n) Home-invasion robbery,

(o) Aggravated stalking,

(p) Murder of another human being,

(q) Aggravated fleeing or eluding with serious bodily injury or death,

(r) Resisting an officer with violence to his or her person, or

(s) Felony that is an act of terrorism or is in furtherance of an act of terrorism, including a felony under s. 775.30, s. 775.32, s. 775.33, s. 775.34, or s. 775.35,

is murder in the third degree and constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) As used in this section, the term:

(a) "Substantial factor" means that the use of a substance or mixture alone is sufficient to cause death or that the use of the substance or mixture contributed to the resulting death, regardless of whether any other substance or mixture used is also sufficient to cause death or contributed to the death.

(b) "Terrorism" means an activity that:

~~(a)~~1.a. Involves a violent act or an act dangerous to human

life which is a violation of the criminal laws of this state or of the United States; or

b.~~2.~~ Involves a violation of s. 815.06; and

2.~~(b)~~ Is intended to:

a.~~1.~~ Intimidate, injure, or coerce a civilian population;

b.~~2.~~ Influence the policy of a government by intimidation or coercion; or

c.~~3.~~ Affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.

Section 2. Section 893.131, Florida Statutes, is created to read:

893.131 Distribution of controlled substances resulting in injury or overdose.—

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

(a) "Emergency opioid antagonist" has the same meaning as in s. 381.887.

(b) "Injury or overdose" means drug toxicity or the temporary loss of locomotor activity, motor coordination, or consciousness or cognitive impairment.

(c) "Medical care" means the administration of treatment for the purposes of preserving or sustaining life or the administration of an emergency opioid antagonist.

(d) "Substantial factor" means that the use of a substance or mixture alone is sufficient to cause an injury or overdose or that the use of the substance or mixture contributed to a resulting injury or overdose, regardless of whether any other substance or mixture used is also sufficient to cause an injury or overdose.

(2)(a) Except as provided in paragraph (b), a person 18 years of age or older who unlawfully distributes, delivers, sells, or dispenses:

1. Heroin, as described in s. 893.03(1)(b)11.;

2. Alfentanil, as described in s. 893.03(2)(b)1.;

3. Carfentanil, as described in s. 893.03(2)(b)6.;

4. Fentanyl, as described in s. 893.03(2)(b)9.;

5. Sufentanil, as described in s. 893.03(2)(b)30.;

6. Fentanyl derivatives, as described in s. 893.03(1)(a)62.;

7. A controlled substance analog, as described in s. 893.0356, of any substance specified in subparagraphs 1.-6.; or

8. A mixture containing any substance specified in subparagraphs 1.-7.,

and an injury or overdose of the user results, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, when such substance or mixture is proven to have caused or been a substantial factor in causing the injury or overdose suffered by the user.

(b) A person 18 years of age or older who commits a violation of paragraph (a) and who has previously been convicted of a violation of paragraph (a) commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) The unlawful distribution, delivery, sale, or dispensing of a substance or mixture specified in subparagraphs (2)(a)1.-8. may be from a person who directly, or indirectly through another person, provided the substance or mixture to the

user who was injured or overdosed.

(4) The administration of medical care by an emergency responder, including, but not limited to, a law enforcement officer, a paramedic, or an emergency medical technician, or the administration of an emergency opioid antagonist by such emergency responder, is prima facie evidence that the person receiving medical care was injured or overdosed.

(5) A person who experiences, or has a good faith belief that he or she is experiencing, an alcohol-related or a drug-related overdose and receives medical assistance, or a person acting in good faith who seeks medical assistance for an individual experiencing, or believed to be experiencing, an alcohol-related or a drug-related overdose, is afforded the protections provided under s. 893.21.

Section 3. This act shall take effect July 1, 2023.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

DUPLICATE

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

April 13, 2023
Meeting Date

Fiscal Policy
Committee

280
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 1454 Vieux Carre Drive
Street

Email Barney@BarneyBishop.com

Tallahassee FL 32308
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Fla. Smart Justice

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

04/13/23
Meeting Date

Fiscal Policy
Committee

280
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lauren Jackson

Phone 931-265-8999

Address 205 S. Adams St.
Street

Email lauren@ericksconsultants.com

Tallahassee FL 32301
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
Seminole County Sheriffs Office

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/20/2023
Meeting Date

Senate Fiscal Policy
Committee

SB 280
Bill Number or Topic

Amendment Barcode (if applicable)

Name ~~Phil Archer~~ MICHELLE R. LOGSDON - Florida Prosecuting Attorneys Association

Phone 850-488-3070

Address 107 W. Gaines Street, Suite L-047
Street

Email

Tallahassee FL 32399
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/13/23
Meeting Date

Fiscal Policy
Committee

CS/CS/SB 280
Bill Number or Topic

Amendment Barcode (if applicable)

Name Florida Cares- Laurette Philipsen

Phone 561-855-0833

Address 2048 Ponce de Leon Ave
Street

West Palm Beach, FL 33407
City State Zip

Email laurette@floridacarescharity.org

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/13/23
Meeting Date

FISCAL POLICY
Committee

SB 280
Bill Number or Topic

Amendment Barcode (if applicable)

Name LIBBY GUZZO Phone 850 245 0155

Address PL-01 CAPITOL Email LIBBY.GUZZO@MYFLORIDALEGAL.COM
Street

TLH FL 32399
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: OFFICE OF ATTORNEY GENERAL

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

APPEARANCE RECORD

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April 13, 2023
Meeting Date

Fiscal Policy
Committee

SB 280 Controlled Substances
Bill Number or Topic

Amendment Barcode (if applicable)

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Email jonathan.webber@splcactionfund.org

Montgomery AL 36301
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** **Waive Speaking:** ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☑ I am a registered lobbyist, representing:
SPLC Action Fund

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4.13.23
Meeting Date

Fiscal Policy
Committee

280
Bill Number or Topic

Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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ACLU of Florida

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The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/SB 290
INTRODUCER:	Education Pre-K -12 Committee and Senator Jones and others
SUBJECT:	Public School Student Progression for Students with Disabilities
DATE:	April 12, 2023
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sagues	Bouck	ED	**Fav/CS**
2.	Gray	Elwell	AED	**Favorable**
3.	Sagues	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 290 authorizes a parent to retain his or her child in prekindergarten, in consultation with the individual education plan team, if that child has a disability, an individual education plan (IEP), is enrolled in a public school prekindergarten program at the age of four, and is fully funded through the Florida Education Finance Program (FEFP).

The bill requires that a four-year old student with an IEP, who has been retained in a public school prekindergarten program that was fully funded through the FEFP and has demonstrated a substantial deficiency in early literacy skills, instruction in such skills.

The bill also revises the "good cause exemptions" from mandatory retention, which allows a student in grade 3, who has a learning disability and who is severely below grade-level, be promoted to grade 4, if the student was retained in a prekindergarten program.

The bill does not have a fiscal impact.

This bill takes effect on July 1, 2023.

II. Present Situation:

Students with Disabilities

All students who are between the ages of three and 21, and have a disability[1] have the right to a free, appropriate public education (FAPE).[2] It is the responsibility of each state and school district to develop procedures to provide all students with disabilities access to a FAPE in the least restrictive environment.[3]

Individuals with Disabilities Education Act

The federal Individuals with Disabilities Education Act (IDEA)[4] governs how state and public agencies provide early intervention, education, and related services to eligible children with disabilities.[5] The IDEA was enacted in 1975 and was most recently reauthorized in 2004.[6] The purpose of the IDEA is to:

- Ensure that all children with disabilities are provided with a FAPE that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;
- Ensure that the rights of children with disabilities and their parents are protected;
- Assist states, localities, educational service agencies, and federal agencies to provide for the education of all children with disabilities;
- Assist states in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention;
- Ensure that educators and parents have the necessary tools to improve educational results for children with disabilities; and
- Assess and ensure the effectiveness of efforts to educate children with disabilities. [7]

States receiving IDEA funds must comply with detailed procedural requirements, including identifying, evaluating, and making placements for students with disabilities and for developing an individualized education program (IEP)[8] for each student.[9] In developing an IEP, the IEP team is required to consider a child's strengths, concerns of the parents for enhancing education, results of the initial evaluation or most recent evaluation of the child, and the academic,

---

[1] Disabilities that qualify a student as an exceptional student include an intellectual disability; an autism spectrum disorder; a speech impairment; a language impairment; an orthopedic impairment; another health impairment; traumatic brain injury; a visual impairment; an emotional or behavioral disability; a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; deafness, hard of hearing, or dual sensory impairment; or developmental delays from birth through five years old or if the student is hospitalized or homebound. Section 1003.01(3)(a), F.S.

[2] 20 U.S.C. s. 1412(a)(1); s. 1003.5716, F.S.

[3] Florida Department of Education, *Developing Quality Individual Education Plans* (2015), *available at* http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf, at 9.

[4] 20 U.S.C. s. 1400 et seq.; 34 C.F.R. s. 300.17.

[5] *See* 20 U.S.C. s. 1412(a)(1); *See also* U.S. Department of Education, *National Assessment of IDEA Overview* (July 2011), *available at* https://ies.ed.gov/ncee/pubs/20114026/pdf/20114026.pdf. at 1-2.

[6] U.S. Department of Education, *OSEP Fast Facts: IDEA 45th Anniversary*, November 2020, https://sites.ed.gov/idea/osep-fast-facts-idea-45th-anniversary/ (last visited Mar. 9, 2023).

[7] 20 U.S.C. s. 1400(d), U.S. Department of Education, *National Assessment of IDEA Overview*, at 2, *available at* https://ies.ed.gov/ncee/pubs/20114026/pdf/20114026.pdf.

[8] In Florida statute, IEP refers to an "individual education plan." Section 1003.5716, F.S.

[9] 20 U.S.C. s. 1415.

developmental, and functional needs of the child, as well as special factors. Federal law requires the IEP team to review the student's IEP at least annually to determine whether the student's goals are being achieved and to revise the IEP as necessary.[10]

Florida Law Governing Exceptional Student Education

As the state educational agency, the Florida Department of Education (DOE) exercises general supervision over all educational programs for children with disabilities in the state, including all programs administered by other state or local agencies.[11] The DOE's Bureau of Exceptional Education and Student Services (bureau) is responsible for ensuring that the requirements of federal law and the educational requirements of the state are implemented.[12] The bureau is required to examine and evaluate exceptional student education (ESE) procedures, records, and programs; provide information and assistance to school districts; and assist the districts in operating effectively and efficiently.[13]

Individual Education Plan in Florida

For each eligible student or child with a disability served by a school district, or other state agency that provides special education and related services either directly, by contract, or through other arrangements, an IEP or individual family support plan must be developed, reviewed, and revised, as needed.[14] The IEP is the primary vehicle for communicating the school district's commitment to addressing the unique educational needs of a Florida student with a disability.[15]

Students with disabilities must be reevaluated at least once every three years to determine their continuing eligibility for special education and related services.[16] However, a student's parent or teacher may request an IEP team meeting or a reevaluation at any time.[17]

Voluntary Prekindergarten Program

In 2004, the Legislature established the Voluntary Prekindergarten program (VPK), a voluntary, free prekindergarten program offered to eligible four-year-old children in the year before admission to kindergarten. A child must be a Florida resident and attain four years of age on or before September 1 of the program year to be eligible for the VPK program. The child is eligible for the VPK program during that program year or the subsequent program year and remains eligible until enrollment in kindergarten or attaining six years of age by February 1 of any school year. Parents may choose either a school-year program or summer program offered by either a public school or private prekindergarten provider.[18]

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[10] 20 U.S.C. s. 1414(d)
[11] 20 U.S.C. s. 1412(a)(11); 34 C.F.R. s. 300.149.
[12] 34 C.F.R. s. 300.149(a)(1) and (2).
[13] Florida Department of Education, Bureau of Exceptional Student Education and Student Services, *Exceptional Student Education Compliance Protocols 2020-2021, available at* http://www.fldoe.org/core/fileparse.php/7673/urlt/MonitoringIntroduction.pdf at 1.
[14] Rule 6A-6.03028(3), F.A.C.
[15] Florida Department of Education, *Developing Quality Individual Education Plans* (2015), *available at* http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf at 9.
[16] Rule 6A-6.0331(7), F.A.C.
[17] *See* Rule 6A-6.03028, F.A.C.
[18] Section 1002.53, F.S.

Voluntary Prekindergarten Education Programs			
Program Characteristics	**School Year-Programs**		**Summer Program[19]**
	Public School[20]	**Private Prekindergarten[21]**	
Provider Type	Public school	Private prekindergarten provider	Public school or private prekindergarten provider
Minimum Program Length	540 instructional hours	540 instructional hours	300 instructional hours

An additional option for parents of VPK-eligible children with a current IEP is the VPK specialized instructional services (SIS) program.[22] VPK SIS is available outside the traditional VPK classroom setting, and allows a parent to choose specialized services instead of a traditional VPK school year or summer program. The parent can choose services consistent with their child's IEP from an approved VPK SIS provider.[23] Services may include, but are not limited to, applied behavior analysis, speech-language pathology, occupational therapy, physical therapy, and listening and spoken language specialists. Parents and providers work together to complete required forms and the local early learning coalition pays VPK SIS providers directly for services delivered to children in the program based on the schedule of services form.[24]

Funding for each student is the same as for traditional VPK, but based on the rates these specialists charge for their services. Therefore, students in VPK SIS may receive fewer hours of service than students in traditional VPK.[25]

Funding for Prekindergarten Students with Disabilities

Students with disabilities and an IEP may participate in a prekindergarten program offered by a public school district and these students are fully funded in the Florida Education Finance Program (FEFP).

Florida Education Finance Program

In 1973, the Florida Legislature enacted the Florida Education Finance Program (FEFP) "to guarantee to each student in the Florida public educational system the availability of programs and services appropriate to his or her educational needs which are substantially equal to those available to any similar student notwithstanding geographic differences and varying local economic factors."[26] The FEFP allocates funds to each school district based on student

[19] Section 1002.61, F.S.
[20] Section 1002.63, F.S.
[21] Section 1002.55, F.S.
[22] Section 1002.53(3)(d), F.S.
[23] Section 1002.66, F.S.; *see also* rule 6A-6.03033, F.A.C; Florida's Office of Early Learning, *Specialized Instructional Service Providers*, http://www.floridaearlylearning.com/vpk/vpk-providers/specialized-instructional-services-providers (last visited Jan. 31, 2023).
[24] Section 1002.66, F.S.; *see also* rule 6M-8.500, F.A.C.
[25] Section 1002.66, F.S.; *see also* rule 6M-8.500, F.A.C.
[26] Chapter 73-345, Laws of Fla.

enrollment.[27] Students with disabilities and an IEP, attending a public school district prekindergarten exceptional student education (ESE) program, are funded with state and local funds through the FEFP.[28]

Kindergarten Readiness

In 2022-2023 school year, all public and private VPK providers will use a coordinated screening and progress monitoring program (CSPMP) measures learning gains and outcomes based on performance standards in early literacy and mathematics, as well as performance in oral language development, phonological awareness, knowledge of print and letters, decoding, fluency, vocabulary, and comprehension.[29]

For students in the VPK program through grade 2, the CSPMP is administered three times a year by each school district and VPK provider, within the first 30 days of the program year, midyear, and within the last 30 days before the end of the program year.[30] Results of the CSPMP provide data for VPK program accountability, baseline data to the DOE regarding each student's kindergarten readiness, and assess how well educational goals and curricular standards are being met. Results must also identify students with a substantial deficiency in reading, including students with dyslexia and other learning disorders. [31]

A VPK program student who exhibits a substantial deficiency in early literacy skills must be referred to the local school district and may be eligible to receive intensive reading interventions before participating in kindergarten.[32]

Florida Third Grade Student Retention

Florida law provides that to be promoted to grade 4, a student must score a Level 2 or higher on the statewide, standardized English Language Arts[33] assessment for grade 3. However, some grade 3 students who score below a Level 2 may be exempted from the retention requirement and be promoted to grade 4 through a good cause exemption. Florida law provides for several good cause exemptions including specific exceptions for students with disabilities. A student with disabilities may be promoted if the:

- Student's IEP indicates that participation in the statewide assessment program is not appropriate; or
- Student takes the statewide, standardized English Language Arts (ELA) assessment and who have an IEP or a Section 504 plan that reflects that the student has received intensive

[27] Section 1011.62(1)(d)1., F.S.
[28] Florida Department of Education, Bureau of School Business Services, Office of Funding and Financial Reporting, *Funding for Florida School Districts 2022-23* (2022), *available at* https://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf.
[29] Section 1008.25(8)(a), F.S.; *See* also Section 1002.68, F.S.
[30] Section 1008.25(8)(b)1., F.S.; Rule 6M-8.620, F.A.C. The DOE contracts with Renaissance Learning, Inc. to implement the CSPMP as Florida's Assessment of Student Thinking (FAST) using Star Early Literacy. *See* Florida Department of Education, Division of Early Learning, *Florida's Assessment of Student Thinking (FAST) using Star Early Literacy* (May 20, 2022), *available at* https://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/DEL%20Memo-%20FAST%20-Star%20Early%20Literacy.pdf.
[31] Section 1008.25(8)(a), F.S.
[32] Section 1008.25(5)(b), F.S.
[33] Section 1008.22, F.S.

instruction in reading or ELA for more than 2 years but still demonstrates a deficiency and was previously retained in kindergarten or grades 1, 2, or 3. [34]

III. Effect of Proposed Changes:

CS/SB 290 modifies s. 1008.25, F.S., to allow the parent of a student with disabilities who is enrolled in a public school prekindergarten program at the age of four and who is fully funded through the Florida Education Finance Program (FEFP), the authority, in consultation with the individual education plan team, to retain their child. If such student is retained, and the student demonstrates a substantial deficiency in early literacy skills, the bill requires the student to receive instruction in such skills.

The bill also revises the "good cause exemptions" from mandatory retention by allowing a student in grade 3, with a learning disability and who is severely below grade-level, be promoted to grade 4, if the student was retained in a prekindergarten program.

The bill provides that a student who has been retained in a voluntary prekindergarten education program and who exhibits a substantial deficiency in early literacy skills based on the results of the administration of the final coordinated screening and progress monitoring must be referred to the local school district and may be eligible to receive instruction in such skills before participating in kindergarten.

This bill takes effect on July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

[34] Section 1008.25, F.S. *See* Section 1008.212(2), F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1008.25 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Education Pre-K – 12 on March 14, 2023:
The committee substitute removes the term "intensive reading interventions" and replaces it with "instruction in early literacy skills."

The committee substitute also removes an unnecessary cross-reference.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committee on Education Pre-K -12; and Senators Jones and Berman

581-02536-23 2023290c1

A bill to be entitled

An act relating to public school student progression for students with disabilities; amending s. 1008.25, F.S.; requiring comprehensive plans for student progression to provide for specified students with disabilities to be retained in prekindergarten at the discretion of a student's parent; authorizing certain prekindergarten students to receive instruction in early literacy skills, rather than intensive reading interventions; requiring certain prekindergarten students to receive such instruction; revising the requirements for certain students with disabilities to receive a good cause exemption from mandatory retention in grade 3; providing an effective date.

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

Section 1. Paragraph (b) of subsection (5) and paragraph (b) of subsection (6) of section 1008.25, Florida Statutes, are amended, and paragraph (g) is added to subsection (2) of that section, to read:

1008.25 Public school student progression; student support; coordinated screening and progress monitoring; reporting requirements.—

(2) STUDENT PROGRESSION PLAN.—Each district school board shall establish a comprehensive plan for student progression which must provide for a student's progression from one grade to another based on the student's mastery of the standards in s. 1003.41, specifically English Language Arts, mathematics,

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

581-02536-23 2023290c1

science, and social studies standards. The plan must:

(g) Allow the parent of a student with disabilities who is enrolled in prekindergarten at the age of 4 and is fully funded through the Florida Education Finance Program to retain his or her child in consultation with the individual education plan team.

(5) READING DEFICIENCY AND PARENTAL NOTIFICATION.—

(b) A Voluntary Prekindergarten Education Program student who exhibits a substantial deficiency in early literacy skills in accordance with the standards under s. 1002.67(1)(a) and based upon the results of the administration of the final coordinated screening and progress monitoring under subsection (8) shall be referred to the local school district and may be eligible to receive instruction in early literacy skills ~~intensive reading interventions~~ before participating in kindergarten. A student with an individual education plan who has been retained pursuant to paragraph (2)(g) and has demonstrated a substantial deficiency in early literacy skills must receive instruction in early literacy skills. Such instruction in early literacy skills ~~intensive reading interventions~~ shall be paid for using funds from the district's evidence-based reading instruction allocation in accordance with s. 1011.62(8).

(6) ELIMINATION OF SOCIAL PROMOTION.—

(b) The district school board may only exempt students from mandatory retention, as provided in paragraph (5)(c), for good cause. A student who is promoted to grade 4 with a good cause exemption shall be provided intensive reading instruction and intervention that include specialized diagnostic information and specific reading strategies to meet the needs of each student so

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promoted. The school district shall assist schools and teachers with the implementation of explicit, systematic, and multisensory reading instruction and intervention strategies for students promoted with a good cause exemption which research has shown to be successful in improving reading among students who have reading difficulties. Good cause exemptions are limited to the following:

1. Limited English proficient students who have had less than 2 years of instruction in an English for Speakers of Other Languages program based on the initial date of entry into a school in the United States.

2. Students with disabilities whose individual education plan indicates that participation in the statewide assessment program is not appropriate, consistent with the requirements of s. 1008.212.

3. Students who demonstrate an acceptable level of performance on an alternative standardized reading or English Language Arts assessment approved by the State Board of Education.

4. A student who demonstrates through a student portfolio that he or she is performing at least at Level 2 on the statewide, standardized English Language Arts assessment.

5. Students with disabilities who take the statewide, standardized English Language Arts assessment and who have an individual education plan or a Section 504 plan that reflects that the student has received intensive instruction in reading or English Language Arts for more than 2 years but still demonstrates a deficiency and was previously retained in prekindergarten, kindergarten, grade 1, grade 2, or grade 3.

6. Students who have received intensive reading intervention for 2 or more years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, grade 1, grade 2, or grade 3 for a total of 2 years. A student may not be retained more than once in grade 3.

Section 2. This act shall take effect July 1, 2023.

The Florida Senate

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4/13/23
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Fiscal Policy
Committee

SB 0290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Wendy CAREY

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City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

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FISCAL POLICY
Committee

290
Bill Number or Topic

Amendment Barcode (if applicable)

Name ROBERT CHAPMAN Phone

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Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

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4/13/23	SB 290
Meeting Date	Bill Number or Topic
Fiscal Policy	
Committee	Amendment Barcode (if applicable)

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City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Education Association

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Fiscal Policy
Committee

SB 290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Stephanie Yocum

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Address 730 E. Davidson St
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Email

Bartow FL 33830
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** **Waive Speaking:** ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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Meeting Date

Fin. Policy
Committee

SB 290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jay Botello

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Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

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04/13/2023
Meeting Date

Fiscal
Committee

290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Pete Harris

Phone

Address

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Street

Polk City FL 33868
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4-13-23
Meeting Date

Fiscal Policy
Committee

SB 290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Helen Hamel

Phone

Address
Street
Summerfield FL 34491
City State Zip

Email

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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Fiscal Policy
Committee

SB 290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Patrick Strong

Phone

Email Phsgtp@aol.com

Address
Street

Baker FL 32531
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

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4/13/23
Meeting Date

FISCAL policy
Committee

290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barry Tillis

Phone

Address

Email

Street

Orlando FL 32809
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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4/13/2023
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Fiscal
Committee

SB 290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Serena James

Phone

Address
Street

Email

Orlando FL 32839
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

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4.13.2023
Meeting Date

Fiscal Policy
Committee

SB 290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Darzell Warren

Phone 850 266-4547

Address 8410 Ferlon Ave
Street

Email jade2721@aol.com

Pensacola FL 32526
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lisa Massero

Phone 352-397-9276

Address 15468 Burbank Dr.
Street

Brooksville, FL 34604
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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4/13/23
Meeting Date

SB 290
Bill Number or Topic

Fin APP
Committee

Amendment Barcode (if applicable)

Name Kevin DALY Phone

Address Email

Street

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

4/13/23
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Committee

The Florida Senate

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SB 290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kiara DeCoursey

Phone 352 317 5998

Address
Street

Email

Belle Glade FL 33430
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

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S-001 (08/10/2021)

The Florida Senate

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April 13, 2023
Meeting Date

R Fiscal Policy
Committee

290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Felicia Hampshire

Phone 904-622-7903

Address 508 Franklin Street
Street

Email Caimenia@gmail.com

Green Cove Springs, FL
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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4-13-23
Meeting Date

Fiscal
Committee

290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Janice Poirier

Phone

Address

Email

Street

Jupiter FL 33458
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

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4/13/23
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Fiscal Policy
Committee

290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Gilda Morgan-Williams Phone

Address 1459 North Magnolia Circle Email
Street

WPB FL 33401
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

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4-13-23
Meeting Date

Fiscal Policy
Committee

290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Vanessa Tillman

Phone

Address
Street

Email

Ft. Pierce, FL 34982
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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4/13/23
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Fiscal Policy
Committee

290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Mark Motl

Phone 386-916-9275

Address 115 Vintage Ln
Street

Palatka FL 32177
City State Zip

Email mamotl@gmail.com

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ I am a registered lobbyist, representing:

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4-13-23
Meeting Date

Fiscal Policy
Committee

SB 0290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Roderick Wilson

Phone

Address
Street

Email

Cape Coral 33909
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

The Florida Senate

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4-13-23
Meeting Date

Fiscal Policy
Committee

SB290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lorraine Rendon

Phone

Address
Street

Email

Rockledge FL 32955
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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4-13-23
Meeting Date

FISCAL POLICY
Committee

SB 290
Bill Number or Topic

Amendment Barcode (if applicable)

Name FERNANDO RENDON

Phone

Address
Street

Email

ROCKLEDGE FL 32955
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ I am a registered lobbyist, representing:

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4/13/23
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Fiscal Policy
Committee

SB 290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lare Allen

Phone

Address 3331 Primrose Willow
Street
Saint Cloud FL 34773
City State Zip

Email Nstivedeals@gmail.com

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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04/13/23
Meeting Date

Fiscal Policy
Committee

290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Brian E. Hudson

Phone 386-585-5297

Address 73 Buttonwood Dr unit B
Street

Email brianhudson@gmail.com

Palm Coast FL 32137
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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4/13/23
Meeting Date

Fiscal
Committee

SB 290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Michael Greenan

Phone (352) 478-9621

Address 1235 S.W. Pointview
Street

Keystone Heights FL 32656
City State Zip

Email mikegreenan@hotmail.com

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

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The Florida Senate

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SB 290
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Eric Rodriguez

Phone

Address

Email

Street

Live Oak FL

City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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Deliver both copies of this form to
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April 13, 2023
Meeting Date

Fiscal Policy
Committee

290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Dr. Linda Hull-Pendone

Phone

Address
Street
Land O Lakes, FL 34638
City State Zip

Email

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4-13-23
Meeting Date

Fiscal Policy
Committee

290
Bill Number or Topic

Amendment Barcode (if applicable)

Name André Brown

Phone 305-987-3879

Address 19031 N.W. 7ct
Street

Miami FL 33169
City State Zip

Email

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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4/13/23
Meeting Date

296
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name James F. Birkett Jr

Phone 786-416-2118

Address 3011 N.W. 186 Ter
Street

Email Jbirkettjr88@gmail.com

Miami Gardens FL 33056
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

4/13/23
Meeting Date

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

290
Bill Number or Topic

FISCAL POLICY
Committee

Amendment Barcode (if applicable)

Name Shawntrel Jackson Phone 3056067964

Address 15755 N.E 6th Ave C319 Email
Street

Miami FL 33162
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ ~~I am~~ appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

4/13/23
Meeting Date

Fiscal Policy
Committee

290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Joseph D'Elia Phone

Address 19377 NE 10 avenue 501 Email
Street

Miami FL 33179
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

SB 290
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name N. Sabrina Gates Phone

Address Email

Street

Lithia, FL 33547

City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

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04/13/2023
Meeting Date

S. Fiscal Policy
Committee

290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Victoria Zepp

Phone 850-241-6309

Address 310 W. College Ave.
Street

Email victoria@team180.com

Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ I am a registered lobbyist, representing:

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S-001 (08/10/2021)

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kelley Stephenson

Phone 850 585 9594

Address 261 Wee Acres Rd
Street

Email kelleystephenson@gmail.com

DeFuniak Springs, FL 32433
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by: FEA

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S-001 (08/10/2021)

The Florida Senate

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4/13/23
Meeting Date

SB290
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Marian Phillips

Phone 904-206-0230

Address 724 S. 6th St
Street

Email Islandgirl79@comcast.net

Fernandina Beach Fl 32034
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Nancy Lawther, Ph.D. (Florida PTA) Phone 407 855-7604

Address 1747 Orlando Central Pkwy Email legislation@flpta.org
Street

Orlando FL 32809
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:
Florida PTA

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 290
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jean Federico

Phone

Address
Street

Email

City *State* *Zip*

Speaking: [X] For [ ] Against [ ] Information **OR** Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

[X] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/SB 302
INTRODUCER:	Banking and Insurance Committee and Senator Grall
SUBJECT:	Government and Corporate Activism
DATE:	April 12, 2023
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Knudson	BI	**Fav/CS**
2.	Moody	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 302 addresses the provision of products and services by financial institutions, the investment of certain state and local government funds, the issuance of environmental, social, and governance (ESG) bonds, and procurement of and contracting with vendor's by certain state and local entities and educational institutions.

Financial Institutions

The bill requires financial institutions, consumer finance lenders, and money services businesses, to make decisions about the provision or denial of services based on an analysis of risk factors unique to each customer, and prohibits them from engaging in any "unsafe and unsound practice" or applying a "social credit score" when making determinations about the provision of services. Upon application or renewal, such entities to attest must attest to compliance with these provisions. They are subject to penalties and sanctions for violating any of these provisions.

Government Investments

The bill codifies and expands the program adopted by the State Board of Administration last year that requires, with limited exceptions, investments of certain state and local funds to be based solely on pecuniary factors and not on the furtherance of any social, political, or ideological interests. The expansion applies to all funds of state Treasury, all local government retirement plans, investments of local government surplus funds, and investment of funds raised by citizen support or direct-support organizations. The bill prohibits the person or entity responsible for

making investment decisions from subordinating the interests of the beneficiaries to other objectives, and requires the weight given to any pecuniary factor to appropriately reflect a prudent assessment of its impact on risk or returns. Investment policies are required to be updated to incorporate these requirements.

State and local retirement systems must report compliance with these requirements on a biennial basis, and provides the Attorney General with authority to seek an injunction against any violators.

Investment managers who invest public funds on behalf of state and local funds must include a specified disclaimer in certain external communications that discuss social, political, or ideological interests. On or after July 1, 2023, contracts with investment managers may be unilaterally terminated in certain circumstances. Investment managers are subject to sanctions if they fail to comply with the new provisions under the bill.

Bond Financing

The bill prohibits specified state and local issuers from:

- Issuing ESG bonds;
- Expending public funds or use money derived from the issuance of bonds to pay a third-party verifier to certify or verify that bonds may be designated or labeled as ESG bonds;
- Entering into a contract with any rating agency whose ESG scores would have a direct, negative impact on the issuer's bond ratings.

The bill applies to any bonds issued or to any agreement entered into or any contract executed on or after July 1, 2023.

Procurement and Contracting with Vendors

Beginning July 1, 2023, certain state and local government entities, and educational institutions, are prohibited from giving preference to a vendor based on the vendor's social, political, or ideological interests when procuring or contracting with them. Such entities may not request documentation relating to a vendor's social, political, or ideological interests, and any solicitation for purchases or leases must notify vendors of these provisions.

The bill reenacts ss. 17.61 and 215.44, F.S.

See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Environmental, social, and governance (ESG) are non-financial risks that are used by some institutions and investment managers when making investment decisions. Examples of environmental factors include greenhouse gases and air or water and ground pollution emissions. Social practices considered include product liabilities, supply chain labor, and health and safety

standards. Governance factors include shareholder rights, board diversity, executive compensation, and corporate board behavior such as anti-competitive practices and corruption.[1]

JP Morgan reports that over $500 billion flowed into ESG-integrated funds in 2021.[2] According to Broadridge Financial Solutions, ESG assets are forecasted to exceed $30 trillion by 2030.[3]

Financial Institutions

Dual Oversight of Depository Institutions

An institution must have a federal or state charter to accept deposits. Banks are chartered and regulated as national banks by the Office of the Comptroller of the Currency within the U.S. Department of the Treasury or as state banks by a state regulator.[4]

The Florida Financial Institutions Codes apply to all state-authorized or state-chartered financial banks, trust companies, credit unions and related entities.[5] The Office of Financial Regulation (OFR) licenses and regulates 197 financial entities, including 69 state-chartered banks and 66 state-chartered credit unions.[6] There are also 33 federally-chartered banks and 63 federally chartered credit unions operating in Florida.[7]

Due to federal preemptions, a state's regulatory powers in relation to federally chartered institutions is limited. However, the state may exercise powers within their exceptions to exclusive federal visitorial authority. Such exceptions are those recognized by federal law and courts of law or created by the U.S. Congress.[8]

Once a financial institution obtains a charter, one of the regulator's primary task is to ensure solvency which is achieved by conducting financial exams of its licensed entities. Financial institutions also need approval from their regulator to make changes in their upper management, merge with another company, pay dividends to shareholders, engage in material transactions with subsidiaries and affiliates, or make significant changes to their business operations.[9]

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[1] Deloitte, *#1 What is ESG?*, available at: #1 What is ESG? (deloitte.com) (last visited Mar. 26, 2023).
[2] Wu, J., *Five Reasons Why the Future of ESG Investing is Long Term*, JP Morgan, Jan. 1, 2022, available at: ESG Outlook 2022: The future of ESG investing | J.P. Morgan Asset Management | J.P. Morgan Asset Management (jpmorgan.com) (last visited Mar. 26, 2023).
[3] Green, A., *The Future of ESG Investing*, Forbes, Feb. 16, 2022, available at: The Future Of ESG Investing (forbes.com) (last visited Mar. 26, 2023).
[4] Congressional Research Service, *Introduction to Financial Services: Banking*, p. 1, Jan. 5, 2023, available at: https://crsreports.congress.gov/product/pdf/IF/IF10035 (last visited Mar. 26, 2023).
[5] Section 655.005(1)(k), F.S., states that the Financial Institutions Codes includes: Ch. 655, financial institutions generally; Ch. 657, credit unions; Ch. 658, banks and trust companies; Ch. 660, trust business; Ch. 662, family trust companies; Ch. 663, international banking; Ch. 665, relating to associations; and Ch. 667, savings banks.
[6] Office of Financial Regulation, *Fast Facts* (2021 ed.), available at: FastFacts.pdf (flofr.gov) (last visited Mar. 26, 2023).
[7] *Id*.
[8] 12 C.F.R. § 7.4000 (2011).
[9] For a detailed discussion of the regulatory framework, see, Congressional Research Service, *Who Regulates Whom? An Overview of the U.S. Financial Regulatory Framework*, March 10, 2020, available at: https://crsreports.congress.gov/product/pdf/R/R44918/7 (last visited Feb. 13, 2023). Also see ss. 655.037, 655.0385, 655.0386, 655.03855, and 655.412, F.S.

Banks chartered by OFR must become ~~a~~ members of the Federal Reserve or obtain insurance from the Federal Deposit Insurance Corporation.[10] Credit Unions chartered by OFR must insure their accounts by becoming a member of the National Credit Union Administration.[11] Thus, state-chartered banks and credit unions are subject to a dual-regulatory system.

OFR must examine the condition of each state-chartered financial institution at least every 18 months, and may conduct more frequent examinations as needed, based on risks associated with a licensee, such as prior examination results or significant operational changes.[12] When a state-chartered financial institution also has a federal regulator, OFR may accept an examination performed by the federal regulator or the regulators may conduct a joint examination.[13]

Financial institutions that become insolvent are liquidated by their primary regulator.[14]

Authority of OFR

OFR may impose administrative sanctions on financial institutions subject to the Florida Financial Institutions Codes that engage in an "unsafe or unsound practice." This term is defined at s. 655.005(1)(y), F.S., which states:

> "Unsafe or unsound practice" means any practice or conduct found by the office to be contrary to generally accepted standards applicable to a financial institution, or a violation of any prior agreement in writing or order of a state or federal regulatory agency, which practice, conduct, or violation creates the likelihood of loss, insolvency, or dissipation of assets or otherwise prejudices the interest of the financial institution or its depositors or members. In making this determination, the office must consider the size and condition of the financial institution, the gravity of the violation, and the prior conduct of the person or institution involved.

Possible penalties include: issuance of a cease and desist order,[15] removal of an institution-affiliated party,[16] administrative fines,[17] and a court-ordered injunction to restrain conduct that violates a formal enforcement action.[18] When imposing a sanction or requiring a remedy, OFR must consider "the appropriateness of the penalty with respect to the size of the financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require."[19]

[10] Sections 658.22 and 658.38, F.S.
[11] Sections 657.005 and 657.008, F.S.
[12] Section 655.045(1), F.S.
[13] Section 655.045(1)(a), F.S.
[14] Sections 657.063, 657.064, 658.83, and 660.48, F.S.
[15] Section 655.033, F.S.
[16] Section 655.037, F.S.
[17] Section 655.041, F.S.
[18] Section 655.034, F.S.
[19] Section 655.031(1), F.S.

OFR may impose monetary fines if a licensee violates a provision of the financial institutions codes or associated rules, an order of the office, or a written agreement with the office.[20] In general, administrative fines may not exceed $2,500 per day for each violation.[21] Larger fines are allowed in the following circumstances:

- Up to $10,000 per day for each reckless violation that result in more than a minimal loss to a financial institution or pecuniary benefit to the person liable for the violation;[22]
- Up to the lesser of $500,000 per day or 1 percent of the total assets in the case of a financial institution, or $50,000 per day in any other case, for knowing violations that result in more than a minimal loss to a financial institution or pecuniary benefit to the person liable for the violation;[23] and
- Up to $10,000 per day for any financial institution that refuses to permit an examination.[24]

Criminal violations – like embezzlement and fraud – may be prosecuted under the penal code.[25]

OFR has authority to monitor state-chartered banks, to ensure compliance with state and federal laws, and may enforce state consumer protection laws on federally chartered banks operating within their boundaries so long as the state law is not pre-empted by federal law.[26] Federal pre-emption permits federally chartered banks and savings associations to operate under a uniform set of rules when they operate across state lines.[27]

When a state chartered financial institution encounters a competitive disadvantage caused by state law in relation to the capacities and powers allowed to federally chartered institutions, OFR may issue an order or a rule waiving the state law causing the competitive imbalance.[28]

Non-Depository Financial Institutions

Consumer finance lenders and money services businesses are non-depository lenders that profit from fees charged on such loans or transactions. OFR has regulatory authority over consumer finance lenders that offer consumers finance products or services.[29] Consumer finance lenders are required to obtain a license from OFR that must be renewed every two years to conduct

[20] Section 655.041, F.S.
[21] Section 655.041(2), F.S.
[22] Section 655.041(2)(a), F.S.
[23] Section 655.041(2)(b), F.S.
[24] Section 655.041(2)(c), F.S. Rule 69U-100.0451, F.A.C, discusses fees that may be assessed to cover the costs of examinations.
[25] Section 655.0322, F.S.
[26] 12 U.S.C. 25b.
[27] U.S. Department of the Treasury, Office of the Comptroller of the Currency, *OCC Chief Counsel's Interpretation: 12 U.S.S. §25b*, Dec. 18, 2020, available at: https://www.occ.gov/news-issuances/news-releases/2020/nr-occ-2020-176a.pdf (last visited Mar. 26, 2023).
[28] Section 655.061, F.S.
[29] Section 516.01(2), F.S., defines "consumer finance loans" as a loan of money, credit, goods, or choses in action, including, except as otherwise specifically indicated, provision of a line of credit, in an amount or to a value of $25,000 or less for which the lender charges, contracts for, collects, or receives interest at a rate greater than 18 percent per annum.

business in Florida.[30] Each location of a consumer finance company must be licensed by OFR, even if the separate locations are part of the same business entity.[31]
Consumer finance lenders may make secured or unsecured loans of up to $25,000 at interest rates between 18 and 30 percent per year.[32] OFR investigates consumer complaints to ensure that consumer finance lenders are licensed to purchase or hold retail installment contracts and comply with fair lending laws.[33] Administrative sanctions for consumer finance lenders may include suspension or revocation of a license, a written reprimand, or a fine of up to $1,000 for each violation.[34] Certain violations, such as violating fair lending laws or operating without a license, may be prosecuted as a first-degree misdemeanor.[35]

OFR also has regulatory authority over money services businesses[36] that assist consumers in transacting instruments, transmitting money,[37] cashing checks,[38] and exchanging foreign currency.[39] Examples include check cashers like The Check Cashing Store,[40] money transmitters like PayPal,[41] and exchangers like Florida Currency Exchange.[42] Money services businesses also include "payday lenders" who offer short-term, high-interest loans that are due on the consumer's next pay day. Two types of payday loans are allowed in Florida:

- The lender provides cash in exchange for the borrower's check (up to $500) and agrees to hold the check for 7 to 31 days before cashing the check. Fees may not exceed 10 percent of the payment to the borrower plus a $5 verification fee.

[30] Section 516.02(1), F.S.
[31] Section 516.05, F.S.
[32] Section 516.02(2)(a), F.S.
[33] Sections 516.11, 516.15, 516.26, 516.31 and 516.35, F.S.
[34] Section 516.07(2), F.S. A first degree misdemeanor is punishable by up to one year in imprisonment or a $1,000 fine as provide in s. 775.082, F.S., or s. 775.083, F.S.
[35] Section 516.19, F.S.
[36] Section 560.103(23), F.S., defines "money services businesses" as any person located in or doing business in this state, from this state, or into this state from locations outside this state or country who acts as a payment instrument seller, foreign currency exchanger, check casher, or money transmitter.
[37] Section 560.105, F.S. Section 560.103(24), F.S., defines "money transmitter" as a corporation, limited liability corporation, limited liability partnership, or foreign entity qualified to do business in this state which receives currency, monetary value, a payment instrument, or virtual currency for the purpose of acting as an intermediary to transmit currency, monetary value, a payment instrument, or virtual currency from one person to another location or person by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services or other businesses that facilitate such transfer within this country, or to or from this country. The term includes only an intermediary that has the ability to unilaterally execute or indefinitely prevent a transaction.
[38] Section 560.103(6), F.S., defines "check casher" as a person who sells currency in exchange for payment instruments received, except travelers checks. Section 560.103(29), F.S., defines "payment instrument" as a check, draft, warrant, money order, travelers check, electronic instrument, or other instrument used for the transmission, exchange, or payment of currency or monetary value, regardless of whether it is negotiable. The term does not include an instrument that is redeemable by the issuer in merchandise or service, a credit card voucher, or a letter of credit.
[39] Section 560.103(18), F.S., defines "foreign currency exchanger" as a person who exchanges, for compensation, currency of the United States or a foreign government to currency of another government.
[40] The Check Cashing Store, *Home*, available at: The Check Cashing Store®: Check Cashing, Mobile Check Cashing, Loans, Personal and Small Business services, Money Orders, Pre Paid Debit Cards, and Western Union Money Transfers (last visited Mar. 26, 2023).
[41] PayPal, *Home*, available at: Digital Wallets, Money Management, and More | PayPal US (last visited Mar. 26, 2023).
[42] Florida Currency Exchange, *Home*, available at: Florida, Texas, Utah Currency Exchange | Foreign Currency Exchange (flcurrencyexchange.com) (last visited Mar. 26, 2023).

- The lender provides cash in exchange for the borrower's check (up to $1,000) and the borrower repays the loan in installments. The term of the loan is 60-90 days. The lender may charge a $5 verification fee and 8 percent of the balance on a biweekly basis.[43]

Money services businesses must maintain accounts in permissible investments that equals at least the amount of all outstanding money transmissions and payment instruments sold by the licensee or an authorized vendor.[44,45] OFR also monitors the check cashing practices of money services businesses to verify corporate records, determine compliance with workers' compensation laws,[46] and to ensure compliance with fair debt collection laws.[47] Administrative sanctions for money services businesses may include issuance of a Cease and Desist Order, removal of an Institution-Affiliated Party, suspension or revocation of a license, an injunction, or a fine of at least $1,000 but not more than $10,000 for each violation.[48] Money laundering may be prosecuted under state or federal law.[49]

Qualified Public Depositories

Unless a specific exemption applies, state and local governments must deposit public funds in a bank or savings association that has been designated as a qualified public depository (QPD) under the Florida Security for Public Deposits Act.[50]

To be designated as a QPD by the CFO, a bank, savings bank, or savings association must:

- Have authority to accept deposits because it has been chartered and regulated by the state or federal government;
- Have its principal place of business in Florida, or a branch office in Florida;
- Have deposit insurance pursuant to the Federal Deposit Insurance Act;[51]
- Have procedures and practices for accurate identification, classification, reporting, and collateralization of public deposits; and
- Meet all the requirements of ch. 280, F.S., relating to security for public deposits.[52]

QPDs must secure public deposits with a pledge of eligible collateral, to protect the deposit against losses that could occur in the event of insolvency or default.[53] The amount collateral required is based on statutory guidelines and the QPD's overall financial condition.[54]

[43] Section 560.404, F.S.
[44] Section 560.103(3), F.S., defines "authorized vendor" as a person designated by a money services business licensed under part II of ch. 560, F.S., to act on behalf of the licensee at locations in Florida pursuant to a written contract with the licensee.
[45] Section 560.210, F.S.
[46] Section 560.310(5)(b), F.S.
[47] Section 560.309, F.S.
[48] Sections 560.114 and 560.113, F.S.
[49] Sections 560.111 and 560.123, F.S
[50] Sections 280.01 and 280.03(1)(b), F.S. Certain public deposits, including those that are fully collateralized under other laws and moneys contributions to the state retirement system that are held in the System Trust Fund, are exempt pursuant to s. 280.03(3), F.S.
[51] 12 U.S.C. ss. 1811 et. seq.
[52] Section 280.02(26), F.S.
[53] Sections 280.04 and 280.041(6), F.S.
[54] Section 280.04, F.S., and Rule 69C-2.024, F.A.C.

Public deposits include, but are not limited to, time deposit accounts, demand deposit accounts, and nonnegotiable certificates of deposits; they do not include moneys in deposit notes, securities, mutual funds, and similar investments.[55]

A bank or savings association must guaranty public depositors against losses caused by the default or insolvency of other QPDs.[56] Any shortfall that is not covered by the maximum federal deposit insurance of $250,000, the CFO must demand payment under letters of credit or the sale of pledged or deposited collateral by the defaulting depository. The CFO may assess QPDs for the total loss if the demand for payment or sale cannot be accomplished within 7 days.[57]

As of May 20, 2022, Florida had 118 authorized QPDs.[58] These QPDs include 23 of the 28 federally chartered banks and trusts that operate in Florida.[59]

Government Investments

State Board of Administration

The State Board of Administration (SBA) was created by the Florida Constitution and serves as the state's independent investment management organization, with authority over 30 funds collectively valued at about $228 billion as of June 30, 2022, including the state's pension and investment plans for public employees, which accounts for 79 percent of assets under management.[60] Other funds under management include the Florida Hurricane Catastrophe Fund, Department of the Lottery Fund, Florida Prepaid College and Florida College Investment Plan, FSU Research Foundation, Florida PRIME (surplus funds of local governments) and the Police and Firefighters' Premium Tax Trust Fund.[61] The Governor, Chief Financial Officer, and Attorney General serve as the SBA's Board of Trustees (Trustees), and delegate operational authority to an executive director and chief investment officer, who oversee about 200 employees.[62] A nine-member Investment Advisory Council provides guidance on investment policy and strategy.[63]

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[55] Section 280.02(23), F.S.
[56] Section 280.07, F.S.
[57] Section 280.08, F.S.
[58] Florida Department of Financial Services, Division of the Treasury, *List of Active QPDs*, May 20, 2022, available at: List of Active QPDs.xlsx (myfloridacfo.com) (last visited Mar. 26, 2023).
[59] U.S. Department of the Treasury, Office of the Comptroller of the Currency, *Financial Institution Lists*, available at: https://www.occ.treas.gov/topics/charters-and-licensing/financial-institution-lists/index-financial-institution-lists.html (last visited Mar. 26, 2023).
[60] Art. IV, s. 4(e) Fla. Const. (1968); State Board of Administration, *Summary Overview of the State Board of Administration of Florida*, available at: https://www.sbafla.com/fsb/Portals/FSB/Content/Topics/SBAOverview_20211025.pdf?ver=2021-10-28-120954-217 (last visited Mar. 26, 2023); State Board of Administration, *Performance Report Month Ending June 30, 2022*, available at: https://www.sbafla.com/fsb/Portals/FSB/Content/Trustees/2022/June%202022%20Monthly%20Trustee%20Report.pdf?ver=2022-08-24-133206-397 (last visited Mar. 26, 2023).
[61] A full list of SBA-managed investment funds is available at https://www.sbafla.com/fsb/FundsWeManage.aspx (last visited Mar. 26, 2023).
[62] Section 215.44, F.S.; *Summary Overview of the State Board of Administration of Florida*, supra footnote 60.
[63] Section 215.444(2), F.S.

In August 2022, the Trustees directed the SBA to invest funds in a manner that prioritizes the highest return on investment, without consideration of social, political, or ideological interests.[64] A resolution adopted by the Trustees directed the SBA to amend the Investment Policy Statement (IPS) for the Florida Retirement System Defined Benefit Plan to require that investment decisions be based solely on pecuniary factors.[65] By law, the IPS must clearly state its investment objectives, identify the types of securities the plan may invest in, and the evaluation criteria that will be used to measure fund performance.[66] Investment managers who invest public funds on behalf of the board certify compliance with the IPS annually.[67] The resolution further states that the Trustees, when exercising shareholder rights, including the voting of proxies, may not subordinate the interests of the participants and beneficiaries to other objectives and may not sacrifice investment return or take on additional investment risk to promote non-pecuniary factors.[68]

In December 2021, the Trustees directed the SBA to reclaim proxy voting authority that had been given to large financial firms and provide additional guidance to employees who are responsible for proxy voting and investment decisions.[69] During fiscal year 2021, SBA staff cast votes at 10,174 companies in 76 countries, voting on ballot items including director elections, audit firm ratification, executive compensation plans, mergers and acquisitions, and a variety of other management and shareowner proposals.[70] Of all votes cast, 17.5 percent were "against" the recommendation of company management.[71]

State General Revenue and Trust Funds

The Chief Financial Officer (CFO) is responsible for the investment of state general revenue and trust funds.[72] Interest earnings are allocated to the general revenue fund, trust funds, and Special Purpose Investment accounts.[73] A five-member Treasury Investment Council provides guidance on investment policy and strategy.[74]

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[64] The State Board of Administration, *A Resolution Directing an Update to the Investment Policy Statement and Proxy Voting Policies for the Florida Retirement System Defined Benefit Plan, and Directing the Organization and Execution of an Internal Review*, Aug. 23, 2022, available at: ESG-Resolution-Final.pdf (flgov.com) last visited (Mar. 26, 2023).
[65] Office of the Governor, *Governor DeSantis Eliminates ESG Considerations from State Pension Investments*, Aug. 23, 2022, available at: https://www.flgov.com/2022/08/23/governor-ron-desantis-eliminates-esg-considerations-from-state-pension-investments/ (last visited Mar. 26, 2023).
[66] Section 215.475, F.S.
[67] Section 215.4755(1), F.S.
[68] Officer of the Governor, *Governor DeSantis Eliminates ESG Considerations from State Pension Investments*, supra footnote 64.
[69] Office of the Governor, *Governor Ron DeSantis Takes Action Against Communist China and Woke Corporations*, Dec. 20, 2021, available at: https://www.flgov.com/2021/12/20/governor-ron-desantis-takes-action-against-communist-china-and-woke-corporations/ (last visited Mar. 26, 2023).
[70] State Board of Administration, *2022 Corporate Governance Summary Report*, available at: 2020-2021_AIR.pdf (sbafla.com) (last visited Mar. 26, 2023).
[71] *Id*.
[72] Section 17.61, F.S. This includes funds of each state agency and of the judicial branch; and funds of all boards, associations, and entities created by the Florida Constitution or by law.
[73] Florida Department of Financial Services, Treasury Investment Pool, available at: https://www.myfloridacfo.com/division/treasury/treasury-investment-pool (last visited Mar. 26, 2023).
[74] *Id*.

Local Government Retirement Plans

The Department of Management Services (DMS) monitors and oversees 487 retirement plans of municipalities, special districts, and school boards, to ensure they are actuarially sound.[75] Local governments must adopt a written investment policy that is structured to maximize the financial return on investments and complies with the investment limitations that apply to funds managed by the SBA and to establish and maintain appropriate diversification of assets.[76] State law includes special requirements for police and firefighter retirement plans; investments for these trust funds are managed by the local board of trustees and are subject to similar investment policies applicable to state funds.[77]

Local Government Surplus Funds

There are several investment vehicles for surplus funds of local governments.[78]

The SBA manages Florida PRIME (the Local Government Surplus Funds Trust Fund), which invests surplus funds of 756 units of local government in accordance with the investment restrictions that apply to the investment of state funds.[79]

Two other investment pools were created by interlocal agreements.[80] The Florida Association of Counties and the Florida Court Clerks & Comptrollers created the Florida Local Government Investment Trust, which offers public entities the choice of two professionally managed investment funds.[81] The cities of Bradenton, Lauderhill, and Palatka created The Florida Municipal Investment Trust, which offers local governments the choice of a real estate portfolio, three equity portfolios, and six fixed income portfolios.[82]

Local government surplus funds must be invested consistent with the written investment plan adopted by a governing board or principal officer of the local government entity. In accordance with the written investment plan, local government entities may by resolution only invest surplus public funds in Florida PRIME, an intergovernmental investment pool, registered money market funds, interest bearing time deposits or savings accounts in qualified public depositories designated by the CFO, direct obligations of the U.S. Treasury, federal agencies and instrumentalities, rated or unrated bonds, notes, or instruments backed by Israel, or certain securities of investment companies or investment trusts.[83]

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[75] Florida Department of Management Services, *Florida Local Government Retirement Systems 2022 Annual Report*, available at: 2022_Local_Report.pdf (fl.gov) (last visited Mar. 26, 2023).
[76] Section 112.661, F.S.
[77] Sections 175.071 and 185.06, F.S.
[78] Section 218.403(11), F.S., states: "'Unit of local government' means any governmental entity within the state not part of state government and shall include, but not be limited to, the following and the officers thereof: any county, municipality, school district, special district, clerk of the circuit court, sheriff, property appraiser, tax collector, supervisor of elections, authority, board, public corporations, or any other political subdivision of the state."
[79] Section 218.405(16)(a), F.S. *Also see*, State Board of Administration, *Florida PRIME Monthly Summary Report*, available at: monthly_summary_report_01_31_23final.pdf (sbafla.com) (last visited Mar. 26, 2023).
[80] *See* sections 163.01, F.S. and 218.415, F.S.
[81] Florida Local Government Investment Trust, *About*, available at: About – Florida Local Government Investment Trust (floridatrustonline.com) (last visited Mar. 26, 2023).
[82] Florida League of Cities, *Florida Municipal Investment Trust*, available at: https://www.floridaleagueofcities.com/services/investments-(fmivt) (last visited Mar. 26, 2023).
[83] Section 218.415(16), F.S.

Citizen Support and Direct-support Organizations

Citizen support organizations (CSO) (such as the Florida Department of Environmental Protection (DEP) holds agreements with 97 CSOs) and direct-support organizations (DSO) (such as the DSO for the Statewide Council on Human Trafficking) are created to raise funds to support causes that are in the public interest and often enter into a contract with a government entity to define the terms of the organizations' support to that government entity.[84] By August 1 of each year, such organizations must submit annual reports describing their activities to the appropriate government agency.[85] By August 15 each year, each CSO and DSO must report to the Governor, the Legislature, and the Office of Program Policy Analysis and Government Accountability which must include a recommendation on whether to continue, terminate, or modify the agency's association with each organization.[86]

Bond Financing

State and local government entities issue bonds to finance public projects. Investors are paid tax-exempt interest during the lifetime of the bond and are repaid the face value of the bond upon maturity.

The Division of Bond Finance (which is administratively housed within the SBA) issues general obligation bonds, revenue bonds, and appropriation-based bonds on behalf of local governments and state agencies. General obligation bonds are secured by the taxing power of the bond issuer. The investor relies on the full faith and credit of the issuer, and the issuer can impose a tax on the public to repay the bond. Revenue bonds are backed by revenues that come from a specific source or revenue stream, like a local stadium or highway tolls. Interest rates are higher because these bonds depend on the success of the specific venture that is financed. Appropriation-based bonds are secured by a commitment of the state to pay the debt service on the bonds via annual appropriations of the Legislature.[87] The Governor, the Chief Financial Officer, and the Attorney General serve as the governing board of the Division of Bond Finance.[88]

Local governments may also issue bonds through the Florida League of Cities, investment banks or other financial firms.[89] In such cases, the local government must provide notice of proposed bond sales and detailed information about bonds that have been issued to the Division of Bond Finance, which serves as a clearinghouse for government bonds issued in Florida.[90] The local government also must provide adequate notice to the public about the cost of bond financing and the terms under which bonds are issued.[91]

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[84] *See* ss. 258.015 and 16.618(1), F.S.; DeCerchio, A., *Citizen Support Organization 2022 Annual Report*, the DEP, Aug. 12, 2022, available at: 8.12.22 2022 DEP Annual CSO Report FINAL.pdf (floridadep.gov) (last visited Mar. 26, 2023).
[85] Section 20.058(1), F.S.
[86] Section 20.058(3), F.S.
[87] Division of Bond Finance, *Bond Program Overview*, available at: *https://www.sbafla.com/bondfinance/Bond-Programs* (last visited Mar. 26, 2023).
[88] Section 215.62(1), F.S.
[89] *See* Florida League of Cities, Bond Issue Program, available at: https://www.floridaleagueofcities.com/services/loans/bond-issue-program (last visited Mar. 26, 2023).
[90] Sections 218.37 and 218.38, F.S.
[91] Sections 218.385, F.S.

The Division is issuing state revenue bonds totaling $24.3 million for the Florida International University Parking Facility, and recently issued state revenue bonds in the amounts of approximately $98.9 million, $76 million, and $174.6 million for the Department of Transportation (DOT) Seaport Investment Program, Florida Polytechnic University Dormitory, and DOT Turnpike, respectively.[92]

Procurement and Contracting with Vendors

The DMS sources and adopts contracts for the purchase, lease, or acquisition of goods and services frequently used by multiple state agencies, such as office supplies, vehicles, computers, and furniture.[93] The DMS has authority to remove vendors from its vendor list for failure to fulfill its contractual duties and may reinstate a vendor when it is satisfied that no further defaults will occur.[94] Agencies must purchase goods and contractual services from the agreements and state term contracts established by the DMS.[95]A competitive solicitation process set out in s. 287.057, F.S., must be used for the procurement of commodities or contractual services over a certain amount. Unless an exception applies, the procurement of certain contractual services in excess of a specified amount must include certain information, such as specifying scope of work and allowing for unilateral cancellation by the agency in some instances.[96]

School districts, Florida College System institutions, and state universities must to comply with State Board of Education laws and rules relating to purchases and leases.[97] Such entities must review the DMS purchasing agreements and state term contracts to determine whether there is an economic advantage to use them for nonacademic purchases.[98] School districts and Florida College System Institutions must adopt rules, and state universities must adopt regulations, that must be complied with when making purchases.[99]

III. Effect of Proposed Changes:

Financial Institutions

Section 25 adds the term "unsafe and unsound practice" to the section of the Florida Financial Institutions Codes that defines "unsafe or unsound practice" for banks, trust companies, and credit unions. **Sections 21 and 22** add the term "unsafe and unsound practice" to laws governing consumer finance loans and money services businesses. The definition in sections 21, 22, and 25 of the bill echoes the reference found to "unsafe or unsound practice" in section 14 of the bill relating to qualified public depositories, and states:

[92] Division of Bond Finance, *Bond Sales*, available at: Bond Sales (sbafla.com) (last visited Mar. 26, 2023).
[93] Section 287.042(1)(a), F.S.; The DMS, *State Contracts and Agreements*, available at: State Contracts and Agreements / State Purchasing / Business Operations / Florida Department of Management Services - DMS (myflorida.com) (last visited Mar. 26, 2023).
[94] Section 287.042(1)(b), F.S.
[95] Section 287.056(1), F.S.
[96] Section 287.058(1), F.S.
[97] Section 1010.04(1)(a) and (c), F.S.
[98] Section 1010.04(1)(b), F.S.
[99] Section 1010.04(2), F.S.

It is an unsafe and unsound practice for a licensee to deny or cancel its services to a person, or to otherwise discriminate against a person, on the basis of:

- The person's political opinions, speech, or affiliations;
- The person's religious beliefs, exercise, or affiliations;
- Any other factor that is not a quantitative, impartial, and risk-based standard; or
- A social credit score.[100]

The bill states that financial institutions operating in Florida (such as banks, trust companies, and credit unions), consumer finance lenders and money services businesses, must make determinations about the provision or denial of services "based on an analysis of risk factors unique to each individual customer or member."

Upon application for a license or license renewal, financial institutions, consumer finance lenders, and money services businesses regulated by the OFR must provide an attestation stating that the financial institution's practices comply with the applicable requirements and limitations created by the bill.

Sections 21 to 23 and 25 provide that if a financial institution, consumer finance lender, or money services business licensed by OFR engages in an "unsafe or unsound practice" or fails to make the required attestation, the OFR may impose administrative penalties, including an order requiring corrective action, a financial penalty, and suspension or revocation of a license.

Sections 21, 22, and 25 provide that financial institutions, consumer finance lenders, and money services businesses licensed by OFR that engage in an "unsafe or unsound practice," have also violated the Florida Deceptive and Unfair Trade Practices Act. This makes banks, trust companies, credit unions, consumer finance lenders, and money service businesses subject to the enforcement actions identified in part II of chapter 501, F.S., which include civil actions brought by the Attorney General and criminal prosecution by a State Attorney in the appropriate judicial circuit. Civil actions may include an injunction, an action seeking damages, or a civil penalty up to $10,000 per violation.

[100] The bill provides that a "social credit score" includes, but is not limited to, using any rating, scoring, analysis, tabulation, or action that considers a social credit score based on factors including, but not limited to: the person's political opinions, speech, or affiliations; the person's religious beliefs, religious exercise, or religious affiliations; the person's lawful ownership of a firearm; the person's engagement in the lawful manufacture, distribution, sale, purchase, or use of firearms or ammunition; the person's engagement in the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, mining, or agriculture; the person's support of the state or federal government in combatting illegal immigration, drug trafficking, or human trafficking; the person's engagement with, facilitation of, employment by, support of, business relationship with, representation of, or advocacy for any person described in this paragraph; the person's failure to meet or commit to meet, or expected failure to meet, any of the following as long as such person is in compliance with applicable state or federal law:

- Environmental standards, including emissions standards, benchmarks, requirements, or disclosures;
- Social governance standards, benchmarks, or requirements, including, but not limited to, environmental or social justice;
- Corporate board or company employment composition standards, benchmarks, requirements, or disclosures based on characteristics protected under the Florida Civil Rights Act of 1992; or
- Policies or procedures requiring or encouraging employee participation in social justice programming, including, but not limited to, diversity, equity, or inclusion training.

The bill prohibits the waiver of state laws under by OFR and the Financial Services Commission in relation to unsafe and unsound business practices by financial institutions.[101]

Section 24 amends the definition of "unsafe or unsound practice" in the financial institutions code to include the definition of "unsafe and unsound practice" created in the bill.

Qualified Public Depositories

Section 14 amends the definition of a QPD to prohibit the CFO from qualifying a bank or savings association that engages in an "unsafe and unsound practice."

It is an unsafe and unsound practice for a licensee to deny or cancel its services to a person, or to otherwise discriminate against a person, on the basis of:

- The person's political opinions, speech, or affiliations;
- The person's religious beliefs, exercise, or affiliations;
- Any other factor that is not a quantitative, impartial, and risk-based standard; or
- A social credit score.[102]

Section 15 provides that, beginning July 1, 2023, banks and savings associations must certify compliance with this requirement when filing an application to be designated or re-designated as a QPD. **Section 17** provides that failure to file the required attestation is grounds for suspension or disqualification of a QPD, and **Section 18** provides that failure to timely file the attestation is deemed a knowing and willful violation of the law.

Sections 16, 18, and 19 of the bill gives the CFO authority to verify the attestation and impose penalties if a QPD fails to timely file the attestation. The CFO can impose an administrative penalty, issue a cease and desist order to require compliance with the law, and suspend or revoke a QPD's qualification.

Section 16 provides that if the CFO determines that an affidavit is materially false, the CFO must report the finding to the Attorney General, who may bring a civil or administrative action against the QPD, and recover attorney fees and costs if the enforcement action is successful.

The bill does not give the CFO "visitorial powers" to inspect, examine, supervise, or regulate the affairs of federally-chartered banks or savings associations. Only the federal regulator has visitorial powers.[103]

The bill's QPD-related provisions are not preempted by federal law because the QPD program is a creature of Florida law, in which the federally chartered institutions voluntarily participate. To participate in the program, they must accept the conditions of QPD eligibility.

[101] The Financial Services Commission is the Governor, Attorney General, Commissioner of Agriculture, and Chief Financial Officer. The Commission is the agency head over OFR. Section 20.121(3), F.S.
[102] Supra, note 93.
[103] 12 U.S.C. 484 and 12 CFR § 7.400.

Investments

Sections 1 to 8 and 13 codifies and extends, except for prohibited investments in Cuba and Venezuela, the policy adopted by the SBA, requiring that all investment decisions relating to the state retirement system be based solely on pecuniary factors, to all funds managed by the SBA, all funds of the state Treasury, all local government retirement plans, investments of local government surplus funds, and investments of funds raised by CSOs and DSOs. Investment restrictions do not apply to individual member-directed investment accounts established as part of a defined contribution plan. Investment managers who invest public funds on behalf of any of these entities may not sacrifice investment return or take additional investment risk to promote any non-pecuniary factor.

The term "pecuniary factor" is defined as a factor that is expected "to have a material effect on the risk or return of an investment based on appropriate investment horizons consistent with applicable investment objectives and funding policy. The term does not include the consideration of the furtherance of any social, political, or ideological interests." Further, the "weight given to any pecuniary factor must appropriately reflect a prudent assessment of its impact on risk or returns."

Section 9 amends the IPS to require that it comply with the new provision requiring investments be made based on pecuniary factors.

Section 3 and 4 requires that written investment policies and investment decisions of local government retirement systems to be based solely on pecuniary factors.

Section 3 to 7 require state and local retirement systems to report compliance with the law on a biennial basis, beginning December 15, 2023. Local government retirement plans must report to the DMS; the SBA, on behalf of the Florida Retirement System, must report to the Governor, the Attorney General, the CFO, and the Legislature. Reports must describe governance policies and standards for the exercise of shareholder rights. DMS is directed to report incidents of noncompliance to the Attorney General, who may seek an injunction against any agency violating the reporting provisions and recover attorney fees and costs when an enforcement action is successful.

Section 12 requires investment managers[104] who invest public funds[105] on behalf of a state or local government entity[106] to include a disclaimer in an external communication, if the communication is to a company in which the investment manager has invested public funds and discusses social, political, or ideological interests; subordinates the interests of the company's shareholders to the interests of another entity; or advocates for an entity other than the

[104] Section 12 of the bill defines "investment manager" as a private sector company that offers one or more investment products or services to a governmental entity and that has the discretionary investment authority for direct holdings.
[105] Section 12 of the bill defines "public funds" as all moneys under the jurisdiction of a governmental entity and includes all manner of pension and retirement funds and all other funds held, as trust funds or otherwise, for any public purpose, subject to investment.
[106] Section 12 of the bill defines "government entity" as a state, regional, county, municipal, special district, or other political subdivision whether executive, judicial, or legislative, including, but not limited to, a department, division, board, bureau, commission, authority, district, or agency thereof, or a public school, Florida College System institution, state university, or associated board.

company's shareholders. This applies to the investment of general revenue, surplus funds, trust funds, and retirement plans.

The required disclaimer must state: "The views and opinions expressed in this communication are those of the sender and do not necessarily reflect the views and opinions of the people of the state of Florida."

All contracts with investment managers executed, amended, or renewed on or after July 1, 2023, may be unilaterally terminated if certain communications of an investment manager include discussion of social, political, or ideological interests and omit the required disclaimer described above.

Section 10 provides that investment managers, who are required to certify compliance with the fiduciary standards set forth in the state's investment policy annually, would be subject to sanction if they fail to timely file the required certification or if they submit a certification that is materially false. The Attorney General may bring a civil or administrative action against such persons and recover attorney fees and costs when an enforcement action is successful.

Bond Financing

Section 11 provides that bond issuers are prohibited from issuing any ESG bond. An ESG bond is defined as any bond that has been designated or labeled as a bond that will be used to finance a project with an ESG purpose, including, but not limited to, green bonds, Certified Climate Bonds, GreenStar designated bonds, and other environmental bonds marketed as promoting a generalized or global environmental objective; social bonds marketed as promoting a social objective; and sustainability bonds and sustainable development goal bonds marketed as promoting both environmental and social objectives. It includes bonds self-designated by the issuer as ESG-labeled bonds and those designated as ESG-labeled bonds by a third-party verifier. The reference to "generalized or global" has the effect that bond issuers may issue bonds for specific governmental environmental projects, but they are prohibited from being marketed as a generalized or global ESG bond.

The bill also prohibits paying for a third-party verifier[107] that certifies or verifies that a bond[108] may be designated or labeled as an ESG bond, renders opinions or produces a report on ESG compliance, among other ESG-related services. Issuers are also prohibited from contracting with a rating agency[109] whose ESG scores for the issuer will have a direct, negative impact on the issuer's bond ratings.

The following bond issuers are affected by the bill:

[107] Section 11 of the bill defines "third-party verifier" as any entity that contracts with an issuer to conduct an external review and independent assessment of proposed ESG bonds to ensure that such bonds may be designated or labeled as ESG bonds or will be used to finance a project that will comply with applicable ESG standards.
[108] The bill defines "bond" as any note, general obligation bond, revenue bond, special assessment bond, special obligation bond, private activity bond, certificate of participation, or other evidence of indebtedness or obligation, in either temporary or definitive form.
[109] Section 11 of the bill defines "rating agency" as any nationally recognized rating service or nationally recognized statistical rating organization.

- The Division of Bond Finance, acting on behalf of any entity;
- Any local government, educational entity, or entity of higher education,[110] or other political subdivision granted the power to issue bonds;
- Any public body corporate and politic authorized or created by general or special law and granted the power to issue bonds, including, but not limited to:
- Water and sewer districts created under ch. 153, F.S.,
- Health facilities authorities,[111]
- Industrial development authorities created under ch. 159, F.S.,
- Housing financing authorities,[112]
- Research and development authorities,[113]
- Legal or administrative entities created by interlocal agreement pursuant to s. 163.01(7), F.S.,
- Community redevelopment agencies,[114]
- Regional transportation authorities created under chapter 163, F.S.,
- Community development districts,[115]
- Educational facilities authorities,[116]
- The Higher Educational Facilities Financing Authority created pursuant to s. 243.53, F.S.,
- The Florida Development Finance Corporation created pursuant to s. 288.9604, F.S.,
- Port district or port authorities,[117]
- The South Florida Regional Transportation Authority created pursuant to s. 343.53, F.S.,
- The Central Florida Regional Transportation Authority created pursuant to s. 343.63, F.S.,
- The Tampa Bay Area Regional Transit Authority created pursuant to s. 343.92, F.S.,
- The Greater Miami Expressway Agency created pursuant to s. 348.0304, F.S.,
- The Tampa-Hillsborough County Expressway Authority created pursuant to s. 348.52, F.S.,
- The Central Florida Expressway Authority created pursuant to s. 348.753, F.S.,
- The Jacksonville Transportation Authority created pursuant to s. 349.03, F.S., and
- The Florida Housing Finance Corporation created pursuant to s. 420.504, F.S.

The bill provides that notwithstanding s. 655.0323, F.S., a financial institution may purchase and underwrite bonds issued by a governmental entity.

The bill expressly applies to bonds issued and agreements made and contracts executed on or after July 1, 2023.

Procurement and Contracting with Vendors

Sections 20 and 26 provide that state and local government entities, school districts, Florida College System institutions, and state universities are prohibited from considering social,

[110] As defined in s. 215.89(2)(c), (d), and (e), F.S.
[111] As defined in s. 154.205, F.S.
[112] As defined in s. 159.603(3), F.S.
[113] As defined in s. 159.702(1)(c), F.S.
[114] As defined in s. 163.340(1), F.S.
[115] As defined in s. 190.003, F.S.
[116] As defined in s. 243.52(1), F.S.
[117] As defined in s. 315.02(1) and (2), F.S.

political, or ideological beliefs in contracting and procuring commodities or contractual services. Section 20 explicitly notes that this includes all political subdivisions of the state. To do this, the bill creates a new section within ch. 287, F.S., which currently addresses contracting only at the state level.

An awarding body[118] and the specified educational institutions may not: 1) request documentation or consider a vendor's social, political, or ideological beliefs when determining if the vendor is a responsible vendor; or 2) give a preference to a vendor based on the vendor's social, political, or ideological beliefs.

Beginning July 1, 2023, all solicitations for commodities or contractual services must include notice of these requirements.

Sections 27 and 28 reenact ss. 17.61 and 215.44, F.S., for purposes of amendments made to ss. 17.57 and 215.47, F.S., respectively.

Section 29 provides the effective date is July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill requires local governments to make investments, issue bonds, conduct procurements, and provide reports in compliance with the provisions of the bill, which may be at some expense; however, an exemption may apply. The expenditures required to comply with the bill are estimated to be insignificant.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The provisions of the bill relating to contracts with investment managers and vendors are prospective. The bill refers to contracts that are solicited or awarded on or after July 1,

[118] Section 20 of the bill defines "awarding body" as (a) for state contracts, an agency or the department, and (b) for local government contracts, the governing body of a county, a municipality, a special district, or any other political subdivision of the state.

2023. The bill does not modify or render unenforceable any contract that exists prior to July 1, 2023.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may:

- Ensure that financial entities focus on pecuniary factors and safe and sound practices that will protect their businesses;
- Increase access to financial products and services that would otherwise be limited by ESG-related discrimination.
- Expand who can receive government procurement awards;
- Limit the ability of some financial firms to provide services to units of state and local government;
- Limit the ability of some banks to be certified as QPDs and accept deposits from units of state and local government; and
- Impose administrative costs on banks, trusts, and credit unions operating in Florida if they must revise investment policies and train staff to comply with the provisions set forth in the bill.

C. Government Sector Impact:

The bill may increase administrative costs of state agencies that must revise policies or practices relating to investments, bond financing, contracts, QPDs, and banking, and train staff accordingly. Enforcement costs of state agencies are recoverable through the imposition of administrative fines. Enforcement costs of the Attorney General may be recovered through awards of attorney fees and costs, so long as an enforcement action is successful.

The bill may increase administrative costs of local governments that must revise policies relating to investments, bond financing, and contracts, and train staff accordingly. Such costs could be absorbed within ongoing operating budgets.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 17.57, 20.058, 112.656, 112.661, 175.071, 185.06, 215.47, 215.475, 215.4755, 218.415, 280.02, 280.05, 280.051, 280.054, 280.055, 560.114, 655.005, and 1010.04.

This bill creates the following sections of the Florida Statutes: 112.662, 215.681, 215.855, 280.025, 287.05701, 516.037, 560.1115, and 655.0323.

This bill re-enacts the following sections of the Florida Statutes: 17.61 and 215.44.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance Committee on March 29, 2023:

- Clarifies that the definition of "pecuniary factor" does not include considering the furtherance of social, political, or ideological interests, rather than consideration "or" furtherance of such factors;
- Provides that the provisions contained in s. 215.472, F.S., relating to prohibited investments by state agencies, will control if there is a conflict with the provisions in s. 17.57, F.S., to ensure that state investment prohibitions related to Cuba and Venezuela remain in place;
- Clarifies that the investment restrictions do not apply to individual member-directed investment accounts established as part of a defined contribution plan;
- Amends the cross-reference in section 8 of the bill to s. 215.471, F.S., to refer to the provisions relating to the SBA's prohibited investments in Cuba and Venezuela;
- Clarifies that bonds may be issued for specific governmental environmental projects, but are prohibited from being marketed as generalized or global environmental bonds;
- Clarifies that the prohibitions on third-party verifier services applies to ESG bond labels; and
- Specifies that financial institutions are subject to sanctions and penalties for failure to timely make the required attestation.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committee on Banking and Insurance; and Senator Grall

597-03290-23 2023302c1

A bill to be entitled

An act relating to government and corporate activism; amending s. 17.57, F.S.; defining the term "pecuniary factor"; requiring that the Chief Financial Officer, or a party authorized to invest on his or her behalf, make investment decisions based solely on pecuniary factors; amending s. 20.058, F.S.; requiring a specified attestation, under penalty of perjury, from certain organizations; defining the term "pecuniary factor"; requiring citizen support organizations and direct-support organizations to make investment decisions based solely on pecuniary factors; amending s. 112.656, F.S.; requiring that investment decisions comply with a specified requirement related to the consideration of pecuniary factors; amending s. 112.661, F.S.; conforming a provision to changes made by the act; creating s. 112.662, F.S.; defining the term "pecuniary factor"; providing that only pecuniary factors may be considered in investment decisions for retirement systems or plans; providing that the interests of participants and beneficiaries of such systems or plans may not be subordinated to other objectives; requiring shareholder rights to be exercised considering only pecuniary factors; requiring specified reports; providing requirements for such reports; requiring the Department of Management Services to report certain noncompliance to the Attorney General; authorizing certain proceedings to be brought by the Attorney General who, if

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successful in those proceedings, is entitled to reasonable attorney fees and costs; requiring the department to adopt rules; providing applicability; amending ss. 175.071 and 185.06, F.S.; specifying that certain public boards of trustees are subject to the requirement that only pecuniary factors be considered in investment decisions; amending s. 215.47, F.S.; defining the term "pecuniary factor"; requiring the State Board of Administration to make investment decisions based solely on pecuniary factors; providing an exception to current investment and fiduciary standards in the event of a conflict; amending s. 215.475, F.S.; requiring the Florida Retirement System Defined Benefit Plan Investment Policy Statement to comply with the requirement that only pecuniary factors be considered in investment decisions; amending s. 215.4755, F.S.; requiring certain investment advisors or managers to certify in writing that investment decisions are based solely on pecuniary factors; providing applicability; providing that failure to file a required certification is grounds for termination of certain contracts; providing that a submission of a materially false certification is deemed a willful refusal to comply with a certain fiduciary standard; requiring that certain noncompliance be reported to the Attorney General, who is authorized to bring certain civil or administrative actions; providing that if the Attorney General is successful in those proceedings, he or she

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is entitled to reasonable attorney fees and costs; creating s. 215.681, F.S.; defining terms; prohibiting bond issuers from issuing environmental, social, and governance bonds and taking other related actions; authorizing certain financial institutions to purchase and underwrite specified bonds; providing applicability; creating s. 215.855, F.S.; defining terms; requiring that contracts between governmental entities and investment managers contain certain provisions and a specified disclaimer; providing applicability; amending s. 218.415, F.S.; defining the term "pecuniary factor"; requiring units of local government to make investment decisions based solely on pecuniary factors; amending s. 280.02, F.S.; revising the definition of the term "qualified public depository"; creating s. 280.025, F.S.; requiring a specified attestation, under penalty of perjury, from certain entities, beginning on a specified date; amending s. 280.05, F.S.; requiring the Chief Financial Officer to verify such attestations; requiring the Chief Financial Officer to report materially false attestations to the Attorney General, who is authorized to bring certain civil and administrative actions; providing that if the Attorney General is successful in those proceedings, he or she is entitled to reasonable attorney fees and costs; providing construction; authorizing the Chief Financial Officer to suspend or disqualify a qualified public depository that no longer meets the definition

of that term; amending s. 280.051, F.S.; adding grounds for suspension or disqualification of a qualified public depository; amending s. 280.054, F.S.; providing that failure to timely file a required attestation is deemed a knowing and willful violation; amending s. 280.055, F.S.; adding a circumstance under which the Chief Financial Officer may issue certain orders against a qualified public depository; creating s. 287.05701, F.S.; defining the term "awarding body"; prohibiting an awarding body from requesting certain documentation or giving preference to vendors based on their social, political, or ideological interests; requiring that solicitations for the procurement of commodities or contractual services by an awarding body contain a specified notification, beginning on a specified date; creating s. 516.037, F.S.; requiring licensees to make certain determinations based on an analysis of certain risk factors; prohibiting such licensees from engaging in unsafe and unsound practices; providing construction; providing that certain actions on the part of licensees are an unsafe and unsound practice; requiring a specified attestation, under penalty of perjury, from applicants and licensees, beginning on a specified date; providing that a failure to comply with specified requirements or engaging in unsafe and unsound practices constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act, subject to specified sanctions and penalties; providing that only

the enforcing authority can enforce such violations; providing that an enforcing authority that brings a successful action for violations is entitled to reasonable attorney fees and costs; creating s. 560.1115, F.S.; requiring licensees to make determinations about the provision or denial of services based on an analysis of certain risk factors; prohibiting the licensees from engaging in unsafe and unsound practices; providing construction; providing that certain actions are an unsafe and unsound practice; requiring a specified attestation, under penalty of perjury, from applicants and licensees, beginning on a specified date; providing that a failure to comply with specified requirements or engaging in unsafe and unsound practices constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act, subject to specified sanctions and penalties; providing that only the enforcing authority can enforce such violations; providing that an enforcing authority that brings a successful action for violations is entitled to reasonable attorney fees and costs; amending s. 560.114, F.S.; revising the actions that constitute grounds for specified disciplinary action of a money services business, an authorized vendor, or an affiliated party; amending s. 655.005, F.S.; revising a definition; creating s. 655.0323, F.S.; requiring financial institutions to make determinations about the provision or denial of services based on an analysis of specified risk

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factors; prohibiting financial institutions from engaging in unsafe and unsound practices; providing construction; providing that certain actions are an unsafe and unsound practice; requiring a specified attestation, under penalty of perjury, from financial institutions annually, beginning on a specified date; providing that engaging in specified actions or failing to provide such attestation constitutes a violation of specified codes, subject to certain sanctions and penalties; providing that a failure to comply with specified requirements or engaging in unsafe and unsound practices constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act, subject to specified sanctions and penalties; providing that only the enforcing authority can enforce such violations; providing that an enforcing authority that brings a successful action for violations is entitled to reasonable attorney fees and costs; prohibiting certain entities from exercising specified authority; amending s. 1010.04, F.S.; prohibiting school districts, Florida College System institutions, and state universities from requesting certain documentation from vendors and giving preference to vendors based on their social, political, or ideological interests; requiring that solicitations for purchases or leases include a specified notice; reenacting s. 17.61(1), F.S., relating to powers and duties of the Chief Financial Officer in the investment of certain funds, to

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incorporate the amendment made to s. 17.57, F.S., in references thereto; reenacting s. 215.44(3), F.S., relating to the powers and duties of the Board of Administration in the investment of trust funds, to incorporate the amendment made to s. 215.47, F.S., in a reference thereto; providing an effective date.

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

Section 1. Subsection (1) of section 17.57, Florida Statutes, is amended to read:

17.57 Deposits and investments of state money.—

(1)(a) As used in this subsection, the term "pecuniary factor" means a factor that the Chief Financial Officer, or other party authorized to invest on his or her behalf, prudently determines is expected to have a material effect on the risk or returns of an investment based on appropriate investment horizons consistent with applicable investment objectives and funding policy. The term does not include the consideration of the furtherance of any social, political, or ideological interests.

(b) The Chief Financial Officer, or other parties with the permission of the Chief Financial Officer, shall deposit the money of the state or any money in the State Treasury in such qualified public depositories of the state as will offer satisfactory collateral security for such deposits, pursuant to chapter 280. It is the duty of the Chief Financial Officer, consistent with the cash requirements of the state, to keep such money fully invested or deposited as provided herein in order

that the state may realize maximum earnings and benefits.

(c) Notwithstanding any other law except for s. 215.472, when deciding whether to invest and when investing, the Chief Financial Officer, or other party authorized to invest on his or her behalf, must make decisions based solely on pecuniary factors and may not subordinate the interests of the people of this state to other objectives, including sacrificing investment return or undertaking additional investment risk to promote any nonpecuniary factor. The weight given to any pecuniary factor must appropriately reflect a prudent assessment of its impact on risk or returns.

Section 2. Present subsections (4) and (5) of section 20.058, Florida Statutes, are redesignated as subsections (5) and (6), respectively, and paragraph (g) is added to subsection (1) and a new subsection (4) is added to that section, to read:

20.058 Citizen support and direct-support organizations.—

(1) By August 1 of each year, a citizen support organization or direct-support organization created or authorized pursuant to law or executive order and created, approved, or administered by an agency, shall submit the following information to the appropriate agency:

(g) An attestation, under penalty of perjury, stating that the organization has complied with subsection (4).

(4)(a) As used in this section, the term "pecuniary factor" means a factor that the citizen support organization or direct-support organization prudently determines is expected to have a material effect on the risk or returns of an investment based on appropriate investment horizons consistent with applicable investment objectives and funding policy. The term does not

include the consideration of the furtherance of any social, political, or ideological interests.

(b) Notwithstanding any other law, when deciding whether to invest and when investing funds on behalf of an agency, the citizen support organization or direct-support organization must make decisions based solely on pecuniary factors and may not subordinate the interests of the people of this state to other objectives, including sacrificing investment return or undertaking additional investment risk to promote any nonpecuniary factor. The weight given to any pecuniary factor must appropriately reflect a prudent assessment of its impact on risk or returns.

Section 3. Subsection (1) of section 112.656, Florida Statutes, is amended to read:

112.656 Fiduciary duties; certain officials included as fiduciaries.—

(1) A fiduciary shall discharge his or her duties with respect to a plan solely in the interest of the participants and beneficiaries for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the plan. Investment decisions must comply with s. 112.662.

Section 4. Subsection (4) of section 112.661, Florida Statutes, is amended to read:

112.661 Investment policies.—Investment of the assets of any local retirement system or plan must be consistent with a written investment policy adopted by the board. Such policies shall be structured to maximize the financial return to the retirement system or plan consistent with the risks incumbent in

each investment and shall be structured to establish and maintain an appropriate diversification of the retirement system or plan's assets.

(4) INVESTMENT AND FIDUCIARY STANDARDS.—The investment policy shall describe the level of prudence and ethical standards to be followed by the board in carrying out its investment activities with respect to funds described in this section. The board in performing its investment duties shall comply with the fiduciary standards set forth in the Employee Retirement Income Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). Except as provided in s. 112.662, in case of conflict with other provisions of law authorizing investments, the investment and fiduciary standards set forth in this section ~~shall~~ prevail.

Section 5. Section 112.662, Florida Statutes, is created to read:

112.662 Investments; exercising shareholder rights.—

(1) As used in this section, the term "pecuniary factor" means a factor that the plan administrator, named fiduciary, board, or board of trustees prudently determines is expected to have a material effect on the risk or returns of an investment based on appropriate investment horizons consistent with the investment objectives and funding policy of the retirement system or plan. The term does not include the consideration of the furtherance of any social, political, or ideological interests.

(2) Notwithstanding any other law, when deciding whether to invest and when investing the assets of any retirement system or plan, only pecuniary factors may be considered and the interests

of the participants and beneficiaries of the system or plan may not be subordinated to other objectives, including sacrificing investment return or undertaking additional investment risk to promote any nonpecuniary factor. The weight given to any pecuniary factor must appropriately reflect a prudent assessment of its impact on risk or returns.

(3) Notwithstanding any other law, when deciding whether to exercise shareholder rights or when exercising such rights on behalf of a retirement system or plan, including the voting of proxies, only pecuniary factors may be considered and the interests of the participants and beneficiaries of the system or plan may not be subordinated to other objectives, including sacrificing investment return or undertaking additional investment risk to promote any nonpecuniary factor.

(4)(a) By December 15, 2023, and by December 15 of each odd-numbered year thereafter, each retirement system or plan shall file a comprehensive report detailing and reviewing the governance policies concerning decisionmaking in vote decisions and adherence to the fiduciary standards required of such retirement system or plan under this section, including the exercise of shareholder rights.

1. The State Board of Administration, on behalf of the Florida Retirement System, shall submit its report to the Governor, the Attorney General, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives.

2. All other retirement systems or plans shall submit their reports to the Department of Management Services.

(b) By January 15, 2024, and by January 15 of each even-

numbered year thereafter, the Department of Management Services shall submit a summary report to the Governor, the Attorney General, the Chief Financial Officer, the President of the Senate, and the Speaker of the House of Representatives that includes a summary of the reports submitted under paragraph (a) and identifies any relevant trends among such systems and plans.

(c) The Department of Management Services shall report incidents of noncompliance to the Attorney General, who may institute proceedings to enjoin any person found violating this section. If such action is successful, the Attorney General is entitled to reasonable attorney fees and costs.

(d) The Department of Management Services shall adopt rules to implement this subsection.

(5) This section does not apply to individual member-directed investment accounts established as part of a defined contribution plan under s. 401(a), s. 403(b), or s. 457 of the Internal Revenue Code.

Section 6. Subsection (1) of section 175.071, Florida Statutes, is amended to read:

175.071 General powers and duties of board of trustees.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) The board of trustees, subject to the fiduciary standards in ss. 112.656, 112.661, and 518.11, ~~and~~ the Code of Ethics in ss. 112.311-112.3187, and the requirements in s. 112.662, may:

(a) Invest and reinvest the assets of the firefighters' pension trust fund in annuity and life insurance contracts of

life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the participants in the firefighters' pension trust fund are entitled under this chapter and pay the initial and subsequent premiums thereon.

(b) Invest and reinvest the assets of the firefighters' pension trust fund in:

1. Time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund, or a savings, building, and loan association insured by the Savings Association Insurance Fund administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.

2. Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States.

3. Bonds issued by the State of Israel.

4. Bonds, stocks, or other evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia, if:

a. The corporation is listed on any one or more of the recognized national stock exchanges or on the National Market System of the NASDAQ Stock Market and, in the case of bonds only, holds a rating in one of the three highest classifications by a major rating service; and

b. The board of trustees may not invest more than 5 percent of its assets in the common stock or capital stock of any one issuing company, nor may the aggregate investment in any one

issuing company exceed 5 percent of the outstanding capital stock of that company or the aggregate of its investments under this subparagraph at cost exceed 50 percent of the assets of the fund.

This paragraph applies to all boards of trustees and participants. However, if a municipality or special fire control district has a duly enacted pension plan pursuant to, and in compliance with, s. 175.351, and the trustees desire to vary the investment procedures, the trustees of such plan must request a variance of the investment procedures as outlined herein only through a municipal ordinance, special act of the Legislature, or resolution by the governing body of the special fire control district; if a special act, or a municipality by ordinance adopted before July 1, 1998, permits a greater than 50-percent equity investment, such municipality is not required to comply with the aggregate equity investment provisions of this paragraph. Notwithstanding any other provision of law, this section may not be construed to take away any preexisting legal authority to make equity investments that exceed the requirements of this paragraph. Notwithstanding any other provision of law, the board of trustees may invest up to 25 percent of plan assets in foreign securities on a market-value basis. The investment cap on foreign securities may not be revised, amended, increased, or repealed except as provided by general law.

(c) Issue drafts upon the firefighters' pension trust fund pursuant to this act and rules prescribed by the board of trustees. All such drafts must be consecutively numbered, be

signed by the chair and secretary, or by two individuals designated by the board who are subject to the same fiduciary standards as the board of trustees under this subsection, and state upon their faces the purpose for which the drafts are drawn. The treasurer or depository of each municipality or special fire control district shall retain such drafts when paid, as permanent vouchers for disbursements made, and no money may be otherwise drawn from the fund.

(d) Convert into cash any securities of the fund.

(e) Keep a complete record of all receipts and disbursements and the board's acts and proceedings.

Section 7. Subsection (1) of section 185.06, Florida Statutes, is amended to read:

185.06 General powers and duties of board of trustees.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) The board of trustees, subject to the fiduciary standards in ss. 112.656, 112.661, and 518.11, ~~and~~ the Code of Ethics in ss. 112.311-112.3187, and the requirements in s. 112.662, may:

(a) Invest and reinvest the assets of the retirement trust fund in annuity and life insurance contracts of life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the participants in the municipal police officers' retirement trust fund are entitled under this chapter, and pay the initial and subsequent premiums thereon.

(b) Invest and reinvest the assets of the retirement trust fund in:

1. Time or savings accounts of a national bank, a state

bank insured by the Bank Insurance Fund, or a savings and loan association insured by the Savings Association Insurance Fund administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.

2. Obligations of the United States or obligations guaranteed as to principal and interest by the United States.

3. Bonds issued by the State of Israel.

4. Bonds, stocks, or other evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia, provided:

a. The corporation is listed on any one or more of the recognized national stock exchanges or on the National Market System of the NASDAQ Stock Market and, in the case of bonds only, holds a rating in one of the three highest classifications by a major rating service; and

b. The board of trustees may not invest more than 5 percent of its assets in the common stock or capital stock of any one issuing company, nor shall the aggregate investment in any one issuing company exceed 5 percent of the outstanding capital stock of the company or the aggregate of its investments under this subparagraph at cost exceed 50 percent of the fund's assets.

This paragraph applies to all boards of trustees and participants. However, if a municipality has a duly enacted pension plan pursuant to, and in compliance with, s. 185.35 and the trustees desire to vary the investment procedures, the

trustees of such plan shall request a variance of the investment procedures as outlined herein only through a municipal ordinance or special act of the Legislature; if a special act, or a municipality by ordinance adopted before July 1, 1998, permits a greater than 50-percent equity investment, such municipality is not required to comply with the aggregate equity investment provisions of this paragraph. Notwithstanding any other provision of law, this section may not be construed to take away any preexisting legal authority to make equity investments that exceed the requirements of this paragraph. Notwithstanding any other provision of law, the board of trustees may invest up to 25 percent of plan assets in foreign securities on a market-value basis. The investment cap on foreign securities may not be revised, amended, repealed, or increased except as provided by general law.

(c) Issue drafts upon the municipal police officers' retirement trust fund pursuant to this act and rules prescribed by the board of trustees. All such drafts shall be consecutively numbered, be signed by the chair and secretary or by two individuals designated by the board who are subject to the same fiduciary standards as the board of trustees under this subsection, and state upon their faces the purposes for which the drafts are drawn. The city treasurer or other depository shall retain such drafts when paid, as permanent vouchers for disbursements made, and no money may otherwise be drawn from the fund.

(d) Finally decide all claims to relief under the board's rules and regulations and pursuant to the provisions of this act.

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(e) Convert into cash any securities of the fund.

(f) Keep a complete record of all receipts and disbursements and of the board's acts and proceedings.

Section 8. Subsection (10) of section 215.47, Florida Statutes, is amended to read:

215.47 Investments; authorized securities; loan of securities.—Subject to the limitations and conditions of the State Constitution or of the trust agreement relating to a trust fund, moneys available for investments under ss. 215.44-215.53 may be invested as follows:

(10) (a) As used in this subsection, the term "pecuniary factor" means a factor that the State Board of Administration prudently determines is expected to have a material effect on the risk or returns of an investment based on appropriate investment horizons consistent with applicable investment objectives and funding policy. The term does not include the consideration of the furtherance of any social, political, or ideological interests.

(b) Notwithstanding any other law except for ss. 215.471, 215.4725, and 215.473, when deciding whether to invest and when investing the assets of any fund, the State Board of Administration must make decisions based solely on pecuniary factors and may not subordinate the interests of the participants and beneficiaries of the fund to other objectives, including sacrificing investment return or undertaking additional investment risk to promote any nonpecuniary factor. The weight given to any pecuniary factor must appropriately reflect a prudent assessment of its impact on risk or returns.

(c) Investments made by the State Board of Administration

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shall be designed to maximize the financial return to the fund consistent with the risks incumbent in each investment and shall be designed to preserve an appropriate diversification of the portfolio. The board shall discharge its duties with respect to a plan solely in the interest of its participants and beneficiaries. The board in performing the above investment duties shall comply with the fiduciary standards set forth in the Employee Retirement Income Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A) through (C). Except as provided in paragraph (b), in case of conflict with other provisions of law authorizing investments, the investment and fiduciary standards set forth in this paragraph ~~subsection shall~~ prevail.

Section 9. Subsection (1) of section 215.475, Florida Statutes, is amended to read:

215.475 Investment policy statement.—

(1) In making investments for the System Trust Fund pursuant to ss. 215.44-215.53, the board shall make no investment which is not in conformance with the Florida Retirement System Defined Benefit Plan Investment Policy Statement, hereinafter referred to as "the IPS," as developed by the executive director and approved by the board. The IPS must comply with s. 215.47(10) and include, among other items, the investment objectives of the System Trust Fund; permitted types of securities in which the board may invest; and evaluation criteria necessary to measure the investment performance of the fund. As required from time to time, the executive director of the board may present recommended changes in the IPS to the board for approval.

Section 10. Present paragraphs (b), (c), and (d) of

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subsection (1) of section 215.4755, Florida Statutes, are redesignated as paragraphs (c), (d), and (e), respectively, a new paragraph (b) is added to that subsection, and subsection (3) of that section is amended, to read:

215.4755 Certification and disclosure requirements for investment advisers and managers.—

(1) An investment adviser or manager who has discretionary investment authority for direct holdings and who is retained as provided in s. 215.44(2)(b) shall agree pursuant to contract to annually certify in writing to the board that:

(b) All investment decisions made on behalf of the trust funds and the board are made based solely on pecuniary factors as defined in s. 215.47(10)(a) and do not subordinate the interests of the participants and beneficiaries of the funds to other objectives, including sacrificing investment return or undertaking additional investment risk to promote any nonpecuniary factor. This paragraph applies to any contract executed, amended, or renewed on or after July 1, 2023.

(3)(a) An investment adviser or manager certification required under subsection (1) must ~~shall~~ be provided by each ~~annually, no later than~~ January 31~~,~~ for the reporting period of the previous calendar year on a form prescribed by the board.

(b) Failure to timely file the certification required under subsection (1) is grounds for termination of any contract between the board and the investment advisor or manager.

(c) Submission of a materially false certification is deemed a willful refusal to comply with the fiduciary standard described in paragraph (1)(b).

(d) If an investment advisor or manager fails to comply

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with the fiduciary standard described in paragraph (1)(b) while providing services to the board, the board must report such noncompliance to the Attorney General, who may bring a civil or administrative action for damages, injunctive relief, and such other relief as may be appropriate. If such action is successful, the Attorney General is entitled to reasonable attorney fees and costs.

Section 11. Section 215.681, Florida Statutes, is created to read:

215.681 ESG bonds; prohibitions.—

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

(a) "Bonds" means any note, general obligation bond, revenue bond, special assessment bond, special obligation bond, private activity bond, certificate of participation, or other evidence of indebtedness or obligation, in either temporary or definitive form.

(b) "ESG" means environmental, social, and governance.

(c) "ESG bonds" means any bonds that have been designated or labeled as bonds that will be used to finance a project with an ESG purpose, including, but not limited to, green bonds, Certified Climate Bonds, GreenStar designated bonds, and other environmental bonds marketed as promoting a generalized or global environmental objective; social bonds marketed as promoting a social objective; and sustainability bonds and sustainable development goal bonds marketed as promoting both environmental and social objectives. The term includes those bonds self-designated by the issuer as ESG-labeled bonds and those designated as ESG-labeled bonds by a third-party verifier.

(d) "Issuer" means the division, acting on behalf of any

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entity; any local government, educational entity, or entity of higher education as defined in s. 215.89(2)(c), (d), and (e), respectively, or other political subdivision granted the power to issue bonds; any public body corporate and politic authorized or created by general or special law and granted the power to issue bonds, including, but not limited to, a water and sewer district created under chapter 153, a health facilities authority as defined in s. 154.205, an industrial development authority created under chapter 159, a housing financing authority as defined in s. 159.603(3), a research and development authority as defined in s. 159.702(1)(c), a legal or administrative entity created by interlocal agreement pursuant to s. 163.01(7), a community redevelopment agency as defined in s. 163.340(1), a regional transportation authority created under chapter 163, a community development district as defined in s. 190.003, an educational facilities authority as defined in s. 243.52(1), the Higher Educational Facilities Financing Authority created under s. 243.53, the Florida Development Finance Corporation created under s. 288.9604, a port district or port authority as defined in s. 315.02(1) and (2), respectively, the South Florida Regional Transportation Authority created under s. 343.53, the Central Florida Regional Transportation Authority created under s. 343.63, the Tampa Bay Area Regional Transit Authority created under s. 343.92, the Greater Miami Expressway Agency created under s. 348.0304, the Tampa-Hillsborough County Expressway Authority created under s. 348.52, the Central Florida Expressway Authority created under s. 348.753, the Jacksonville Transportation Authority created under s. 349.03, and the Florida Housing Finance Corporation created under s.

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(e) "Rating agency" means any nationally recognized rating service or nationally recognized statistical rating organization.

(f) "Third-party verifier" means any entity that contracts with an issuer to conduct an external review and independent assessment of proposed ESG bonds to ensure that such bonds may be designated or labeled as ESG bonds or will be used to finance a project that will comply with applicable ESG standards.

(2) Notwithstanding any other provision of law relating to the issuance of bonds, it is a violation of this section and it is prohibited for any issuer to:

(a) Issue ESG bonds.

(b) Expend public funds as defined in s. 215.85(3) or use moneys derived from the issuance of bonds to pay for the services of a third-party verifier related to the designation or labeling of bonds as ESG bonds, including, but not limited to, certifying or verifying that bonds may be designated or labeled as ESG bonds, rendering a second-party opinion or producing a verifier's report as to the compliance of proposed ESG bonds with applicable ESG standards and metrics, complying with post-issuance reporting obligations, or other services that are only provided due to the designation or labeling of bonds as ESG bonds.

(c) Enter into a contract with any rating agency whose ESG scores for such issuer will have a direct, negative impact on the issuer's bond ratings.

(3) Notwithstanding s. 655.0323, a financial institution as defined in s. 655.005(1) may purchase and underwrite bonds

issued by a governmental entity.

(4) This section does not apply to any bonds issued before July 1, 2023, or to any agreement entered into or any contract executed before July 1, 2023.

Section 12. Section 215.855, Florida Statutes, is created to read:

215.855 Investment manager external communication.—

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

(a) "Governmental entity" means a state, regional, county, municipal, special district, or other political subdivision whether executive, judicial, or legislative, including, but not limited to, a department, division, board, bureau, commission, authority, district, or agency thereof, or a public school, Florida College System institution, state university, or associated board.

(b) "Investment manager" means a private sector company that offers one or more investment products or services to a governmental entity and that has the discretionary investment authority for direct holdings.

(c) "Public funds" means all moneys under the jurisdiction of a governmental entity and includes all manner of pension and retirement funds and all other funds held, as trust funds or otherwise, for any public purpose, subject to investment.

(2) Any contract between a governmental entity and an investment manager must contain the following provisions:

(a) That any written communication made by the investment manager to a company in which such manager invests public funds on behalf of a governmental entity must include the following disclaimer in a conspicuous location if such communication

discusses social, political, or ideological interests; subordinates the interests of the company's shareholders to the interest of another entity; or advocates for the interest of an entity other than the company's shareholders:

The views and opinions expressed in this communication are those of the sender and do not reflect the views and opinions of the people of the State of Florida.

(b) That the contract may be unilaterally terminated at the option of the governmental entity if the investment manager does not include the disclaimer required in paragraph (a).

(3) This section applies to contracts between a governmental entity and an investment manager executed, amended, or renewed on or after July 1, 2023.

Section 13. Subsection (24) is added to section 218.415, Florida Statutes, to read:

218.415 Local government investment policies.—Investment activity by a unit of local government must be consistent with a written investment plan adopted by the governing body, or in the absence of the existence of a governing body, the respective principal officer of the unit of local government and maintained by the unit of local government or, in the alternative, such activity must be conducted in accordance with subsection (17). Any such unit of local government shall have an investment policy for any public funds in excess of the amounts needed to meet current expenses as provided in subsections (1)-(16), or shall meet the alternative investment guidelines contained in subsection (17). Such policies shall be structured to place the

highest priority on the safety of principal and liquidity of funds. The optimization of investment returns shall be secondary to the requirements for safety and liquidity. Each unit of local government shall adopt policies that are commensurate with the nature and size of the public funds within its custody.

(24) INVESTMENT DECISIONS.—

(a) As used in this subsection, the term "pecuniary factor" means a factor that the governing body of the unit of local government, or in the absence of the existence of a governing body, the respective principal officer of the unit of local government, prudently determines is expected to have a material effect on the risk or returns of an investment based on appropriate investment horizons consistent with applicable investment objectives and funding policy. The term does not include the consideration of the furtherance of any social, political, or ideological interests.

(b) Notwithstanding any other law, when deciding whether to invest and when investing public funds pursuant to this section, the unit of local government must make decisions based solely on pecuniary factors and may not subordinate the interests of the people of this state to other objectives, including sacrificing investment return or undertaking additional investment risk to promote any nonpecuniary factor. The weight given to any pecuniary factor must appropriately reflect a prudent assessment of its impact on risk or returns.

Section 14. Present paragraphs (e) and (f) of subsection (26) of section 280.02, Florida Statutes, are redesignated as paragraphs (g) and (h), respectively, and new paragraphs (e) and (f) are added to that subsection, to read:

280.02 Definitions.—As used in this chapter, the term:

(26) "Qualified public depository" means a bank, savings bank, or savings association that:

(e) Makes determinations about the provision of services or the denial of services based on an analysis of risk factors unique to each customer or member. This paragraph does not restrict a qualified public depository that claims a religious purpose from making such determinations based on the religious beliefs, religious exercise, or religious affiliations of a customer or member.

(f) Does not engage in the unsafe and unsound practice of denying or canceling its services to a person, or otherwise discriminating against a person in making available such services or in the terms or conditions of such services, on the basis of:

1. The person's political opinions, speech, or affiliations;

2. Except as provided in paragraph (e), the person's religious beliefs, religious exercise, or religious affiliations;

3. Any factor if it is not a quantitative, impartial, and risk-based standard, including any such factor related to the person's business sector; or

4. The use of any rating, scoring, analysis, tabulation, or action that considers a social credit score based on factors including, but not limited to:

a. The person's political opinions, speech, or affiliations.

b. The person's religious beliefs, religious exercise, or

religious affiliations.

c. The person's lawful ownership of a firearm.

d. The person's engagement in the lawful manufacture, distribution, sale, purchase, or use of firearms or ammunition.

e. The person's engagement in the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, mining, or agriculture.

f. The person's support of the state or Federal Government in combatting illegal immigration, drug trafficking, or human trafficking.

g. The person's engagement with, facilitation of, employment by, support of, business relationship with, representation of, or advocacy for any person described in this subparagraph.

h. The person's failure to meet or commit to meet, or expected failure to meet, any of the following as long as such person is in compliance with applicable state or federal law:

(I) Environmental standards, including emissions standards, benchmarks, requirements, or disclosures;

(II) Social governance standards, benchmarks, or requirements, including, but not limited to, environmental or social justice;

(III) Corporate board or company employment composition standards, benchmarks, requirements, or disclosures based on characteristics protected under the Florida Civil Rights Act of 1992; or

(IV) Policies or procedures requiring or encouraging employee participation in social justice programming, including, but not limited to, diversity, equity, or inclusion training.

Section 15. Section 280.025, Florida Statutes, is created to read:

280.025 Attestation required.—

(1) Beginning July 1, 2023, the following entities must attest, under penalty of perjury, on a form prescribed by the Chief Financial Officer, whether the entity is in compliance with s. 280.02(26)(e) and (f):

(a) A bank, savings bank, or savings association, upon application or reapplication for designation as a qualified public depository.

(b) A qualified public depository, upon filing the report required by s. 280.16(1)(d).

(2) If an application or reapplication for designation as a qualified public depository is pending on July 1, 2023, the bank, savings bank, or savings association must file the attestation required under subsection (1) before being designated or redesignated a qualified public depository.

Section 16. Paragraph (d) of subsection (13) and subsection (17) of section 280.05, Florida Statutes, are amended to read:

280.05 Powers and duties of the Chief Financial Officer.—In fulfilling the requirements of this act, the Chief Financial Officer has the power to take the following actions he or she deems necessary to protect the integrity of the public deposits program:

(13) Require the filing of the following reports, which the Chief Financial Officer shall process as provided:

(d)1. Any related documents, reports, records, or other information deemed necessary by the Chief Financial Officer in order to ascertain compliance with this chapter, including, but

not limited to, verifying the attestation required under s. 280.025.

2. If the Chief Financial Officer determines that the attestation required under s. 280.025 is materially false, he or she must report such determination to the Attorney General, who may bring a civil or administrative action for damages, injunctive relief, and such other relief as may be appropriate. If such action is successful, the Attorney General is entitled to reasonable attorney fees and costs.

3. As related to federally chartered financial institutions, this paragraph may not be construed to create a power exceeding the visitorial powers of the Chief Financial Officer allowed under federal law.

(17) Suspend or disqualify or disqualify after suspension any qualified public depository that has violated ~~any of the provisions of~~ this chapter or ~~of~~ rules adopted hereunder or that no longer meets the definition of a qualified public depository under s. 280.02.

(a) Any qualified public depository that is suspended or disqualified pursuant to this subsection is subject to the provisions of s. 280.11(2) governing withdrawal from the public deposits program and return of pledged collateral. Any suspension shall not exceed a period of 6 months. Any qualified public depository which has been disqualified may not reapply for qualification until after the expiration of 1 year from the date of the final order of disqualification or the final disposition of any appeal taken therefrom.

(b) In lieu of suspension or disqualification, impose an administrative penalty upon the qualified public depository as

provided in s. 280.054.

(c) If the Chief Financial Officer has reason to believe that any qualified public depository or any other financial institution holding public deposits is or has been violating ~~any of the provisions of~~ this chapter or ~~of~~ rules adopted hereunder or no longer meets the definition of a qualified public depository under s. 280.02, he or she may issue to the qualified public depository or other financial institution an order to cease and desist from the violation or to correct the condition giving rise to or resulting from the violation. If any qualified public depository or other financial institution violates a cease-and-desist or corrective order, the Chief Financial Officer may impose an administrative penalty upon the qualified public depository or other financial institution as provided in s. 280.054 or s. 280.055. In addition to the administrative penalty, the Chief Financial Officer may suspend or disqualify any qualified public depository for violation of any order issued pursuant to this paragraph.

Section 17. Subsections (14) and (15) are added to section 280.051, Florida Statutes, to read:

280.051 Grounds for suspension or disqualification of a qualified public depository.—A qualified public depository may be suspended or disqualified or both if the Chief Financial Officer determines that the qualified public depository has:

(14) Failed to file the attestation required under s. 280.025.

(15) No longer meets the definition of a qualified public depository under s. 280.02.

Section 18. Paragraph (b) of subsection (1) of section

280.054, Florida Statutes, is amended to read:

280.054 Administrative penalty in lieu of suspension or disqualification.—

(1) If the Chief Financial Officer finds that one or more grounds exist for the suspension or disqualification of a qualified public depository, the Chief Financial Officer may, in lieu of suspension or disqualification, impose an administrative penalty upon the qualified public depository.

(b) With respect to any knowing and willful violation of a lawful order or rule, the Chief Financial Officer may impose a penalty upon the qualified public depository in an amount not exceeding $1,000 for each violation. If restitution is due, the qualified public depository shall make restitution upon the order of the Chief Financial Officer and shall pay interest on such amount at the legal rate. Each day a violation continues constitutes a separate violation. Failure to timely file the attestation required under s. 280.025 is deemed a knowing and willful violation.

Section 19. Paragraphs (e) and (f) of subsection (1) of section 280.055, Florida Statutes, are amended, and paragraph (g) is added to that subsection, to read:

280.055 Cease and desist order; corrective order; administrative penalty.—

(1) The Chief Financial Officer may issue a cease and desist order and a corrective order upon determining that:

(e) A qualified public depository or a custodian has not furnished to the Chief Financial Officer, when the Chief Financial Officer requested, a power of attorney or bond power or bond assignment form required by the bond agent or bond

trustee for each issue of registered certificated securities pledged and registered in the name, or nominee name, of the qualified public depository or custodian; ~~or~~

(f) A qualified public depository; a bank, savings association, or other financial institution; or a custodian has committed any other violation of this chapter or any rule adopted pursuant to this chapter that the Chief Financial Officer determines may be remedied by a cease and desist order or corrective order; or

(g) A qualified public depository no longer meets the definition of a qualified public depository under s. 280.02.

Section 20. Section 287.05701, Florida Statutes, is created to read:

287.05701 Prohibition against considering social, political, or ideological interests in government contracting.—

(1) As used in this section, the term "awarding body" means:

(a) For state contracts, an agency or the department.

(b) For local government contracts, the governing body of a county, a municipality, a special district, or any other political subdivision of the state.

(2)(a) An awarding body may not request documentation of or consider a vendor's social, political, or ideological interests when determining if the vendor is a responsible vendor.

(b) An awarding body may not give preference to a vendor based on the vendor's social, political, or ideological interests.

(3) Beginning July 1, 2023, any solicitation for the procurement of commodities or contractual services by an

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awarding body must include a provision notifying vendors of the provisions of this section.

Section 21. Section 516.037, Florida Statutes, is created to read:

516.037 Unsafe and unsound practices.—

(1) Licensees must make determinations about the provision or denial of services based on an analysis of risk factors unique to each current or prospective customer and may not engage in an unsafe and unsound practice as provided in subsection (2). This subsection does not restrict a licensee that claims a religious purpose from making such determinations based on the current or prospective customer's religious beliefs, religious exercise, or religious affiliations.

(2) It is an unsafe and unsound practice for a licensee to deny or cancel its services to a person, or to otherwise discriminate against a person in making available such services or in the terms or conditions of such services, on the basis of:

(a) The person's political opinions, speech, or affiliations;

(b) Except as provided in subsection (1), the person's religious beliefs, religious exercise, or religious affiliations;

(c) Any factor if it is not a quantitative, impartial, and risk-based standard, including any such factor related to the person's business sector; or

(d) The use of any rating, scoring, analysis, tabulation, or action that considers a social credit score based on factors including, but not limited to:

1. The person's political opinions, speech, or

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affiliations.

2. The person's religious beliefs, religious exercise, or religious affiliations.

3. The person's lawful ownership of a firearm.

4. The person's engagement in the lawful manufacture, distribution, sale, purchase, or use of firearms or ammunition.

5. The person's engagement in the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, mining, or agriculture.

6. The person's support of the state or Federal Government in combatting illegal immigration, drug trafficking, or human trafficking.

7. The person's engagement with, facilitation of, employment by, support of, business relationship with, representation of, or advocacy for any person described in this paragraph.

8. The person's failure to meet or commit to meet, or expected failure to meet, any of the following as long as such person is in compliance with applicable state or federal law:

a. Environmental standards, including emissions standards, benchmarks, requirements, or disclosures;

b. Social governance standards, benchmarks, or requirements, including, but not limited to, environmental or social justice;

c. Corporate board or company employment composition standards, benchmarks, requirements, or disclosures based on characteristics protected under the Florida Civil Rights Act of 1992; or

d. Policies or procedures requiring or encouraging employee

participation in social justice programming, including, but not limited to, diversity, equity, or inclusion training.

(3) Beginning July 1, 2023, and upon application for a license or license renewal, applicants and licensees must attest, under penalty of perjury, on a form prescribed by the commission whether the applicant or licensee is acting in compliance with subsections (1) and (2).

(4) In addition to any sanctions and penalties under this chapter, a failure to comply with subsection (1) or engaging in a practice described in subsection (2) constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act under part II of chapter 501. Notwithstanding s. 501.211, violations must be enforced only by the enforcing authority, as defined in s. 501.203(2), and subject the violator to the sanctions and penalties provided for in that part. If such action is successful, the enforcing authority is entitled to reasonable attorney fees and costs.

Section 22. Section 560.1115, Florida Statutes, is created to read:

560.1115 Unsafe and unsound practices.—

(1) Licensees must make determinations about the provision or denial of services based on an analysis of risk factors unique to each current or prospective customer and may not engage in an unsafe and unsound practice as provided in subsection (2). This subsection does not restrict a licensee that claims a religious purpose from making such determinations based on the current or prospective customer's religious beliefs, religious exercise, or religious affiliations.

(2) It is an unsafe and unsound practice for a licensee to

deny or cancel its services to a person, or to otherwise discriminate against a person in making available such services or in the terms or conditions of such services, on the basis of:

(a) The person's political opinions, speech, or affiliations;

(b) Except as provided in subsection (1), the person's religious beliefs, religious exercise, or religious affiliations;

(c) Any factor if it is not a quantitative, impartial, and risk-based standard, including any such factor related to the person's business sector; or

(d) The use of any rating, scoring, analysis, tabulation, or action that considers a social credit score based on factors including, but not limited to:

1. The person's political opinions, speech, or affiliations.

2. The person's religious beliefs, religious exercise, or religious affiliations.

3. The person's lawful ownership of a firearm.

4. The person's engagement in the lawful manufacture, distribution, sale, purchase, or use of firearms or ammunition.

5. The person's engagement in the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, mining, or agriculture.

6. The person's support of the state or Federal Government in combatting illegal immigration, drug trafficking, or human trafficking.

7. The person's engagement with, facilitation of, employment by, support of, business relationship with,

representation of, or advocacy for any person described in this paragraph.

8. The person's failure to meet or commit to meet, or expected failure to meet, any of the following as long as such person is in compliance with applicable state or federal law:

a. Environmental standards, including emissions standards, benchmarks, requirements, or disclosures;

b. Social governance standards, benchmarks, or requirements, including, but not limited to, environmental or social justice;

c. Corporate board or company employment composition standards, benchmarks, requirements, or disclosures based on characteristics protected under the Florida Civil Rights Act of 1992; or

d. Policies or procedures requiring or encouraging employee participation in social justice programming, including, but not limited to, diversity, equity, or inclusion training.

(3) Beginning July 1, 2023, and upon application for a license or license renewal, applicants and licensees, as applicable, must attest, under penalty of perjury, on a form prescribed by the commission whether the applicant or licensee is acting in compliance with subsections (1) and (2).

(4) In addition to any sanctions and penalties under this chapter, a failure to comply with subsection (1) or engaging in a practice described in subsection (2) constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act under part II of chapter 501. Notwithstanding s. 501.211, violations must be enforced only by the enforcing authority, as defined in s. 501.203(2), and subject the violator to the sanctions and

penalties provided for in that part. If such action is successful, the enforcing authority is entitled to reasonable attorney fees and costs.

Section 23. Paragraph (h) of subsection (1) of section 560.114, Florida Statutes, is amended to read:

560.114 Disciplinary actions; penalties.—

(1) The following actions by a money services business, authorized vendor, or affiliated party constitute grounds for the issuance of a cease and desist order; the issuance of a removal order; the denial, suspension, or revocation of a license; or taking any other action within the authority of the office pursuant to this chapter:

(h) Engaging in an act prohibited under s. 560.111 or s. 560.1115.

Section 24. Paragraph (y) of subsection (1) of section 655.005, Florida Statutes, is amended to read:

655.005 Definitions.—

(1) As used in the financial institutions codes, unless the context otherwise requires, the term:

(y) "Unsafe or unsound practice" or "unsafe and unsound practice" means:

1. Any practice or conduct found by the office to be contrary to generally accepted standards applicable to a financial institution, or a violation of any prior agreement in writing or order of a state or federal regulatory agency, which practice, conduct, or violation creates the likelihood of loss, insolvency, or dissipation of assets or otherwise prejudices the interest of the financial institution or its depositors or members. In making this determination, the office must consider

the size and condition of the financial institution, the gravity of the violation, and the prior conduct of the person or institution involved; or

2. Failure to comply with s. 655.0323(1), or engaging in a practice described in s. 655.0323(2).

Section 25. Section 655.0323, Florida Statutes, is created to read:

655.0323 Unsafe and unsound practices.—

(1) Financial institutions must make determinations about the provision or denial of services based on an analysis of risk factors unique to each current or prospective customer or member and may not engage in an unsafe and unsound practice as provided in subsection (2). This subsection does not restrict a financial institution that claims a religious purpose from making such determinations based on the current or prospective customer's or member's religious beliefs, religious exercise, or religious affiliations.

(2) It is an unsafe and unsound practice for a financial institution to deny or cancel its services to a person, or to otherwise discriminate against a person in making available such services or in the terms or conditions of such services, on the basis of:

(a) The person's political opinions, speech, or affiliations;

(b) Except as provided in subsection (1), the person's religious beliefs, religious exercise, or religious affiliations;

(c) Any factor if it is not a quantitative, impartial, and risk-based standard, including any such factor related to the

person's business sector; or

(d) The use of any rating, scoring, analysis, tabulation, or action that considers a social credit score based on factors including, but not limited to:

1. The person's political opinions, speech, or affiliations.

2. The person's religious beliefs, religious exercise, or religious affiliations.

3. The person's lawful ownership of a firearm.

4. The person's engagement in the lawful manufacture, distribution, sale, purchase, or use of firearms or ammunition.

5. The person's engagement in the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel-based energy, timber, mining, or agriculture.

6. The person's support of the state or Federal Government in combatting illegal immigration, drug trafficking, or human trafficking.

7. The person's engagement with, facilitation of, employment by, support of, business relationship with, representation of, or advocacy for any person described in this paragraph.

8. The person's failure to meet or commit to meet, or expected failure to meet, any of the following as long as such person is in compliance with applicable state or federal law:

a. Environmental standards, including emissions standards, benchmarks, requirements, or disclosures;

b. Social governance standards, benchmarks, or requirements, including, but not limited to, environmental or social justice;

c. Corporate board or company employment composition standards, benchmarks, requirements, or disclosures based on characteristics protected under the Florida Civil Rights Act of 1992; or

d. Policies or procedures requiring or encouraging employee participation in social justice programming, including, but not limited to, diversity, equity, or inclusion training.

(3) Beginning July 1, 2023, and by July 1 of each year thereafter, financial institutions subject to the financial institutions codes must attest, under penalty of perjury, on a form prescribed by the commission whether the entity is acting in compliance with subsections (1) and (2).

(4) Engaging in a practice described in subsection (2) or failing to timely provide the attestation under subsection (3) is a failure to comply with this chapter, constitutes a violation of the financial institutions codes, and is subject to the applicable sanctions and penalties provided for in the financial institutions codes.

(5) Notwithstanding ss. 501.211 and 501.212, a failure to comply with subsection (1) or engaging in a practice described in subsection (2) constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act under part II of chapter 501. Violations must be enforced only by the enforcing authority, as defined in s. 501.203(2), and subject the violator to the sanctions and penalties provided for in that part. If such action is successful, the enforcing authority is entitled to reasonable attorney fees and costs.

(6) The office and the commission may not exercise authority pursuant to s. 655.061 in relation to this section.

Section 26. Subsection (5) is added to section 1010.04, Florida Statutes, to read:

1010.04 Purchasing.—

(5) Beginning July 1, 2023, school districts, Florida College System institutions, and state universities may not:

(a) Request documentation of or consider a vendor's social, political, or ideological interests.

(b) Give preference to a vendor based on the vendor's social, political, or ideological interests.

Any solicitation for purchases and leases must include a provision notifying vendors of the provisions of this subsection.

Section 27. For the purpose of incorporating the amendment made by this act to section 17.57, Florida Statutes, in references thereto, subsection (1) of section 17.61, Florida Statutes, is reenacted to read:

17.61 Chief Financial Officer; powers and duties in the investment of certain funds.—

(1) The Chief Financial Officer shall invest all general revenue funds and all the trust funds and all agency funds of each state agency, and of the judicial branch, as defined in s. 216.011, and may, upon request, invest funds of any board, association, or entity created by the State Constitution or by law, except for the funds required to be invested pursuant to ss. 215.44-215.53, by the procedure and in the authorized securities prescribed in s. 17.57; for this purpose, the Chief Financial Officer may open and maintain one or more demand and safekeeping accounts in any bank or savings association for the

investment and reinvestment and the purchase, sale, and exchange of funds and securities in the accounts. Funds in such accounts used solely for investments and reinvestments shall be considered investment funds and not funds on deposit, and such funds shall be exempt from the provisions of chapter 280. In addition, the securities or investments purchased or held under the provisions of this section and s. 17.57 may be loaned to securities dealers and banks and may be registered by the Chief Financial Officer in the name of a third-party nominee in order to facilitate such loans, provided the loan is collateralized by cash or United States government securities having a market value of at least 100 percent of the market value of the securities loaned. The Chief Financial Officer shall keep a separate account, designated by name and number, of each fund. Individual transactions and totals of all investments, or the share belonging to each fund, shall be recorded in the accounts.

Section 28. For the purpose of incorporating the amendment made by this act to section 215.47, Florida Statutes, in a reference thereto, subsection (3) of section 215.44, Florida Statutes, is reenacted to read:

215.44 Board of Administration; powers and duties in relation to investment of trust funds.—

(3) Notwithstanding any law to the contrary, all investments made by the State Board of Administration pursuant to ss. 215.44-215.53 shall be subject to the restrictions and limitations contained in s. 215.47, except that investments made by the State Board of Administration under a trust agreement pursuant to subsection (1) shall be subject only to the restrictions and limitations contained in the trust agreement.

Section 29. This act shall take effect July 1, 2023.

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The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

Fiscal
Committee

SB 302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Dr. Rich Templin

Phone 850 224 6926

Address 135 S. Monroe
Street

Email

Tallahassee FL
City State Zip

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
Florida AFL-CIO

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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04/13/2023	SB 302
Meeting Date	Bill Number or Topic
Fiscal Policy	
Committee	Amendment Barcode (if applicable)

Name Eric Scarfe Phone 617 922 5321

Address 11200 SW 8th St Email Eric.scarfe@ufe-fiu.org
Street

Miami FL 33199
City State Zip

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by: UFE - FIU

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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4/13/23
Meeting Date

SB 302
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name N. Sabriya Gates Phone

Address Email

Street

Lithia FL 33547

City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

FISCAL POLICY
Committee

302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Shawntrel Jackson

Phone 3056067964

Address 18455 N.E. 6 Ave C319
Street

Email

MIAMI FL 33162
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

4/13/23
Meeting Date

Fiscal Policy
Committee

302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Joseph D'Elia Phone

Address 19377 Ne 10 avenue #501
Street Email

Miami FL 33179
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

9/13/23
Meeting Date

3&2
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name James E. Burke Jr

Phone 786-416-2119

Address 3011 N.W. 186 Terr
Street

Email JBurkeJr880@gmail.com

Miami Gardens FL 33056
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4-13-23
Meeting Date

Fiscal Policy
Committee

302
Bill Number or Topic

Amendment Barcode (if applicable)

Name André Brown

Phone 305-987-3879

Address 19031 N.W. 7th

Email

Street

Miami FL 33169

City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/13/23
Meeting Date

Fiscal Policy
Committee

SB 0302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Sean Federico

Phone

Address
Street

Email

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/13	302
Meeting Date	Bill Number or Topic
FISCAL POLICY	
Committee	Amendment Barcode (if applicable)

Name AUSTIN STOWERS Phone 850 413 5939

Address 200 E GAINES Email austin.stowers@myfloridacfo.com
Street

TALLAHASSEE FL 32399
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
CFO JIMMY PATRONIS

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/13/23
Meeting Date

Fiscal Policy
Committee

SB 302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kelley Stephenson

Phone 850 585 9594

Address 261 Wee Acres Rd.
Street

Email kelleystephenson@gmail.com

DeFuniak Springs, FL 32433
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by: FEA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/13/23
Meeting Date

SB 302
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Marian Phillips

Phone 904-206-0230

Address 724 S. 6th St.
Street

Email islandgirl79@comcast.net

Fernandina Beach FL 32034
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

4.13.2023
Meeting Date

Fiscal Policy
Committee

SB 302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Darrell Warren

Phone 850 266-4547

Address 8410 Ferlon Ave
Street

Email jade2721@aol.com

Pensacola FL 32526
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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4-13-23
Meeting Date

Fiscal Policy
Committee

SB 302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lorraine Rendon

Phone

Address
Street

Email

Rockledge FL 32955
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4-13-23
Meeting Date

FISCAL POLICY
Committee

SB 302
Bill Number or Topic

Amendment Barcode (if applicable)

Name FERNANDO RENDON

Phone

Address

Email

Street

ROCKLEDGE FL 32955
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lare Allen

Phone

Address 3331 Primrose Willow Dr
Street

Saint Cloud FL 34773
City State Zip

Email NBtruedeals@gmail.com

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

04/13/23
Meeting Date

Fiscal Policy
Committee

302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Brun E. Hudson

Phone 386-585-5297

Address 73 Buttonwood Dr. Unit B
Street

Email brunhudson@gmail.com

Palm Coast FL 32137
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

4/13/2023
Meeting Date

SB302
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name FERRARO JACOBS Phone

Address Email

Street

TAMPA FL 33617
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

4-12-2023
Meeting Date

SB 302
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Sandra R. Nickles Phone

Address Email

Street

Tampa FL 33610
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

4-13-23
Meeting Date

Fiscal Policy
Committee

SB 0302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Roderick Wilson

Phone

Address
Street

Email

Cape Coral
City

State

33909
Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

4/13/23
Meeting Date

Fiscal Policy
Committee

SB 0302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Victoria Smith

Phone 352 442-1397

Address 7225 W. Riverbend Rd
Street

Email victoriajoseph9@gmail.com

Dunnellon, FL 34433
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

4/13/23
Meeting Date

Fiscal Policy
Committee

302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Gilda Morgan-Williams Phone

Address 1459 North Magnolia Circle Email
Street

WPB FL 33401
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

April 13, 2023
Meeting Date

Fiscal Policy
Committee

302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Felecia Hampshire

Phone 904-622-7903

Address 508 Franklin St
Street

Email Carimenia@gmail.com

Green Cove Springs, FL 32043
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

4/13/23
Meeting Date

Fiscal Policy
Committee

SB 0302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Charla S Fox

Phone 239-940-5095

Address 6627 Kestrel Cir
Street

Email

Ft Myers FL 33966
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/13/23
Meeting Date

FIAC AFFAIRS
Committee

SB 302
Bill Number or Topic

Amendment Barcode (if applicable)

Name KEVIN DALY

Phone

Address

Email

Street

FORT MYERS FL 33908
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

4/13/23
Meeting Date

Fiscal Policy
Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kiara DeCoursey

Phone 352-317-5998

Address
Street

Email

Belle Glade FL 33430
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

4/13/23
Meeting Date

Fiscal Policy
Committee

SB 0302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lisa Massero

Phone 352-397-9276

Address 15468 Barbank Dr.
Street

Email lmassero@gmail.com

Brooksville FL 34604
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

Fiscal
Committee

302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Pete Harris

Phone

Address 203 S Bougainvillea
Street

Polk City FL 33868
City State Zip

Email

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Helen Hamel

Phone

Address
Street

Email

Summerfield FL 34491
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

04/13/2023
Meeting Date

Fiscal
Committee

SB302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Serena James

Phone

Address
Street

Email

Orlando FL 32839
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 0302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Camille Hicks

Phone 386-590-1622

Address 7443 53rd Rd
Street

Email cauleflower@yahoo.com

Live Oak, FL 32060
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

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4/13/23
Meeting Date

FISCAL POLICY
Committee

302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barry Tills

Phone

Address
Street

Email

Orlando FL 32809
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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4/13/23
Meeting Date

Fin. Pols
Committee

SB 302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jeff Botello

Phone

Address
Street

Email

Oldsmar FL 34677
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Stephanie Yocum

Phone 863-533-0908

Address 730 E Davidson St
Street

Email

Bartow FL 33830
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/2023
Meeting Date

Fiscal Policy
Committee

SB 302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Melissa Merriweather

Phone 352-299-6456

Address 2416 NE 32nd St.
Street

Email mmkiad07@yahoo.com

Ocala FL 34479
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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4/12/23
Meeting Date

Fiscal Security
Committee

SB 0302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Cynthia Poole

Phone

Address
Street

Email

Ft Pierce FL 34947
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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04/13/2023
Meeting Date

FISCAL POLICY
Committee

302
Bill Number or Topic

Amendment Barcode (if applicable)

Name ROBERT CHAPMAN Phone

Address 3622 WILLIAM RAY ROAD Email
Street

PLANT CITY FLORIDA 33565
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 0302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Wendy CAREY

Phone

Address
Street

Email

Tampa, FL
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tim Nungesser

Phone 850-445-5367

Address 110 East Jefferson Street
Street

Email Tim.nungesser@nfib.org

Tallahassee FL 32301
City State Zip

Reset Form

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
NFIB

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

Fisc Pol
Committee

302
Bill Number or Topic

Amendment Barcode (if applicable)

Name David Cullen

Phone 941-323-2404

Address 2838 Little Deal Rd
Street

Email cullenasea@gmail.com

Tallahassee FL 32308
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Sierra Club Florida

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4-13-23
Meeting Date

Fiscal Policy
Committee

SB 302
Bill Number or Topic

Amendment Barcode (if applicable)

Name Victoria Kidwell

Phone

Address
Street

Email

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/CS/SB 364
INTRODUCER:	Fiscal Policy Committee; Governmental Oversight and Accountability Committee and Senator Avila
SUBJECT:	Bereavement Benefits for Law Enforcement Officers
DATE:	April 14, 2023
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Limones-Borja	McVaney	GO	**Fav/CS**
2.	Erickson	Stokes	CJ	**Favorable**
3.	Limones-Borja	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 364 creates the "Respecting Their Sacrifice Act." The bill requires the head of a law enforcement agency to grant up to 8 hours of administrative leave to a law enforcement officer in order for the officer to attend the funeral service of another officer from the agency who was killed in the line of duty. The bill authorizes the denial of such leave to maintain minimum or adequate staffing levels.

The bill authorizes the head of a law enforcement agency to designate the travel of a law enforcement officer from the agency to attend the funeral of another officer killed in the line of duty as official state business. The bill also authorizes a state employed law enforcement officer to use a state vehicle to attend a funeral within the state of another officer killed in the line of duty. The law enforcement officers must be reimbursed by the agency as provided in s. 112.061, F.S.

The bill increases the amount that must be paid towards the funeral or burial expenses of a law enforcement, correctional, or correctional probation officer who was employed full time by a state agency and killed in the line of duty while performing law enforcement duties or as a result of an assault against the officer under riot conditions from $1,000 to $10,000.

The bill also expands a definition of "official state business" for a law enforcement officer to allow the use of a state vehicle to attend the funeral within the state of a law enforcement who

was killed in the line of duty if such use is at the direction of or with the permission of the agency head.

The bill is expected to increase costs borne by state agencies employing law enforcement officers, correctional officers, correctional probation officers, and institutional security specialists.

The bill takes effect July 1, 2023, unless expressly provided otherwise.

II. Present Situation:

Law Enforcement

A "law enforcement agency" means an agency that has a primary mission of preventing and detecting crime and enforcing the penal, criminal, traffic, and motor vehicle laws of the state and in furtherance of that primary mission employs law enforcement officers.[1] A "law enforcement or correctional officer" means a law enforcement officer, special agent, correctional officer, correctional probation officer, or institutional security specialist certified under ch. 943, F.S.[2]

The table below shows the number of certified law enforcement and correctional officers employed by each state agency.[3,4]

Agency	Number of Officers
Agriculture and Consumer Services	204
Business and Professional Regulation	77
Environmental Protection	19
Financial Services	264
Highway Safety and Motor Vehicles	1,995
Law Enforcement	491
Legal Affairs	59
Lottery	22
Fish and Wildlife Conservation Commission	806
State Attorney's Office	241
State Court System	63
State University Police Departments	531
Florida School For Deaf and Blind Campus Police Security Services	10
Florida Department of Corrections	14,938
Florida Department of Corrections, Office of Inspector General	122
Florida State Hospital	96

[1] Section 943.1718, F.S.
[2] Section 110.107(14), F.S.
[3] Florida Department of Law Enforcement, *Criminal Justice Agency Profile Report 2021, State Agencies*, available at http://www.fdle.state.fl.us/CJSTC/Publications/CJAP/CJAP-2021/SA-Index.aspx (last visited March 27, 2023).
[4] Florida Department of Law Enforcement, *Criminal Justice Agency Profile Report 2021, Schools and Ports*, available at http://www.fdle.state.fl.us/CJSTC/Publications/CJAP/CJAP-2021/SA-Index.aspx (last visited March 27, 2023).

Florida State Hospital / Agency for Persons with Disabilities	37
North Florida Evaluation and Treatment Center	49
Wellpath Treasure Coast Forensic Treatment Center	81
Total Number of Officers	20,105

Burial or Funeral Benefits

Section 112.19, F.S., requires the employer of a law enforcement officer, correctional officer, and correctional probation officer to provide death benefits, including a monetary payment, waiver of educational costs, and health insurance premiums, to surviving family members of an officer killed under certain circumstances. If a full-time law enforcement, correctional or correctional probation officer, who is certified pursuant to ch. 943, F.S., and employed by a state agency, is killed in the line of duty while engaged in the performance of their law enforcement duties as a result of an assault against the officer under riot conditions, the sum of $1,000 must be paid toward the funeral and burial expenses of such officer.[5] The benefit is in addition to any other benefits to which the beneficiaries or estate are entitled under the Workers' Compensation Law or any other state or federal statutes. The officer's employing agency may also pay up to $5,000 directly towards the venue expenses associated with the funeral and burial services.[6]

State Personnel Management System

The state personnel management system provides means to recruit, select, train, develop, and maintain an effective and responsible workforce. The statutes include policies and procedures for employee hiring and advancement, training and career development, position classification, salary administration, benefits, discipline, discharge, employee performance evaluations, affirmative action, and other related activities.[7]

The Department of Management Services (DMS) is charged with establishing and maintaining a classification and compensation program addressing Career Service, Selected Exempt Service, and Senior Management Service positions.[8] The classification of a position determines the types of benefits assigned and its compensation and collective bargaining. A position must be classified as Career Service unless specifically exempted by statute.[9]

Career Service, Selected Exempt Service, and Senior Management Service employees may be granted paid time off in the form of administrative leave for a variety of authorized purposes. The employing agency is responsible for monitoring the use of administrative leave to ensure that its use is within the applicable statutory or rule cap, or does not otherwise exceed a reasonable amount consistent with the circumstances.[10] Generally, state employees may be granted administrative leave for the following purposes:

[5] Section 112.19(2)(f)1., F.S.
[6] Section 112.19(2)(f)2., F.S.
[7] Section 110.105(1), F.S. Chapter 110, F.S., establishes the state's personnel management system.
[8] Section 110.2035(1), F.S.
[9] Section 110.205(1), F.S.
[10] Department of Management Services Division of State Human Resource Management Policy Guideline, *Administrative Leave – Prudent Fiscal Management Through Tracking and Monitoring*, *available at* https://www.dms.myflorida.com/content/download/91707/528058/2018-

- Participating in certain international competitions;[11]
- Receiving treatment for a military-service disability;[12]
- Volunteering for certain disasters;[13]
- Participating in certain family activities;[14]
- Attending jury duty;
- When subpoenaed as a witness;
- Taking an examination for military service;
- Attending a family member's funeral;
- When offices are closed under emergency conditions;
- When an employee is under formal investigation;
- Voting in an election;
- Taking certain other examinations; or
- Participating in the Governor's Mentoring Initiative.[15]

Travel Expenses of Public Employees

The rates, procedures, and limitations placed on the use of taxpayer funds for travel by state and local government employees and officers is standardized by general law.[16] For public officers and employees, all travel must be authorized and approved by the head of the employing agency.[17] The travel request must be accompanied by a signed statement by the traveler's supervisor stating the purpose of the travel and that such travel is for official business. The agency head may only pay for travel expenses necessary to achieve the public purpose and subject to limitations established by state law.[18]

Travel is divided into four categories:
- Class A: Continuous travel of 24 hours or more away from official headquarters.[19]
- Class B: Continuous travel of less than 24 hours which involves overnight absence from official headquarters.
- Class C: Travel for short or day trips where the travel is not away from official headquarters overnight.
- Foreign travel: Travel outside the United States.[20]

005_Administrative_Leave_Prudent_Fiscal_Management_Through_Tracking_and_Monitoring_[7 (last visited March 27, 2023).
[11] Section 110.118, F.S.
[12] Section 110.119, F.S.
[13] Section 110.120, F.S.
[14] *See* s. 110.1522, F.S., and R. 60L-34.0051, F.A.C.
[15] See R. 60L-34.0071, F.A.C.
[16] Section 112.061, F.S.
[17] Section 112.061(3)(a), F.S. (travel must be approved by "head of the agency"). The "head of the agency" is defined as the highest policymaking authority of a public agency. Section 112.061(2)(b), F.S.
[18] Section 112.061(3)(b), F.S.
[19] The official headquarters of an officer or employee assigned to an office is the city or town in which the office is located, unless an exception applies. *See* s. 112.061(4), F.S.
[20] Section 112.061(2)(k)-(m), F.S.

Reimbursements for travel time are calculated based on the type of travel. Class A travel is calculated based on a calendar day, while Class B travel is calculated based on the travel period.[21] For Class A and Class B travel, the travelers are reimbursed for each travel day included in the travel period at the rate of one-fourth of the authorized per diem rate for each six-hour period. Class C travelers are not reimbursed per diem, but may receive a subsistence allowance based on the time of travel.[22] Class C travelers receive a subsistence allowance for $6 for breakfast, $11 for lunch, and $19 for dinner.[23] The per diem and subsistence allowance for Class A and B travelers is the greater of $80 per day or the sum of actual expenses for lodging at a single-occupancy rate plus the value of the subsistence allowance for Class C travelers for the same number of meals.[24]

Travelers are only reimbursed for the actual expenses of lodging or meals. When the lodging or meals are provided at a state institution the traveler may not be reimbursed.[25] Travelers may not be reimbursed, even when traveling out of state, for any meal or lodging included in a convention or conference registration fee paid for by the state.[26]

Public officers and employees may also receive reimbursement for transportation expenses.[27] Travel is reimbursed according to a usually traveled route, with any costs associated with deviation from that route being borne by the traveler. The agency head or designee must determine the most economical method of travel considering the nature of the business, the most efficient and economical means of travel (including a consideration of time and impact on productivity of the traveler), and the number of persons making the trip.[28] If the traveler pays for the cost of official travel out of pocket, the traveler must provide documentation for reimbursement.[29] Use of a personal vehicle for official business is reimbursed to the traveler at the rate of 44.5 cents per mile, or at the common carrier fare for such travel.[30] Mileage is calculated based on the current map of the Department of Transportation, plus vicinity mileage traveled for the conduct of official business.[31]

Travelers may also be reimbursed for:
- Taxi and ferry fares;
- Bridge, road, and tunnel tolls;
- Parking and storage fees;
- Communication expenses; and
- Convention registration fees, if the convention or conference serves a direct public purpose relating to the employer of the public official, including expenses such a banquet or other

[21] Section 112.061(5)(a), F.S.
[22] Section 112.061(5)(b), F.S.
[23] Section 112.061(6)(b), F.S.
[24] Section 112.061(6)(a), F.S.
[25] Section 112.061(6)(a), F.S.
[26] Section 112.061(6)(c), F.S.
[27] *See* s. 112.061(7), F.S.
[28] Section 112.061(7)(a), F.S.
[29] Section 112.061(7)(c), F.S.
[30] Section 112.061(7)(d)1., F.S.
[31] Section 112.061(7)(d)3., F.S.

meal functions, if the traveler can show the charges were proper and necessary to enhance the public purpose of participation of the governmental entity at the conference.[32]

Counties, county constitutional officers, school boards, special districts, and metropolitan planning organizations may adopt per diem, subsistence, and mileage rates that vary from this framework, as long as their adopted rates are not less than the statutorily established rates in effect during the 2005 - 2006 fiscal year.[33] Alternative rates may be adopted by ordinance or resolution of the governing body. The rates must apply uniformly to all travel conducted by officers and employees of the government entity.[34]

Travelers are not required to provide notarized documentation of travel expenses, but must include a written declaration that the claimed travel expenses were necessary for the performance of official duties and accurately reflect travel costs. A traveler making a deliberate misrepresentation is guilty of a second-degree misdemeanor and is civilly liable for the amount of overpayment.[35]

Limitation on the use of motor vehicles

State-owned vehicles are available for "official state business" as authorized by agency heads.[36] Agency heads are required to consider the following criteria in determining appropriate use of state vehicles:

- Carrying out state official or employee job assignments;
- Transporting an employee, state official, or other person for the purpose of conducting official state business or performing services for the state;
- Providing security; and
- Protecting life or property in any emergency situation which requires the use of a state vehicle.[37]

For law enforcement officers employed by the state, the term "official state business" is interpreted to permit the use of the motor vehicle during normal duty hours to and from lunch or meal breaks and incidental stops for personal errands if such use is at the direction of or with the permission of the agency head. However, substantial deviations from official state business are prohibited.[38]

III. Effect of Proposed Changes:

Section 1 creates the "Respecting Their Sacrifice Act."

[32] Section 112.061(8)(a), F.S.
[33] Section 112.061(14)(a), F.S.
[34] Section 112.061(14)(b), F.S.
[35] Section 112.061(10), F.S. A second-degree misdemeanor is punishable by up to 60 days imprisonment and a $500 fine. Sections 775.082 and 775.083, F.S.
[36] Section 287.17(1), F.S.
[37] Section 287.17(2), F.S.
[38] Section 287.17(3)(b), F.S.

Section 2 creates s. 110.1205, F.S., to authorize the head of a law enforcement agency to grant up to eight hours of administrative leave to a state employee whose duties are those of a law enforcement officer, as defined in s. 943.10(1), F.S., in order for the officer to attend the funeral service of another officer from the agency who was killed in the line of duty. The head of a law enforcement agency is authorized to deny the use of administrative leave for such purpose in order to maintain minimum or adequate staffing levels. This section takes effect October 1, 2023.

Section 3 amends s. 112.061, F.S., to authorize the head of a law enforcement agency to designate the travel of a state employee whose duties are those of a law enforcement officer, as defined in s. 943.10(1), F.S., to attend a funeral within the state of an officer killed in the line of duty as official state business.

Section 4 amends s. 112.09, F.S., to increase from $1,000 to $10,000 the maximum amount that must be paid towards the funeral or burial expenses of a law enforcement, correctional, or correctional probation officer who was employed full time by a state agency and killed in the line of duty while performing law enforcement duties or as a result of an assault against the officer under riot conditions. With the continuation of the current statutory authority for an employing agency to pay up to an additional $5,000 toward the venue expenses associated with funeral and burial services, the estate of a fallen law enforcement, correctional, or correctional probation officer may receive up to $15,000 to cover actual funeral or burial expenses.

Section 5 amends s. 287.17, F.S., to expand the definition of "official state business" for a law enforcement officer, as defined in s. 943.10(1), F.S., to allow the use of a state vehicle to attend a funeral within this state of a law enforcement officer who was killed in the line of duty if such use is at the direction or with the permission of the agency head.

Section 6 provides that the bill takes effect July 1, 2023, unless expressly provided otherwise.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill is expected to have indeterminate negative fiscal impact on state government expenditures. The bill authorizes the head of a law enforcement agency to authorize travel expenses for a law enforcement officer to attend a funeral service within the state of another officer who was killed in the line of duty. The dollar amount of expenditures authorized by the bill depends upon whether the agency decides to authorize travel expenses and is otherwise indeterminate. In addition, the bill increases the amount that must be paid towards the funeral of a law enforcement officer, correctional officer, or correctional probation officer under certain circumstances from $1,000 to $10,000.

The bill is not expected to increase the costs to local governments employing law enforcement officers, correctional officers, and correctional probation officers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 112.061, 112.19, and 287.17.

This bill creates section 110.1205 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Fiscal Policy on April 13, 2023:
The committee substitute delays the effective date of section 2, relating to administrative leave to attend funerals, to October 1, 2023.

CS by Governmental Oversight and Accountability on March 7, 2023:
The committee substitute:
- Changes the short title;
- Narrows the definition of law enforcement officer to be as defined in s. 943.10(1), F.S.; and
- Specifies that the head of a law enforcement agency may only authorize travel expenses and the use of a state vehicle to attend a funeral service within the state.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

921764

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Avila) recommended the following:

Senate Amendment (with title amendment)

Delete line 24
and insert:
Section 2. Effective October 1, 2023, section 110.1205, Florida Statutes, is created

Delete line 77
and insert:
Section 6. Except as otherwise expressly provided in this

921764

act, this act shall take effect July 1, 2023.

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

And the title is amended as follows:

Delete line 18

and insert:

specified circumstances; providing effective dates.

By the Committee on Governmental Oversight and Accountability; and Senator Avila

585-02360-23 2023364c1

A bill to be entitled

An act relating to bereavement benefits for state employees; providing a short title; creating s. 110.1205, F.S.; authorizing the head of a law enforcement agency to grant specified employees a certain number of hours of administrative leave for a specified purpose; authorizing the head of a law enforcement agency to deny such administrative leave under certain circumstances; amending s. 112.061, F.S.; authorizing travel expenses for certain members of a law enforcement agency for a specified purpose; amending s. 112.19, F.S.; increasing the amount to be paid toward the funeral and burial expenses of certain officers killed in the line of duty; amending s. 287.17, F.S.; authorizing the use of a state motor vehicle to attend a funeral in this state of a law enforcement officer killed in the line of duty under specified circumstances; providing an effective date.

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

Section 1. This act may be cited as the "Respecting Their Sacrifice Act."

Section 2. Section 110.1205, Florida Statutes, is created to read:

110.1205 Administrative leave for law enforcement officers.—The head of a law enforcement agency may grant administrative leave not to exceed 8 hours to a state employee whose duties are those of a law enforcement officer, as defined

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

585-02360-23 2023364c1

in s. 943.10(1), to attend the funeral service of a law enforcement officer from the agency who was killed in the line of duty. The head of the law enforcement agency may deny the use of administrative leave under this section in order to maintain minimum or adequate staffing levels.

Section 3. Paragraph (i) is added to subsection (3) of section 112.061, Florida Statutes, to read:

112.061 Per diem and travel expenses of public officers, employees, and authorized persons; statewide travel management system.—

(3) AUTHORITY TO INCUR TRAVEL EXPENSES.—

(i) The head of a law enforcement agency may authorize travel expenses for a state employee whose duties are those of a law enforcement officer, as defined in s. 943.10(1), to attend a funeral service within this state of a law enforcement officer who was killed in the line of duty.

Section 4. Paragraph (f) of subsection (2) of section 112.19, Florida Statutes, is amended to read:

112.19 Law enforcement, correctional, and correctional probation officers; death benefits.—

(2)

(f) If a full-time law enforcement, correctional, or correctional probation officer who is certified pursuant to chapter 943 and employed by a state agency is killed in the line of duty while the officer is engaged in the performance of law enforcement duties or as a result of an assault against the officer under riot conditions:

1. The sum of $10,000 ~~$1,000~~ must be paid, as provided for in paragraph (d), toward the funeral and burial expenses of such

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

officer. Such benefits are in addition to any other benefits to which employee beneficiaries and dependents are entitled under the Workers' Compensation Law or any other state or federal statutes; and

2. The officer's employing agency may pay up to $5,000 directly toward the venue expenses associated with the funeral and burial services of such officer.

Section 5. Paragraph (c) is added to subsection (3) of section 287.17, Florida Statutes, to read:

287.17 Limitation on use of motor vehicles and aircraft.—

(3)

(c) For motor vehicles used by a state employee whose duties are those of a law enforcement officer, as defined in s. 943.10(1), the term "official state business" must be construed to allow the use of the vehicle to attend a funeral service within this state of a law enforcement officer who was killed in the line of duty if such use is at the direction or with the permission of the agency head.

Section 6. This act shall take effect July 1, 2023.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

April 13, 2023
Meeting Date

Fiscal Policy
Committee

364
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 1454 Vieux Carre Drive
Street

Email Barney@BarneyBishop.com

Tallahassee FL 32308
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Fla. Smart Justice

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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04.13.2023
Meeting Date

FISCAL POLICY
Committee

SB 364
Bill Number or Topic

Amendment Barcode (if applicable)

Name FELIX DEL ROSARIO (MIAMI FOP)

Phone 305-310-4081

Address 710 SW 12 AVE
Street

Email PRESIDENT@FOPMIAMI.COM

MIAMI FL 33130
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

364

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/13/23
Meeting Date

FISCAL POLICY
Committee

364
Bill Number or Topic

Amendment Barcode (if applicable)

Name WILLIAM B. SMITH

Phone 305-333-4344

Address 300 E BREVARD ST.
Street

Email WSMITH@FLPBA.ORG

TALLAHASSEE FL 32301
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
FL. PBA

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/CS/SB 452
INTRODUCER:	Fiscal Policy Committee; Appropriations Committee on Health and Human Services; and Senators Harrell, and others
SUBJECT:	Home Health Aides for Medically Fragile Children
DATE:	April 17, 2023 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	**Favorable**
2.	McKnight	Money	AHS	**Fav/CS**
3.	Looke	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 452 creates the Home Health Aides for Medically Fragile Children program to help ameliorate the impact of the shortage of health care workers on medically fragile children. The bill requires the Agency for Health Care Administration (AHCA), in consultation with the Board of Nursing (BON), to approve any training program created by a Home Health Agency (HHA) that meets the federal standards[1] for a nurse aide training program and which is meant to train family caregivers as home health aides for medically fragile children (aide).

The bill requires that such a program consist of at least 85 hours of training in specified topics and allows a HHA to employ a family caregiver as an aide if he or she has completed the training program and met other specified criteria, including background screening. The bill also requires an aide to complete HIV/AIDS and Cardiopulmonary Resuscitation (CPR) training and requires the employing HHA to ensure that the aide has 12 hours of in-service training every 12 months. The bill grants civil immunity to a HHA that terminates or denies employment to an aide who fails to maintain the requirements of the section or whose name appears on a criminal screening report.

[1] 42 C.F.R. 483.151-483.154 and 484.80

The bill allows the AHCA, in consultation with the BON, to adopt rules to implement the bill and requires the AHCA to assess the program annually and to modify the Medicaid state plan and implement any federal waivers necessary to implement the program.

The bill authorizes four full-time equivalent (FTE) positions with associated salary rate of 186,483, and $353,589 in recurring funds and $118,728 in nonrecurring funds from the Health Care Trust Fund in Fiscal Year 2023-2024 to the AHCA to implement provisions of the bill.

The bill has an indeterminate fiscal impact on the Florida Medicaid program. *See* Section V of this analysis.

The bill takes effect upon becoming law.

II. Present Situation:

Home Health Agencies

A "home health agency" (HHA) is an organization that provides home health services.[2] Home health services comprise health and medical services and supplies furnished to an individual in the individual's home or place of residence.[3]

Home health aides[4] and certified nursing assistants[5] (CNAs) are unlicensed health care workers employed by a HHA to provide personal care[6] to patients and assist them with the following activities of daily living:

- Ambulation;
- Bathing;
- Dressing;
- Eating;
- Personal hygiene;
- Toileting;
- Physical transferring;
- Assistance with self-administered medication; and
- Administering medications.[7]

[2] s. 400.462(12), F.S.
[3] s. 400.462(15), F.S., home health services include the following: nursing care; physical, occupational, respiratory, or speech therapy; home health aide services; dietetics and nutrition practice and nutrition counseling; and medical supplies, restricted to drugs and biologics prescribed by a physician.
[4] s. 400.462(14), F.S., a home health aide is a person who is trained or qualified, as provided by rule, and who provides hands-on personal care, performs simple procedures as an extension of therapy or nursing services, assists in ambulation or exercises, assists in administering medications as permitted in rule and for which the person has received training established by the agency, or performs tasks delegated to him or her under ch. 464, F.S.
[5] s. 464.201(3), F.S., a CNA is a person who meets the qualifications of part II of ch. 464, F.S., and who is certified by the Board of Nursing as a certified nursing assistant.
[6] s. 400.462(23), F.S., defines "personal care" as assistance to a patient in the activities of daily living, such as dressing, bathing, eating, or personal hygiene, and assistance in physical transfer, ambulation, and in administering medications as permitted by rule.
[7] Rule 59A-8.002(3), F.A.C.

Florida's Medicaid Model Waiver

Florida's Model Waiver is an existing waiver designed to delay or prevent institutionalization and allow recipients to maintain stable health while living at home or in their community. The waiver's purpose is to provide medically necessary services to eligible children under 21 years of age who have degenerative spinocerebellar disease and are living at home or in their community or who are medically fragile and have resided in a skilled nursing facility for at least 60 consecutive days prior to entrance on the waiver. For the purposes of the waiver, "Medically Fragile" is defined as an individual who is medically complex and technologically dependent on medical apparatus or procedures to sustain life, or is dependent on a heightened level of medical supervision to sustain life, and without such services is likely to expire without warning.

The Model Waiver provides the following services to eligible recipients:
- Respite care;
- Environmental accessibility adaptations; and
- Transition Case Management.

The Model Waiver has a maximum capacity of 20 recipients and a reserved capacity for 15 children transitioning into the community from a skilled nursing facility.[8]

Private Duty Nursing Services

Currently, federal law allows Medicaid to reimburse for private duty nursing (PDN) services. 42 C.F.R. 440.80 defines PDN services as nursing services for beneficiaries who require more individual and continuous care than is available from a visiting nurse or routinely provided by the nursing staff of the hospital or skilled nursing facility. These services are provided:
- By a registered nurse or a licensed practical nurse;
- Under the direction of the beneficiary's physician; and
- To a beneficiary in one or more of the following locations at the option of the state:
  - His or her own home;
  - A hospital; or
  - A skilled nursing facility

Florida Medicaid allows PDN to be provided to recipients under the age of 21 years who require such services, and PDN can be provided by a HHA, a licensed practical nurse (LPN), or a registered nurse (RN).[9, 10] If the PDN is provided by a parent or legal guardian of the recipient, Medicaid will reimburse for up to 40 hours per week, per recipient, so long as the parent or guardian has a valid LPN or RN license and is employed by a HHA.[11] However, other than those mentioned above, services furnished by relatives as defined in s. 429.02(18), F.S., household

[8] Application for a §1915(c) Home and Community Based Services Waiver, Florida Agency for Health Care Administration, Jul. 1, 2020, available at https://ahca.myflorida.com/medicaid/hcbs_waivers/docs/Model_Waiver_Document_2020.pdf (last visited Feb. 16, 2023).
[9] 59G-4.261, F.A.C.
[10] Florida Medicaid, Private Duty Nursing Services Coverage Policy, Agency for Health Care Administration, Nov. 2016 available at https://ahca.myflorida.com/medicaid/review/Specific/59G-4-261_Private_Duty_Nursing_Services_Coverage_Policy.pdf (last visited Feb. 16, 2023).
[11] Id.

members, or any person with custodial or legal responsibility for the recipient are specifically not covered under the PDN policy.[12]

Family Caregiver Programs in Other States

Currently, five states have family caregiver programs: Arizona, Colorado, New Hampshire, Pennsylvania, and Indiana.[13] Although each state has different specific criteria, the criteria are all similar in that the eligible relative must be under 21 years of age, qualify for the state's Medicaid program, and be medically fragile or medically complex. Each state also requires the caregiver to be trained and/or licensed as a CNA or that state's equivalent. Once the caregiver has achieved his or her training or licensure, he or she is required to obtain employment with a HHA and, at that point, is eligible to be compensated by the state's Medicaid program for services they render to their family member.[14]

III. Effect of Proposed Changes:

Section 1 creates s. 400.4765, F.S., to establish the Home Health Aides for Medically Fragile Children program. The bill amends s. 400.462, F.S., to define the following terms:

- "Approved Training Program" to mean "a course of training approved by the Agency for Health Care Administration (AHCA), in consultation with the Board of Nursing (BON), under s. 400.4765, F.S., to train family caregivers as home health aides for medically fragile children."
- "Eligible Relative" to mean "with respect to the home health aide for medically fragile children program under s. 400.4765, F.S., a person 21 years of age or younger who is eligible to receive continuous skilled nursing or skilled nursing respite care services under the Medicaid program and is a relative of a home health aide for medically fragile children."
- "Family Caregiver" to mean "a person providing or intending to provide significant personal care and assistance to an eligible relative 21 years of age or younger who has an underlying physical or cognitive condition that prevents him or her from safely living independently."
- "Home Health Aide for Medically Fragile Children" to mean a family caregiver who meets the qualifications specified in s. 400.4765, F.S.; performs tasks delegated to him or her under chapter 464, F.S., while caring for an eligible relative; and provides care and assistance to an eligible relative relating to:
    - Activities of daily living, such as those associated with personal care, maintaining mobility, nutrition and hydration, toileting and elimination, assistive devices, and safety and cleanliness.
    - Data gathering.
    - Reporting abnormal signs and symptoms.
    - Patient socialization and reality orientation.
    - Cardiopulmonary resuscitation and emergency care.
    - Residents' or patients' rights.
    - Documentation of services.

[12] Id.
[13] Team Select Home Care, Program Locations, available at https://tshc.com/states-where-the-program-is-available/ (last visited Feb. 20, 2023).
[14] Team Select Home Care, Program Locations, available at https://tshc.com/states-where-the-program-is-available/ (last visited Feb. 20, 2023).3

- End-of-life care.
- Postmortem care.
- Infection control.
- Safety and emergency procedures.
- Hygiene, grooming, and toileting.
- Skin care and pressure sore prevention.
- Nutrition and hydration.
- Wound care.
- Portable oxygen use and safety and other respiratory procedures.
- Tracheotomy care.
- Enteral care and therapy.
- Peripheral intravenous assistive activities and alternative feeding methods.
- Tasks delegated to the family caregiver under ch. 464, F.S.

Section 2 authorizes Home Health Aides for Medically Fragile Children (aides) to perform certain tasks delegated by a registered nurse, including medication administration, and requires licensed Home Health Agencies (HHAs) to ensure that aides providing such services are adequately trained to perform these tasks.

Section 3 requires HHAs to ensure that each aide employed by or under contract with the HHA is adequately trained to perform the tasks of a home health aide in the home setting and prohibits a HHA from requiring an aide to repay or reimburse the HHA for costs associated with the training program established under the bill.

Section 4 requires the AHCA, in consultation with the BON, to approve a training program created by a HHA that meets federal requirements[15] and that will train family caregivers as aides to provide trained nursing services to eligible relatives. The training program must require a family caregiver to complete 85 hours of training, including, but not limited to:

- A minimum of 40 hours of theoretical instruction, offered in various formats and times of day, in nursing, including, but not limited to, instruction on all of the following:
  - Person-centered care.
  - Communication and interpersonal skills.
  - Infection control.
  - Safety and emergency procedures.
  - Assistance with activities of daily living.
  - Mental health and social service needs.
  - Care of cognitively impaired individuals.
  - Basic restorative care and rehabilitation.
  - Patient rights and confidentiality of personal information and medical records.
  - Relevant legal and ethical issues.
- A minimum of 20 hours of skills training on basic nursing skills, including, but not limited to:
  - Hygiene, grooming, and toileting.
  - Skin care and pressure sore prevention.
  - Nutrition and hydration.

[15] 42 C.F.R. 483.151-483.154 and 484.80

  - Measuring vital signs, height, and weight.
  - Safe lifting, positioning, and moving of patients.
  - Wound care.
  - Portable oxygen use and safety and other respiratory procedures.
  - Tracheostomy care.
  - Enteral care and therapy.
  - Peripheral intravenous assistive activities and alternative feeding methods.
  - Urinary catheterization and ostomy care.
- At least 16 hours of clinical training under direct supervision of a licensed registered nurse.

The bill exempts family caregivers who have graduated from an accredited nursing school but have not yet taken the state licensure exam from the requirement to take the training.

In addition to the required training, a family caregiver must care for an eligible relative; demonstrate a minimum competency to read and write; pass a background screening pursuant to s. 400.512, F.S., except that the AHCA must waive this requirement if the family caregiver has passed a background screening pursuant to ss. 400.512 or 400.809, F.S., within the previous 90 days and the caregiver's results are not retained in the Care Provider Background Screening Clearinghouse.[16]

If a family caregiver allows 24 consecutive months to pass without performing any nursing-related services for an eligible relative, the family caregiver must recomplete the training program prior to serving as an aide.

After becoming an aide, he or she must complete an HIV/AIDS training course and maintain a certificate in cardiopulmonary resuscitation (CPR). Additionally, the HHA employing the aide must ensure that he or she completes 12 hours of in-service training during each 12-month period as a condition of employment. The bill specifies that the HIV/AIDS training may count toward the 12 hours of training and that the HHA must maintain documentation demonstrating compliance with this requirement.

The bill grants civil immunity to a HHA for terminating or denying employment to an aide who fails to maintain the requirements of the bill or whose name appears on a criminal screening report of the Florida Department of Law Enforcement. The bill also grants immunity from a cause of action and monetary liability to any licensed facility or the facility's governing board, medical staff, disciplinary board, agents, investigators, witnesses, employees, or any other person for any action taken in good faith to comply with the section.

The bill specifies that a HHA, or its agent, may not use criminal records or juvenile records relating to vulnerable adults for any purpose other than determining if the person meets the requirements of the section and that the HHA must maintain the confidentiality of any such records or information it obtains that is confidential and exempt from public records laws.

[16] Created pursuant to s. 435.12, F.S.

The bill also specifies that provisions of services by an aide reduces the eligible relative's PDN service hours covered by Medicaid and may not be concurrently provided with any PDN services.

Sections 5 and 6 amend several sections of law to include aides along with certified nursing assistants and home health aides in allowing tasks to be delegated to the aide, including the administration of medication, and requiring that a HHA ensure that any tasks delegated to the aide meet state law requirements and that the aide is properly trained.

Section 7 requires the AHCA to conduct an annual assessment of the program. The assessment must include caregiver satisfaction with the program, identify additional supports that may be needed by aides, and assess the rate and extent of hospitalization of children who are attended by aides compared to those in home health services without such an aide. The AHCA must report its findings to the Governor and the Legislature by January 1 of each year beginning in 2025.

Section 8 requires the AHCA to modify the Medicaid state plan and implement any federal waivers necessary to implement the program. The AHCA is required to establish a Medicaid fee schedule for HHAs employing aides at $25 per hour with no more than 8 hours per day.

Sections 9 and 10 make several cross-reference changes to conform to the changes made in the bill.

Section 11 authorizes four full-time equivalent (FTE) positions with associated salary rate of 186,483, and $353,589 in recurring funds and $118,728 in nonrecurring funds from the Health Care Trust Fund in Fiscal Year 2023-2024 to the AHCA to implement provisions of the bill.

Section 12 provides that the act is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/CS/SB 452 may have an indeterminate, positive fiscal impact on family caregivers who are trained as Home Health Aides for Medically Fragile Children (aides) and reimbursed for time spent caring for a family member under the bill.

The bill prohibits a Home Health Agency (HHA) from requiring an aide to repay or reimburse the HHA for costs associated with the training program. Therefore, any costs associated with providing the required training under the bill will be absorbed by a HHA.

The cost for a level 2 background screening with five years of fingerprint retention within the Care Provider Background Screening Clearinghouse is $61.25.[17] The number of individuals impacted by this requirement is indeterminate.

The bill specifies that services provided by aides reduce the private duty nursing service hours covered by Medicaid for that patient and may not be provided concurrently with private duty nursing services. Private duty nursing services may experience a reduction in reimbursement for time spent caring for a family member under the bill, contingent on the level of care directed by the patient's physician and the level of participation by family caregivers trained as aides.

C. Government Sector Impact:[18]

The bill will have an indeterminate fiscal impact on the Florida Medicaid program in order to reimburse family caregivers who become trained as aides, and will depend on the level of care directed by the patient's physician and the number of eligible family caregivers who qualify as an aide and provide services.

The bill specifies that services provided by aides reduce the private duty nursing service hours covered by Medicaid for that patient and may not be provided concurrently with private duty nursing services. The Florida Medicaid program may realize an indeterminate, positive fiscal impact if aides are able to provide care that would otherwise have been provided through private duty nursing services. However, this is contingent on the level of care directed by the patient's physician and the level of participation by family caregivers trained as aides.

[17] Florida Department of Law Enforcement, SB 452 Bill Analysis (Feb. 17, 2023) (on file with the Senate Appropriations Committee on Health and Human Services).
[18] Agency for Health Care Administration, SB 452 Bill Analysis (Mar. 1, 2023) (on file with the Senate Appropriations Committee on Health and Human Services).

The bill requires the Agency for Health Care Administration (AHCA) to establish a Medicaid fee schedule for HHAs employing aides at $25 per hour with no more than eight hours per day per provider. Current Medicaid fee schedules for applicable services as specified in the AHCA's promulgated fee schedules are $18.04 per visit for skilled nursing services and $17.32 per hour for personal care services, which is approximately 44.34 percent less than the proposed reimbursement rate. As these services are provided on a "per visit" basis and not hourly, it is difficult to predict the exact impact of establishing a new rate methodology for services provided by aides. Further, although Florida Medicaid establishes fee schedules for home health services provided through the Fee-For-Service delivery system, health plans participating in Florida's Statewide Medicaid Manage Care Program do not have to pay the AHCA established rates and may negotiate mutually agreed-upon rates with HHA providers, unless specified in Federal and/or State law, or in their contract with the AHCA.

The bill does not address a limit on the number of hours per year, but rather sets a maximum of eight hours per day per provider. This could increase the total number of hours to 2,920. Currently there are 5,072 recipients that would fall into this population. The table below highlights the potential cost increase to the Florida Medicaid program based on a projected rate of participation for eligible relatives as outlined in the bill:

	Florida Medicaid Program Potential Fiscal Impact		
Rate of Participation	**2,080 hours or 40 hours per week**	**2,219 hours (number of hours claimed in FY21-22)**	**2,920 hours or 8 hours per day/ 365 days per year**
100%	$ 104,395,766	$ 122,039,870	$ 210,907,766
75%	$ 78,296,825	$ 91,529,903	$ 158,180,825
50%	$ 52,197,883	$ 61,019,935	$ 105,453,883
25%	$ 26,098,942	$ 30,509,968	$ 52,726,942
10%	$ 10,439,577	$ 12,203,987	$ 21,090,777
5%	$ 5,219,788	$ 6,101,994	$ 10,545,388
1%	$ 1,043,958	$ 1,220,399	$ 2,109,078

The AHCA has also identified the following fiscal impacts in order to meet the requirements outlined in the bill:

Training Program

- One (1) full-time equivalent (FTE) Senior Management Analyst Supervisor – Selected Exempt Service (SES) to implement and oversee reviews of training program submissions, manage stakeholder input, and develop rules.
- Two (2) FTE Registered Nurse Consultants to review training programs for compliance with state and federal requirements and manage provider inquiries.

Annual Assessment

- An estimated cost of $150,000 in contract services to develop a data collection tool or modify an existing AHCA system to collect the information and an additional recurring $50,000 for system maintenance and enhancement.
- One (1) FTE Medical Health Care Program Analyst to analyze the results of the data.

Direct Care Workforce Survey

- The bill amends the direct care workforce survey in section 408.822, F.S., to include aides and requires additional reporting requirements for these caregivers. The AHCA is already working on implementation of the survey and will leverage existing resources to address any changes needed.

Further, changes in the bill would require the AHCA to update rules, as well as the Florida Medicaid Management Information System (FLMMIS). The AHCA may also need to update the Medicaid state plan and/or its waivers to sure the State has proper federal authority to allow Medicaid reimbursement for family caregivers. These actions are part of the Florida Medicaid program's routine business practices and can be accomplished using existing resources.

The AHCA estimates that implementation of CS/CS/SB 452 will result in non-recurring expenditures of $ 472,317 in year 1, and recurring expenditures of $353,589 in years 2 and 3. The bill authorizes four full-time equivalent (FTE) positions with associated salary rate of 186,483, and $353,589 in recurring funds and $118,728 in nonrecurring funds from the Health Care Trust Fund in Fiscal Year 2023-2024 to the AHCA to implement provisions of the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 400.462, 400.464, 400.476, 400.489, 400.490, 768.38, and 768.381.

This bill creates the following sections of the Florida Statutes: 400.4765 and 400.54.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Fiscal Policy on April 13, 2023:
The committee substitute:

- Amends the definition of "home health aide for medically fragile children" to add specified services to the list of services that an aide may perform in order to match with the services that an aide is required to be trained to provide under the bill.
- Specifies that provisions of services by an aide reduces the eligible relative's PDN service hours covered by Medicaid and may not be concurrently provided with any PDN services.

CS by Appropriations Committee on Health and Human Services on March 8, 2023:
The committee substitute:

- Makes a technical correction to the statutory cross-reference for background screenings.
- Authorizes positions and an appropriation.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

331410

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Harrell) recommended the following:

Senate Amendment

Between lines 130 and 131
insert:
(j) Infection control.
(k) Safety and emergency procedures.
(l) Hygiene, grooming, and toileting.
(m) Skin care and pressure sore prevention.
(n) Nutrition and hydration.
(o) Wound care.

331410

(p) Portable oxygen use and safety and other respiratory procedures.

(q) Tracheostomy care.

(r) Enteral care and therapy.

(s) Peripheral intravenous assistive activities and alternative feeding methods.

(t) Tasks delegated to the family caregiver under chapter 464.

542768

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Harrell) recommended the following:

Senate Amendment (with title amendment)

Between lines 271 and 272

insert:

(8) The provision of services by a home health aide for medically fragile children reduces the eligible relative's private duty nursing service hours covered by the Medicaid program and may not be provided concurrently with any private duty nursing services.

542768

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Delete line 44
and insert:
confidential and exempt records; providing that services provided by a home health aide for medically fragile children reduces an eligible relative's private duty nursing hours; providing that such services may not be provided concurrently; authorizing the

By the Appropriations Committee on Health and Human Services; and Senator Harrell

603-02369-23 2023452c1

A bill to be entitled

An act relating to home health aides for medically fragile children; amending s. 400.462, F.S.; defining terms; amending s. 400.464, F.S.; requiring home health agencies to ensure that any tasks delegated to home health aides for medically fragile children meet specified requirements; amending s. 400.476, F.S.; requiring home health agencies to ensure that home health aides for medically fragile children employed by or under contract with them are adequately trained to perform the tasks they will be delegated; providing certain individuals an exemption from costs associated with specified training; creating s. 400.4765, F.S.; establishing the home health aides for medically fragile children program for specified purposes; requiring the Agency for Health Care Administration, in consultation with the Board of Nursing, to approve training programs for home health aides for medically fragile children; specifying minimum requirements for the training programs; authorizing home health agencies to employ certain persons as home health aides for medically fragile children if they meet specified criteria; requiring home health aides for medically fragile children to complete an approved training program again under certain circumstances; requiring home health aides for medically fragile children to complete additional training in HIV/AIDS and maintain a certificate in cardiopulmonary resuscitation; requiring home health agencies to

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

603-02369-23 2023452c1

ensure that home health aides for medically fragile children whom they employ complete certain inservice training during each 12-month period; requiring home health agencies to maintain documentation demonstrating compliance with such training requirements; exempting home health agencies from civil liability for terminating or denying employment to a home health aide for medically fragile children under certain circumstances; extending the exemption to certain agents of the home health agencies; prohibiting home health agencies and their agents from using certain criminal records or juvenile records other than for a specified purpose; requiring the agency to maintain confidentiality of certain confidential and exempt records; authorizing the agency, in consultation with the board, to adopt rules; amending s. 400.489, F.S.; authorizing home health aides for medically fragile children to administer certain medications under certain circumstances; requiring such home health aides for medically fragile children to complete additional inservice training annually to continue administering such medications; requiring the agency, in consultation with the board, to establish certain standards and procedures by rule for home health aides for medically fragile children who administer medications to patients; amending s. 400.490, F.S.; authorizing home health aides for medically fragile children to perform certain tasks delegated by a

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

registered nurse; creating s. 400.54, F.S.; requiring the agency to conduct an annual assessment related to the home health aides for medically fragile children program; specifying requirements for the assessment; requiring the agency to submit a report to the Governor and the Legislature by a specified date each year, beginning on a specified date; directing the agency to modify any state Medicaid plans and implement any federal waivers necessary to implement the act; directing the agency to establish a certain Medicaid fee schedule at a specified rate and subject to a specified utilization cap; amending ss. 768.38 and 768.381, F.S.; conforming cross-references; providing appropriations and authorizing positions; providing an effective date.

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

Section 1. Present subsections (5) through (10), (11), (12), (13), (14), and (15) through (29) of section 400.462, Florida Statutes, are redesignated as subsections (6) through (11), (13), (15), (16), (17), and (19) through (33), respectively, new subsections (5), (12), (14), and (18) are added to that section, and subsection (1) and present subsection (10) of that section are amended, to read:

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

(1) "Administrator" means a direct employee, as defined in subsection (10) ~~(9)~~, who is a licensed physician, physician assistant, or registered nurse licensed to practice in this

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

state or an individual having at least 1 year of supervisory or administrative experience in home health care or in a facility licensed under chapter 395, under part II of this chapter, or under part I of chapter 429.

(5) "Approved training program" means a course of training approved by the agency, in consultation with the Board of Nursing, under s. 400.4765 to train family caregivers as home health aides for medically fragile children.

(11) ~~(10)~~ "Director of nursing" means a registered nurse who is a direct employee, as defined in subsection (10) ~~(9)~~, of the agency and who is a graduate of an approved school of nursing and is licensed in this state; who has at least 1 year of supervisory experience as a registered nurse; and who is responsible for overseeing the professional nursing and home health aid delivery of services of the agency.

(12) "Eligible relative" means, with respect to the home health aide for medically fragile children program under s. 400.4765, a person 21 years of age or younger who is eligible to receive continuous skilled nursing or skilled nursing respite care services under the Medicaid program and is a relative of a home health aide for medically fragile children.

(14) "Family caregiver" means a person providing or intending to provide significant personal care and assistance to an eligible relative 21 years of age or younger who has an underlying physical or cognitive condition that prevents him or her from safely living independently.

(18) "Home health aide for medically fragile children" means a family caregiver who meets the qualifications specified in s. 400.4765; performs tasks delegated to him or her under

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

chapter 464 while caring for an eligible relative; and provides care and assistance to an eligible relative relating to:

(a) Activities of daily living, such as those associated with personal care, maintaining mobility, nutrition and hydration, toileting and elimination, assistive devices, and safety and cleanliness.

(b) Data gathering.

(c) Reporting abnormal signs and symptoms.

(d) Patient socialization and reality orientation.

(e) Cardiopulmonary resuscitation and emergency care.

(f) Residents' or patients' rights.

(g) Documentation of services.

(h) End-of-life care.

(i) Postmortem care.

Section 2. Subsection (5) of section 400.464, Florida Statutes, is amended to read:

400.464 Home health agencies to be licensed; expiration of license; exemptions; unlawful acts; penalties.—

(5) If a licensed home health agency authorizes a registered nurse to delegate tasks, including medication administration, to a certified nursing assistant pursuant to chapter 464 or to a home health aide or a home health aide for medically fragile children pursuant to s. 400.490, the licensed home health agency must ensure that such delegation meets the requirements of this chapter and chapter 464 and the rules adopted thereunder.

Section 3. Subsection (3) of section 400.476, Florida Statutes, is amended to read:

400.476 Staffing requirements; notifications; limitations

on staffing services.—

(3) TRAINING.—A home health agency shall ensure that each certified nursing assistant employed by or under contract with the home health agency and each home health aide and home health aide for medically fragile children employed by or under contract with the home health agency is adequately trained to perform the tasks of a home health aide in the home setting. A parent, guardian, or family member who seeks the training required under s. 464.4765 to become a home health aide for medically fragile children may not be required to repay or reimburse the home health agency for the costs associated with the training program.

Section 4. Section 400.4765, Florida Statutes, is created to read:

400.4765 Home health aides for medically fragile children program.—The home health aides for medically fragile children program is hereby established in response to the shortage of health care workers in this state and the impact that the shortage has on medically fragile children and their caregivers. The program is designed to decrease hospitalization and institutionalization of medically fragile children, reduce state expenditures, and provide an opportunity for affected family caregivers to receive training and gainful employment.

(1) The agency, in consultation with the Board of Nursing, shall approve a training program created by a home health agency in accordance with 42 C.F.R. ss. 483.151-483.154 and 484.80 to train family caregivers as home health aides for medically fragile children to increase the health care workforce in this state and to authorize persons to provide trained nursing

services to eligible relatives. The program must consist of at least 85 hours of training, including, but not limited to, all of the following:

(a) A minimum of 40 hours of theoretical instruction in nursing, including, but not limited to, instruction on all of the following:

1. Person-centered care.

2. Communication and interpersonal skills.

3. Infection control.

4. Safety and emergency procedures.

5. Assistance with activities of daily living.

6. Mental health and social service needs.

7. Care of cognitively impaired individuals.

8. Basic restorative care and rehabilitation.

9. Patient rights and confidentiality of personal information and medical records.

10. Relevant legal and ethical issues.

Such instruction must be offered in various formats, and any interactive instruction must be provided during various times of the day.

(b) A minimum of 20 hours of skills training on basic nursing skills, including, but not limited to:

1. Hygiene, grooming, and toileting.

2. Skin care and pressure sore prevention.

3. Nutrition and hydration.

4. Measuring vital signs, height, and weight.

5. Safe lifting, positioning, and moving of patients.

6. Wound care.

7. Portable oxygen use and safety and other respiratory procedures.

8. Tracheostomy care.

9. Enteral care and therapy.

10. Peripheral intravenous assistive activities and alternative feeding methods.

11. Urinary catheterization and ostomy care.

(c) At least 16 hours of clinical training under direct supervision of a licensed registered nurse.

(2) A home health agency may employ as a home health aide for medically fragile children any person 18 years of age or older who meets all of the following criteria:

(a) Is a family caregiver of an eligible relative who is 21 years of age or younger and is eligible to receive continuous skilled nursing or skilled nursing respite care services under the Medicaid program.

(b) Demonstrates a minimum competency to read and write.

(c) Completes a training program approved under this section or has graduated from an accredited school of nursing and has not yet taken the state exam for licensure in this state.

(d) Successfully passes the required background screening pursuant to s. 400.512. If the person has successfully passed the required background screening pursuant to s. 400.512 or s. 408.809 within 90 days before applying for a certificate to practice and the person's background screening results are not retained in the clearinghouse created under s. 435.12, the agency must waive the requirement that the applicant successfully pass an additional background screening pursuant to

s. 400.512.

(3) If a home health aide for medically fragile children allows 24 consecutive months to pass without performing any nursing-related services for an eligible relative, the family caregiver must again complete an approved training program before serving as a home health aide for medically fragile children.

(4) All home health aides for medically fragile children must complete an HIV/AIDS training course and are required to obtain and maintain a current certificate in cardiopulmonary resuscitation.

(5) A home health agency that employs a home health aide for medically fragile children must ensure that the aide completes 12 hours of inservice training during each 12-month period as a condition of employment. The HIV/AIDS training and cardiopulmonary training required under subsection (4) may count toward meeting the 12 hours of inservice training. The home health agency shall maintain documentation demonstrating compliance with this subsection.

(6) If a home health agency terminates or denies employment to a home health aide for medically fragile children who fails to maintain the requirements of this section or whose name appears on a criminal screening report of the Department of Law Enforcement, the home health agency is not civilly liable for such termination and a cause of action may not be brought against the home health agency for damages. There may not be any monetary liability on the part of, and a cause of action for damages may not arise against, any licensed facility or its governing board or members thereof, medical staff, disciplinary

board, agents, investigators, witnesses, employees, or any other person for any action taken in good faith, without intentional fraud, to comply with this section.

(7) A home health agency, or an agent thereof, may not use criminal records or juvenile records relating to vulnerable adults for any purpose other than determining if the person meets the requirements of this section. The agency shall maintain the confidentiality of any such records and information it obtains which are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(8) The agency, in consultation with the Board of Nursing, may adopt rules to implement this section.

Section 5. Section 400.489, Florida Statutes, is amended to read:

400.489 Administration of medication by a home health aide or home health aide for medically fragile children; staff training requirements.—

(1) A home health aide or home health aide for medically fragile children may administer oral, transdermal, ophthalmic, otic, rectal, inhaled, enteral, or topical prescription medications if the home health aide or home health aide for medically fragile children has been delegated such task by a registered nurse licensed under chapter 464, has satisfactorily completed an initial 6-hour training course approved by the agency, and has been found competent to administer medication to a patient in a safe and sanitary manner. The training, determination of competency, and initial and annual validations required in this section shall be conducted by a registered nurse licensed under chapter 464 or a physician licensed under

chapter 458 or chapter 459.

(2) ~~A~~ Home health aides and home health aides for medically fragile children ~~aide~~ must annually and satisfactorily complete a 2-hour inservice training course approved by the agency in medication administration and medication error prevention. The inservice training course is ~~shall be~~ in addition to the annual inservice training hours required by agency rules.

(3) The agency, in consultation with the Board of Nursing, shall establish by rule standards and procedures that a home health aide and home health aide for medically fragile children must follow when administering medication to a patient. Such rules must, at a minimum, address qualification requirements for trainers, requirements for labeling medication, documentation and recordkeeping, the storage and disposal of medication, instructions concerning the safe administration of medication, informed-consent requirements and records, and the training curriculum and validation procedures.

Section 6. Section 400.490, Florida Statutes, is amended to read:

400.490 Nurse-delegated tasks.—A certified nursing assistant, ~~or~~ home health aide, or home health aide for medically fragile children may perform any task delegated by a registered nurse as authorized in this part and in chapter 464, including, but not limited to, medication administration.

Section 7. Section 400.54, Florida Statutes, is created to read:

400.54 Annual assessment of home health aides for medically fragile children program.—The agency shall conduct an annual assessment of the home health aides for medically fragile

children program established under s. 400.4765. The assessment must report caregiver satisfaction with the program, identify additional supports that may be needed by home health aides for medically fragile children, and assess the rate and extent of hospitalization of children in home health services who are attended by a home health aide for medically fragile children compared to those in home health services without a home health aide for medically fragile children. By January 1 of each year, beginning January 1, 2025, the agency shall report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 8. The Agency for Health Care Administration shall modify any state Medicaid plans and implement any federal waivers necessary to implement this act. The agency shall establish a Medicaid fee schedule for home health agencies employing a home health aide for medically fragile children at $25 per hour with a utilization cap of no more than 8 hours per day.

Section 9. Paragraph (e) of subsection (2) of section 768.38, Florida Statutes, is amended to read:

768.38 Liability protections for COVID-19-related claims.—

(2) As used in this section, the term:

(e) "Health care provider" means:

1. A provider as defined in s. 408.803.

2. A clinical laboratory providing services in this state or services to health care providers in this state, if the clinical laboratory is certified by the Centers for Medicare and Medicaid Services under the federal Clinical Laboratory Improvement Amendments and the federal rules adopted thereunder.

3. A federally qualified health center as defined in 42 U.S.C. s. 1396d(l)(2)(B), as that definition exists on the effective date of this act.

4. Any site providing health care services which was established for the purpose of responding to the COVID-19 pandemic pursuant to any federal or state order, declaration, or waiver.

5. A health care practitioner as defined in s. 456.001.

6. A health care professional licensed under part IV of chapter 468.

7. A home health aide as defined in s. 400.462 ~~s. 400.462(15)~~.

8. A provider licensed under chapter 394 or chapter 397 and its clinical and nonclinical staff providing inpatient or outpatient services.

9. A continuing care facility licensed under chapter 651.

10. A pharmacy permitted under chapter 465.

Section 10. Paragraph (f) of subsection (1) of section 768.381, Florida Statutes, is amended to read:

768.381 COVID-19-related claims against health care providers.—

(1) DEFINITIONS.—As used in this section, the term:

(f) "Health care provider" means any of the following:

1. A provider as defined in s. 408.803.

2. A clinical laboratory providing services in this state or services to health care providers in this state, if the clinical laboratory is certified by the Centers for Medicare and Medicaid Services under the federal Clinical Laboratory Improvement Amendments and the federal rules adopted thereunder.

3. A federally qualified health center as defined in 42 U.S.C. s. 1396d(l)(2)(B), as that definition existed on the effective date of this act.

4. Any site providing health care services which was established for the purpose of responding to the COVID-19 pandemic pursuant to any federal or state order, declaration, or waiver.

5. A health care practitioner as defined in s. 456.001.

6. A health care professional licensed under part IV of chapter 468.

7. A home health aide as defined in s. 400.462 ~~s. 400.462(15)~~.

8. A provider licensed under chapter 394 or chapter 397 and its clinical and nonclinical staff providing inpatient or outpatient services.

9. A continuing care facility licensed under chapter 651.

10. A pharmacy permitted under chapter 465.

Section 11. For the 2023-2024 fiscal year, four full-time equivalent positions with associated salary rate of 186,483 are authorized, and the sums of $353,589 in recurring funds and $118,728 in nonrecurring funds are appropriated from the Health Care Trust Fund to the Agency for Health Care Administration, for the purpose of implementing this act.

Section 12. This act shall take effect upon becoming a law.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/13/23
Meeting Date

Fiscal Policy
Committee

SB 452
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tanya Jackson

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Address 110 E. College
Street

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Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
Angels of Care and Team Select

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/SB 486
INTRODUCER:	Criminal Justice Committee and Senator Bradley and others
SUBJECT:	Solicitation of Minors to Commit Lewd or Lascivious Acts
DATE:	April 12, 2023
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Parker	Stokes	CJ	**Fav/CS**
2.	Atchley	Harkness	ACJ	**Favorable**
3.	Parker	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 486 creates s. 794.053, F.S., which prohibits lewd or lascivious written solicitation of certain minors. Under the bill, a person 24 years of age or older who solicits a person who is 16 or 17 years of age in writing to commit a lewd and lascivious act commits the offense of lewd or lascivious solicitation, a felony of the third degree,[1] punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.

The bill amends s. 921.0022, F.S., ranking the offense on the offense severity ranking chart of the Criminal Punishment Code as a level 3 offense.

The bill may have a positive, indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

This bill is effective October 1, 2023.

II. Present Situation:

The Florida Supreme Court has held that the terms "lewd" and "lascivious" mean a wicked, lustful, unchaste, licentious, or sensual intent on the part of the perpetrator.[2] The words "lewd"

[1] A third degree felony is generally punishable by not more than five years in state prison and a fine not exceeding $5,000. Sections 775.082, 775.083, and 775.084, F.S.

[2] *Chesebrough v. State*, 255 So.2d 675 (Fla. 1971).

and "lascivious" behavior when used in a statute to define an offense has been held to have the same meaning, that is, an indulgence in lust, eager for sexual indulgence.[3]

Florida law currently contains a variety of statutes that prohibit acts relating to lewd or lascivious offenses.

Lewd or Lascivious Offenses Targeting Persons Under 16 Years of Age

Section 800.04, F.S., criminalizes various acts targeting persons under 16 years of age, including: lewd or lascivious battery;[4] lewd or lascivious molestation;[5] lewd or lascivious conduct;[6] and lewd or lascivious exhibition.[7]

Lewd or Lascivious Conduct

A person who intentionally touches a person under 16 years of age in a lewd or lascivious manner or solicits a person under 16 years of age to commit a lewd or lascivious act commits lewd or lascivious conduct.[8]

An offender who is:
- Eighteen years of age or older who commits lewd or lascivious conduct commits a second degree felony.[9]
- Less than 18 years of age who commits lewd or lascivious conduct commits a third degree felony.[10]

The Florida Standard Jury Instructions for soliciting a person under 16 years of age to commit a lewd or lascivious act provides that to "solicit" means to command, encourage, hire, or request another person to engage in specific conduct.[11]

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[3] *Buchanan v. State*, 111 So.2d 51 (Fla. 1st DCA 1959).
[4] Section 800.04(4), F.S., defines lewd or lascivious battery as engaging in sexual activity with a person 12 years or older but less than 16 years of age; or encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity. An offender who commits lewd or lascivious battery commits a felony of the second degree.
[5] Section 800.04(5), F.S., defines lewd or lascivious molestation as a person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.
[6] Section 800.04(6), F.S.
[7] Section 800.04(7), F.S., defines lewd or lascivious exhibition as a person who intentionally masturbates; intentionally exposes the genitals in a lewd or lascivious manner; or intentionally commits any sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity in the presence of a victim who is less than 16 years of age, commits lewd or lascivious exhibition. An offender 18 years of age or older who commits a lewd or lascivious exhibition commits a felony of the second degree, generally punishable by not more than fifteen years in state prison. An offender less than 18 years of age who commits a lewd or lascivious exhibition commits a felony of the third degree.
[8] *Supra*, Note 6.
[9] A felony of the second degree is generally punishable by a term of imprisonment not exceeding 15 years, as provided in s. 775.082, s. 775.083, and s. 775.084, F.S.
[10] A felony of the third degree is generally punishable by a term of imprisonment not exceeding 5 years, as provided in s. 775.082, s. 775.083, and s. 775.084, F.S.
[11] Fla. Std. Jury Instr. (Crim.) 11.10(d), Lewd or Lascivious Conduct, s. 800.04(6), F.S.

Prohibited Computer Usage

Section 847.0135, F.S., in part, prohibits certain solicitation offenses. Specifically, it provides that it is a third degree felony for any person to knowingly use a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to seduce, *solicit*, lure, or entice or attempt to seduce, solicit, lure, or entice, a child or another person believed by the person to be a child, to commit any illegal act described in ch. 794, ch. 800, or ch. 827, F.S., or to otherwise engage in any unlawful sexual conduct with a child or with another person believed to be a child.[12]

Unlawful Acts with Persons 16 and 17 Years of Age

Section 794.05, F.S., provides that a person who is 24 years of age or older who engages in sexual activity with a person 16 or 17 years of age commits a second degree felony.[13] A person convicted of unlawful sexual activity with a minor must register as a sexual offender under s. 943.0435, F.S.

"Sexual activity" means oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object. Sexual activity does not include an act done for a bona fide medical purpose.

Evidence of a victim's prior sexual conduct is not relevant in a prosecution for unlawful sexual activity with a minor. If an offender's unlawful sexual activity with a minor directly results in the victim giving birth to a child, paternity of the child must be determined under ch. 742, F.S., and the offender must pay child support as provided in ch. 61, F.S.

Criminal Punishment Code

Felony offenses which are subject to the Criminal Punishment Code[14] are listed in a single offense severity ranking chart (OSRC),[15] which uses 10 offense levels to rank felonies from least severe to most severe. Each felony offense, listed in the OSRC is assigned a level according to the severity of the offense.[16, 17] A person's primary offense, any other current offenses, and prior convictions are scored using the points designated for the offense severity level of each current

[12] Section 847.0135(3), F.S., A person misrepresenting his or her age commits a second degree felony.
[13] Section 794.05, F.S.
[14] All felony offenses, with the exception of capital felonies, committed on or after October 1, 1998, are subject to the Criminal Punishment Code.
[15] Section 921.0022, F.S.
[16] Section 921.0022(2) and (3)(e), F.S.
[17] Felony offenses that are not listed in the OSRC default to statutorily assigned levels, as follows: an unlisted third degree felony defaults to a level 1; an unlisted second degree felony defaults to a level 4; an unlisted first degree felony defaults to a level 7; an unlisted first degree felony punishable by life defaults to a level 9; and an unlisted life felony defaults to a level 10. Section 921.0023, F.S.

offense.[18, 19] The final score calculation, following the scoresheet formula, determines the lowest permissible sentence that a trial court may impose, absent a valid reason for departure.[20]

III. Effect of Proposed Changes:

This bill creates s. 794.053, F.S., which prohibits the lewd or lascivious written solicitation of certain minors. Under the bill, a person 24 years of age or older who solicits a person who is 16 or 17 years of age in writing to commit a lewd and lascivious act commits the offense of lewd or lascivious solicitation, a felony of the third degree,[21] punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.

The bill amends s. 921.0022, F.S., ranking the offense on the offense severity chart of the Criminal Punishment Code as a level 3 offense.

This newly created section is not a registerable offense on the sex offender registry.

The bill is effective October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

[18] Sections 921.0022 and 921.0024, F.S.
[19] A person may also accumulate points for factors such as victim injury points, community sanction violation points, and certain sentencing multipliers. Section 921.0024(2), F.S.
[20] If a person scores more than 44 points or fewer, the lowest permissible sentence is a specified term of months in state prison, determined by a formula. If a person scores 44 points or fewer, the court may impose a nonprison sanction, such as a county jail sentence, probation, or community control. *Id*.
[21] A third degree felony is generally punishable by not more than five years in state prison and a fine not exceeding $5,000. Sections 775.082, 775.083, and 775.084, F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. The Legislature's Office of Economic and Demographic Research (EDR) preliminarily estimates that the bill will have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds).[22]

The EDR provided the following information relevant to its estimate:

In Fiscal Year 2018-19, the incarceration rate for a Level 3, 3rd degree felony was 9.5%, and in Fiscal Year 2019-20 the incarceration rate was 8.8%. In Fiscal Year 2020-21, the incarceration rate for a Level 3, 3rd degree felony was 8.7%, and in Fiscal Year 2021-22 the incarceration rate was 9.6%.

Section 847.0135, F.S., has multiple felonies that share similarities with the language added by this bill. A Level 6, 3rd degree felony exists for a person who uses a computer to facilitate sexual conduct of or with a minor, or the visual depiction of such conduct. This does not state an age for the offender, nor does it state an age for the minor, other than the person would be under 18 years of age. A Level 7, 3rd degree felony exists for the solicitation of a child, via a computer service, to commit an unlawful sex act. This also does not provide an age range for the offender or the minor. Finally, there is a Level 5, 2nd degree felony for lewd or lascivious exhibition using a computer, where the offender is 18 years or older, and the minor is less than 16 years old. None of these three felonies fit the specified age ranges, nor does the language under current statute specify different ways an offender might contact a minor through writing, but the number of new commitments for these offenses could provide supplemental information on the potential number of offenders.

According to the Department of Corrections, in Fiscal Year 2018-19, there were 49 new commitments for the felonies described above, and there were 32 new commitments in Fiscal Year 2019-20. In Fiscal Year 2020-21, there were 18 new commitments, and in Fiscal Year 2021-22, there were 31 new commitments. It is not known how the offender pool might be expanded or how prison admissions might be impacted by this new language.

[22] *CS/SB 486 – Solicitation of Minors to Commit Lewd or Lascivious Acts (Preliminary Analysis)*, Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 921.0022 of the Florida Statutes.

This bill creates section 794.053 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on March 13, 2023:
The committee substitute:

- Punishes the lewd or lascivious written solicitation of certain minors. A person 24 years of age or older who solicits a person who is 16 or 17 years of age in writing to commit a lewd or lascivious act commits a felony of the third degree.
- Provides that the offense is ranked as a level 3 on the offense severity ranking chart.
- As amended, this offense is not a registerable offense on the sex offender registry.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committee on Criminal Justice; and Senators Bradley and Martin

591-02502-23 2023486c1

A bill to be entitled

An act relating to solicitation of minors to commit lewd or lascivious acts; creating s. 794.053, F.S.; prohibiting a person 24 years of age or older from soliciting a person 16 or 17 years of age in writing to commit a lewd or lascivious act; providing criminal penalties; amending s. 921.0022, F.S.; ranking an offense on the offense severity chart of the Criminal Punishment Code; providing an effective date.

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

Section 1. Section 794.053, Florida Statutes, is created to read:

794.053 Lewd or lascivious written solicitation of certain minors.—A person 24 years of age or older who solicits a person who is 16 or 17 years of age in writing to commit a lewd or lascivious act commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Paragraph (c) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(c) LEVEL 3

Florida Statute	Felony Degree	Description

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

591-02502-23 2023486c1

119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
327.35(2)(b)	3rd	Felony BUI.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)6.	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.
379.2431 (1)(e)7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
400.9935(4)(a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
400.9935(4)(e)	3rd	Filing a false license application or other required information or failing to report

		information.
440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than $20,000.
626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to

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		discharge firearm from a vehicle.
794.053	3rd	Lewd or lascivious written solicitation of a person 16 or 17 years of age by a person 24 years of age or older.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
812.0145(2)(c)	3rd	Theft from person 65 years of age or older; $300 or

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		more but less than $10,000.
812.015(8)(b)	3rd	Retail theft with intent to sell; conspires with others.
812.081(2)	3rd	Theft of a trade secret.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.
817.234 (8)(b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
817.234(11)(a)	3rd	Insurance fraud; property value less than $20,000.
817.236	3rd	Filing a false motor vehicle insurance application.

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817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
817.413(2)	3rd	Sale of used goods of $1,000 or more as new.
817.49(2)(b)1.	3rd	Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.
831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
836.13(2)	3rd	Person who promotes an altered sexual depiction of

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		an identifiable person without consent.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
843.19	2nd	Injure, disable, or kill police, fire, or SAR canine or police horse.
860.15(3)	3rd	Overcharging for repairs and parts.
870.01(2)	3rd	Riot.
870.01(4)	3rd	Inciting a riot.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or

		deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of university.
893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of public housing facility.
893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other controlled substances.
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)8.	3rd	Withhold information from practitioner regarding

		previous receipt of or prescription for a controlled substance.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
893.13(8)(a)2.	3rd	Employ a trick or scheme in

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		the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
918.13(1)	3rd	Tampering with or fabricating physical evidence.
944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a

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correctional institution.

985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).

Section 3. This act shall take effect October 1, 2023.

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The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

April 13, 2023
Meeting Date

Fiscal Policy
Committee

486
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 1454 Vieux Carre Drive
Street

Email Barney@BarneyBishop.com

Tallahassee FL 32308
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Fla. Smart Justice

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/CS/SB 594
INTRODUCER:	Fiscal Policy Committee, Community Affairs Committee and Senator Martin
SUBJECT:	Property Insurance
DATE:	April 17, 2023
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	**Favorable**
2.	Hackett	Ryon	CA	**Fav/CS**
3.	Thomas	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 594 adds wind uplift prevention to the list of windstorm mitigation measures undertaken by policyholders to reduce hurricane losses that must be evaluated for purposes of mitigation discounts on residential property insurance rate filings. Wind uplift occurs if the air pressure below the roofing system is higher than the air pressure above the roofing system.

The bill also exempts condominium unit owner policies from the flood insurance requirement for Citizens Property Insurance Corporation personal lines property coverage, exempts certain policies from rate increase limitations, and revises the provision requiring flood insurance coverage by specified dates to base the dates by which flood insurance coverage must be obtained on the dwelling replacement cost instead of property value.

The bill authorizes Citizens Property Insurance Corporation to adopt policy forms providing for claim disputes to come before the Division of Administrative Hearings.

The bill provides a $750,000 nonrecurring appropriation from the Insurance Regulatory Trust Fund to the Office of Insurance Regulation to conduct a wind-loss mitigation study.

Except as otherwise provided, the bill takes effect upon becoming a law.

II. Present Situation:

Regulation of Property Insurance Rates

Part I of ch. 627, F.S., the Rating Law,[1] governs property, casualty, and surety insurance covering the subjects of insurance resident, located, or to be performed in this state.[2] The rating law provides that the rates for all classes of insurance it governs may not be excessive, inadequate, or unfairly discriminatory.[3] Though the terms "rate" and "premium" are often used interchangeably, the rating law specifies that "rate" is the unit charge that is multiplied by the measure of exposure or amount of insurance specified in the policy to determine the premium, which is the consideration paid by the consumer.[4]

All insurers or rating organizations must file rates with the Office of Insurance Regulation (OIR) either 90 days before the proposed effective date of a new rate, which is considered a "file and use" rate filing, or 30 days after the effective date of a new rate, which is considered a "use and file" rate filing.[5]

Upon receiving a rate filing, the OIR reviews the filing to determine if the rate is excessive, inadequate, or unfairly discriminatory. The OIR makes that determination in accordance with generally acceptable actuarial techniques and considers the following:

- Past and prospective loss experience;
- Past and prospective expenses;
- The degree of competition among insurers for the risk insured;
- Investment income reasonably expected by the insurer;
- The reasonableness of the judgment reflected in the rate filing;
- Dividends, savings, or unabsorbed premium deposits returned to policyholders;
- The adequacy of loss reserves;
- The cost of reinsurance;
- Trend factors, including trends in actual losses per insured unit for the insurer;
- Conflagration and catastrophe hazards;
- Projected hurricane losses;
- Projected flood losses, if the policy covers the risk of flood;
- The cost of medical services, if applicable;
- A reasonable margin for underwriting profit and contingencies; and
- Other relevant factors that affect the frequency or severity of claims or expenses.[6]

Florida Commission on Hurricane Loss Projection Methodology

Projected hurricane losses in a rate filing must be estimated using a model or method found to be acceptable or reliable by the Florida Commission on Hurricane Loss Projection Methodology

[1] Section 627.011, F.S.
[2] Section 627.021(1), F.S.
[3] Section 627.062(1), F.S.
[4] Section 627.041, F.S.
[5] Section 627.062, F.S.
[6] Section 627.062(2)(b), F.S.

(Commission).[7] The Commission consists of 12 members with expertise in the elements used to develop computer models to estimate hurricane and flood loss. Members of the Commission include State University System faculty experts in insurance finance, statistics, computer system design, meteorology, and structural engineering; three actuaries; the insurance consumer advocate; the Director of the Florida Hurricane Catastrophe Fund; the Executive Director of Citizens Property Insurance Corporation; and the Director of the Division of Emergency Management.[8]

Residential Property Insurance Mitigation Credits, Discounts, or Other Rate Differentials

Residential property insurance rate filings must account for mitigation measures undertaken by policyholders to reduce hurricane losses.[9] Specifically, the rate filings must include actuarially reasonable discounts, credits, or other rate differentials or appropriate reductions in deductibles to consumers who implement windstorm damage mitigation techniques to their properties.[10] Upon their filing by an insurer or rating organization, the OIR determines the discounts, credits, other rate differentials and appropriate reductions in deductibles that reflect the full actuarial value of such revaluation,[11] which in turn may be used in rate filings under the rating law. Windstorm mitigation measures that must be evaluated for purposes of mitigation discounts include fixtures or construction techniques that enhance roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protection, and window, door, and skylight strength.[12]

Wind Uplift

Wind load is an important consideration when designing a structure. Wind load is the load, in pounds per square foot, placed on the exterior of a structure by wind. This will depend on:

- The angle at which the wind strikes the structure; and
- The shape of the structure (height, width, etc.).[13]

Wind can exert three types of force on a structure—shear load, lateral load, and uplift load. Although all three forces can damage a structure, the uplift load has the greatest effect on the roofing system.[14] Wind uplift occurs if the air pressure below the roofing system[15] is higher than the air pressure above the roofing system. Whenever the wind blows over a roof's surface, the air pressure directly above the roof decreases, creating "negative" pressure. Wind infiltration below

[7] Section 627.062(2)(b)11., F.S.
[8] Section 627.0628(2)(b), F.S.
[9] Section 627.062(2)(j), F.S.
[10] Section 627.0629(1), F.S.
[11] *Id*.
[12] *Id*.
[13] *Wind Loads of Structures*, Extension Disaster Education Network, https://campus.extension.org/mod/book/view.php?id=6418&chapterid=6747 (last accessed on March 24, 2023). *Wind Loads*, Structural Engineering Design, Fall 2003, https://ocw.mit.edu/courses (last accessed on March 24, 2023).
[14] *What Is Wind Uplift?*, /how-roof-uplift-testing-can-help-ensure-system-performance(last accessed on March 24, 2023).
[15] The term roof system refers to the air barrier or vapor retarder (if present), roof insulation (if present), and the roof membrane, flashing, and accessories. *Roofing Systems*, Tom Smith, May 10, 2016, https://www.wbdg.org/guides-specifications (last accessed on March 24, 2023).

the roof materials through openings creates "positive" pressure. The combination results in a "push-pull" force that can lead to the separation of roofing materials from the roof deck.[16]

Wind uplift is affected by:

- Building height: Higher roofs experience stronger wind velocities.
- Geographical location: Wind maps for any region can identify the local basic wind speed gust exposures to determine typical wind conditions for your home.
- Surrounding terrain: Neighboring buildings and other obstructions can break wind flow and reduce the wind effect in suburban and urban locations. Stronger wind resistance is required for roofs near large bodies of water or open terrain.
- Building openings: Openings in the building design can create higher internal pressures in a wind event.[17]

During strong wind events such as hurricanes, roofs will be subject to high wind uplift forces, which often leads to severe roofing component damage. The loss of roofing components could lead to rainwater intrusion and further substantial damage to the interior. Reducing wind uplift during such strong wind events by implementing targeted mitigation techniques[18] can significantly reduce wind effects on buildings' roofs.[19] Engineers and builders follow the applicable building code for each jurisdiction to attempt to prevent wind uplift.[20] The standards vary based on building location and likelihood of exposure to high winds.[21]

Citizens Property Insurance Corporation—Overview

Citizens Property Insurance Corporation (Citizens) is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.[22] Citizens is not a private insurance company.[23] Citizens was statutorily created in 2002 when the Florida Legislature combined the state's two insurers of last resort, the Florida Residential Property and Casualty Joint Underwriting Association (RPCJUA) and the Florida Windstorm Underwriting Association (FWUA).[24]

Citizens operates in accordance with the provisions in s. 627.351(6), F.S., and is governed by an eight member Board of Governors (board) that administers its Plan of Operations. The Plan of

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[16] *Id*.
[17] Understanding Wind Uplift Ratings for Roofing, Mark Gallant, May, 31 2021, https://www.decra.com/blog/ (last accessed on March 24, 2023).
[18] There are multiple products that are promoted as valuable in mitigating wind uplift, for example: pavers, adhesives, fasteners, clamps, underlayments, and spray foam insulation.
[19] *Aerodynamic Mitigation of Wind Uplift on Low-Rise Building Roof Using Large-Scale Testing*, Frontiers in Built Environments, January 15, 2020, https://www.frontiersin.org/articles/10.3389/fbuil.2019.00149/full (last accessed on March 24, 2023).
[20] *How Wind Uplift can Affect a Commercial Building's Roof*, Certified Commercial Property Inspectors Association, https://ccpia.org/how-wind-uplift-can-affect-a-commercial-buildings-roof/ (last accessed on March 24, 2023).
[21] *Id*. Changes to Florida's treatment of wind load were made in the 7th edition of the Florida Building Code in 2020. *See* Wind Loads- Impacts from ASCE 7-16 (June 2020), https://www.ecf-fl.org/resources/ (last accessed on March 24, 2023).
[22] The term "admitted market" means insurance companies licensed to transact insurance in Florida.
[23] Section 627.351(6)(a)1., F.S.
[24] Section 2, ch. 2002-240, Laws of Fla.

Operations is reviewed and approved by the Financial Services Commission.[25] The Governor, President of the Senate, Speaker of the House of Representatives, and Chief Financial Officer each appoint two members to the board.[26] Citizens is subject to regulation by the Office of Insurance Regulation.

Citizens offers property insurance through three different accounts: a personal lines account, a commercial lines account, and a coastal account.

The Personal Lines Account (PLA) offers personal lines residential policies that provide comprehensive, multi-peril coverage statewide, except for those areas contained in the Coastal Account. The PLA also writes policies that exclude coverage for wind damage in areas contained within the Coastal Account. Personal lines residential coverage consists of the types of coverage provided to homeowners, mobile home owners, dwellings, tenants, and condominium unit owners policies.[27]

The Commercial Lines Account (CLA) offers commercial lines residential and non-residential policies that provide basic perils coverage statewide, except for those areas contained in the Coastal Account. The CLA also writes policies that exclude coverage for wind in areas contained within the Coastal Account. Commercial lines coverage includes commercial residential policies covering condominium associations, homeowners' associations, and apartment buildings. The coverage also includes commercial non-residential policies covering business properties.[28]

The Coastal Account offers personal residential, commercial residential, and commercial non-residential policies in coastal areas of the state. Citizens must offer policies that solely cover the peril of wind (wind only policies) and may offer multi-peril policies.[29]

Flood Insurance

The Flood Disaster Protection Act of 1973 (FDPA) [30] prohibits lending institutions from making, increasing, extending, or renewing any loan secured by improved real estate or a mobile home located in special flood hazard areas and in which flood insurance has been made available under federal law, unless the building or mobile home is covered by flood insurance in an amount equal to the outstanding principal balance of the loan or the maximum limit of coverage available.

Under Florida law, an authorized insurer may issue a policy for flood insurance coverage,[31] but homeowners' insurance policies typically do not cover flood losses.[32] Although private flood insurance may be obtained by endorsement or a separate policy, this requirement is generally

[25] Section 627.351(6)(a)2., F.S.
[26] Section 627.351(6)(c)4.a., F.S.
[27] *See* s. 627.351(6)(b)2.a., F.S.,; Citizens, *Account History and Characteristics*, https://www.citizensfla.com/documents/(Mar. 2016) (last visited Feb. 16, 2023).
[28] *Id.*
[29] *Id.*
[30] 42 U.S.C. s. 4012a.(b).
[31] Section 627.715(1), F.S.
[32] Disaster Rally, *National Flood Insurance Program – How to Be Eligible*, National Flood Insurance Program - How to Be Eligible (disasterrally.com) (last visited Feb. 20, 2023).

satisfied with coverage obtained through the National Flood Insurance Program (NFIP) which is managed by Federal Emergency Management Agency (FEMA).[33] The NFIP offers flood insurance coverage for buildings and content which must be purchased separately with separate deductibles. For residential property, the maximum coverage amount is $250,000 for the building and $100,000 for the contents and, for commercial property, the maximum coverage for building and building contents is $500,000 each.[34]

Flood Zones

The National Flood Insurance Program with the Federal Emergency Management Administration (FEMA) maintains flood maps to show a community's risk of flooding. The map provides flood zones to designate the flooding risks. Flood risk areas that are designated with the letters B, C, and X on the FEMA flood maps are moderate to low-risk flood areas and have a reduced but not completely removed flood risk. One in three insurance claims come from moderate to low-risk flood areas. Flood risk areas that are designated with the letters A or V on the FEMA flood maps have the highest risk of flooding. Owners of properties that are in a high-risk zone and have a federally backed mortgage are required to purchase flood insurance as a condition of the loan.[35]

Flood Notice

An insurer that issues or renews a homeowner's insurance policy without flood coverage must include the following statement with the policy documents:

> "FLOOD INSURANCE: YOU MAY ALSO NEED TO CONSIDER THE PURCHASE OF FLOOD INSURANCE. YOUR HOMEOWNER'S INSURANCE POLICY DOES NOT INCLUDE COVERAGE FOR DAMAGE RESULTING FROM FLOOD EVEN IF HURRICANE WINDS AND RAIN CAUSED THE FLOOD TO OCCUR. WITHOUT SEPARATE FLOOD INSURANCE COVERAGE, YOU MAY HAVE UNCOVERED LOSSES CAUSED BY FLOOD. PLEASE DISCUSS THE NEED TO PURCHASE SEPARATE FLOOD INSURANCE COVERAGE WITH YOUR INSURANCE AGENT."

Citizens Flood Insurance Requirement

Section 627.351(6)(aa), F.S., requires Citizens personal lines residential policyholders to secure and maintain flood insurance that meets certain requirements as a condition of eligibility for Citizens coverage. There is a timetable for implementation of the flood insurance coverage requirement for personal lines residential Citizens policyholders. For Citizens personal lines residential policyholders whose property is located within special hazard flood zones defined by the FEMA, flood coverage must be obtained by:

- April 1, 2023 for Citizens' new policies.
- July 1, 2023 for Citizens' renewal policies.

[33] The Office of the Comptroller of the Currency, *Flood Disaster Protection Act: Guidance Regarding Lapse and Extension of FEMA's Authority to Issue Flood Insurance Contracts*, Jun. 9, 2010, Flood Disaster Protection Act: Guidance Regarding Lapse and Extension of FEMA's Authority to Issue Flood Insurance Contracts | OCC (ots.gov) (last visited Feb. 16, 2023).
[34] The FEMA, National Flood Insurance Program, *Understanding Your Policy Terms*, | Flood Insurance Coverage, Deductibles Explained (floodsmart.gov) (last visited Feb. 16, 2023).
[35] The FEMA, National Flood Insurance Program, What is a flood map?, | FEMA Flood Maps Explained (floodsmart.gov) (last visited Feb. 17, 2023).

For all other risks, the requirement to obtain flood insurance must be implemented for specified Citizens' policyholders as follows:

- March 1, 2024, for policies insuring property to a limit of $600,000 or more.
- March 1, 2025, for policies insuring property to a limit of at least $500,000 but less than $600,000.
- March 1, 2026, for policies insuring property to a limit of at least $400,000 but less than $500,000.
- March 1, 2027, for all other policyholders.

III. Effect of Proposed Changes:

Section 1 amends. s. 627.0629, F.S., to add wind uplift prevention to list of windstorm mitigation measures undertaken by policyholders to reduce hurricane losses that must be evaluated for purposes of mitigation discounts on residential property insurance rate filings.

This section takes effect July 1, 2023.

Section 2 amends s. 627.351, F.S., to:

- Exempt policies covering condominium units from the flood insurance requirement imposed on residential policies issued by Citizens.
- Provide that the rate increase limitations on Citizens polices do not apply to policies that do not cover a primary residence or policies where coverage was last provided by an insolvent insurer. However, rate increases on these type policies may not be charged more than 50 percent above, and may not be charged less than, the established rate for the corporation which was in effect 1 year before the date of the application.
- Revise the provision requiring flood insurance coverage by specified dates to base the dates by which flood insurance coverage must be obtained on the replacement cost of the residential structure, rather than total property value. The applicable dates and values remain the same.
- Authorizes Citizens to adopt policy forms providing for claim disputes to come before the Division of Administrative Hearings.

Section 3 provides a $750,000 nonrecurring appropriation from the Insurance Regulatory Trust Fund to the OIR to conduct a wind-loss mitigation study. The study is required to evaluate roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protections, and window, door, and skylight strength. The finds of the study shall be reported to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Commissioner of Insurance Regulation no later than July 1, 2024. The OIR may use a portion of the funds appropriated to contract separately with building code experts in order to effectuate the bill and develop rules to be adopted by the Financial Services Commission.

Section 4 provides that, except as otherwise provided, the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The addition of wind uplift prevention measures to the list of windstorm mitigation measures undertaken by policyholders to reduce hurricane losses that must be evaluated for purposes of mitigation discounts on residential property insurance rate filings may lead to greater use of these measures by property owners. This could lead to less damage from windstorms and lower insurance premiums.

C. Government Sector Impact:

The bill authorizes Citizens Property Insurance Corporation to adopt policy forms providing for claim disputes to come before the Division of Administrative Hearings. It is anticipated that, while incurring expenses for this alternative dispute resolution process, it will realize cost savings through the reduction in litigation costs.

The bill provides a $750,000 nonrecurring appropriation from the Insurance Regulatory Trust Fund to the Office of Insurance Regulation to conduct a wind-loss mitigation study.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 627.0629 and 627.351 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Fiscal Policy on April 13, 2023:
The committee substitute makes the following changes:

- Authorizes Citizens Property Insurance Corporation to adopt policy forms providing for claim disputes to come before the Division of Administrative Hearings.
- Provides a $750,000 nonrecurring appropriation from the Insurance Regulatory Trust Fund to the Office of Insurance Regulation to conduct a wind-loss mitigation study.

CS by Community Affairs on March 29, 2023:
The committee substitute:

- Exempts policies covering condominium units from the flood insurance requirement imposed on residential policies issued by the Citizens Property Insurance Corporation.
- Provides that the rate increase limitations on Citizens polices do not apply to policies that do not cover a primary residence or policies where coverage was last provided by an insolvent insurer.
- Revises the provision requiring flood insurance coverage by specified dates to base the dates by which flood insurance coverage must be obtained on the replacement cost of the residential structure, rather than total property value.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

792748

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Martin) recommended the following:

Senate Amendment (with title amendment)

Between lines 163 and 164

insert:

Section 3. (1) For the 2023-2024 fiscal year, the sum of $750,000 in nonrecurring funds is appropriated from the Insurance Regulatory Trust Fund to the Office of Insurance Regulation for a wind-loss mitigation study. The office shall either conduct the study in consultation with the Department of Business and Professional Regulation and the Florida Building

792748

Commission or competitively procure the study.

(2) The study must:

(a) Evaluate windstorm loss relativities for construction features, including, but not limited to, wind uplift prevention and those which enhance roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protections, and window, door, and skylight strength;

(b) Include single-family and multifamily homes, mobile homes, and manufactured housing; and

(c) Include, but need not be limited to, an analysis of developed hurricane loss data for hurricanes since June 1, 2018.

(3) By July 1, 2024, the findings of the study must be reported to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Commissioner of Insurance Regulation.

(4) The office may use a portion of the funds appropriated to contract separately with building code experts in order to effectuate this act and develop rules to be adopted by the Financial Services Commission.

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

And the title is amended as follows:

Between lines 12 and 13

insert:

providing an appropriation; requiring the Office of Insurance Regulation to conduct a wind-loss mitigation study in consultation with the Department of Business and Professional Regulation and the Florida Building

792748

Commission or competitively procure the study; specifying requirements for the study; requiring that study findings be reported to certain entities by a specified date; authorizing the office to use a portion of appropriated funds to contract separately with building code experts for certain purposes;

372918

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (DiCeglie) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 163 and 164
insert:

(ll)1. In addition to any other method of alternative dispute resolution authorized by state law, the corporation may adopt policy forms that provide for the resolution of disputes regarding its claim determinations, including disputes regarding coverage for, or the scope and value of, a claim, in a proceeding before the Division of Administrative Hearings. Any

372918

such policies are not subject to s. 627.70154.

2. The corporation may contract with the Division of Administrative Hearings to conduct proceedings to resolve disputes regarding its claim determinations as may be provided for in the applicable policies of insurance.

====== D I R E C T O R Y C L A U S E A M E N D M E N T ======

And the directory clause is amended as follows:

Delete line 43

and insert:

section 627.351, Florida Statutes, are amended, and paragraph (ll) is added to that subsection, to read:

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

And the title is amended as follows:

Between lines 12 and 13

insert:

authorizing the corporation to adopt policy forms that provide for the resolution of certain disputes in proceedings before the Division of Administrative Hearings; providing that such policies are not subject to mandatory binding arbitration provisions; authorizing the corporation to contract with the division to conduct proceedings;

By the Committee on Community Affairs; and Senator Martin

578-03263-23 2023594c1

A bill to be entitled

An act relating to property insurance; amending s. 627.0629, F.S.; adding wind uplift prevention to a list of fixtures or construction techniques for which a residential property insurance rate filing must include actuarially reasonable rate differentials or appropriate deductible reductions; amending s. 627.351, F.S.; revising rate change limitations for specified policies written by the Citizens Property Insurance Corporation; revising the applicability of flood coverage requirements for personal lines residential policyholders of the corporation; providing effective dates.

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

Section 1. Effective July 1, 2023, subsection (1) of section 627.0629, Florida Statutes, is amended to read:

627.0629 Residential property insurance; rate filings.—

(1) It is the intent of the Legislature that insurers provide savings to consumers who install or implement windstorm damage mitigation techniques, alterations, or solutions to their properties to prevent windstorm losses. A rate filing for residential property insurance must include actuarially reasonable discounts, credits, or other rate differentials, or appropriate reductions in deductibles, for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm have been installed or implemented. The fixtures or construction techniques must

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

578-03263-23 2023594c1

include, but are not limited to, fixtures or construction techniques that enhance wind uplift prevention, roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protection, and window, door, and skylight strength. Credits, discounts, or other rate differentials, or appropriate reductions in deductibles, for fixtures and construction techniques that meet the minimum requirements of the Florida Building Code must be included in the rate filing. The office shall determine the discounts, credits, other rate differentials, and appropriate reductions in deductibles that reflect the full actuarial value of such revaluation, which may be used by insurers in rate filings.

Section 2. Paragraphs (n) and (aa) of subsection (6) of section 627.351, Florida Statutes, are amended to read:

627.351 Insurance risk apportionment plans.—

(6) CITIZENS PROPERTY INSURANCE CORPORATION.—

(n)1. Rates for coverage provided by the corporation must be actuarially sound pursuant to s. 627.062 and not competitive with approved rates charged in the admitted voluntary market so that the corporation functions as a residual market mechanism to provide insurance only when insurance cannot be procured in the voluntary market, except as otherwise provided in this paragraph. The office shall provide the corporation such information as would be necessary to determine whether rates are competitive. The corporation shall file its recommended rates with the office at least annually. The corporation shall provide any additional information regarding the rates which the office requires. The office shall consider the recommendations of the board and issue a final order establishing the rates for the

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

corporation within 45 days after the recommended rates are filed. The corporation may not pursue an administrative challenge or judicial review of the final order of the office.

2. In addition to the rates otherwise determined pursuant to this paragraph, the corporation shall impose and collect an amount equal to the premium tax provided in s. 624.509 to augment the financial resources of the corporation.

3. After the public hurricane loss-projection model under s. 627.06281 has been found to be accurate and reliable by the Florida Commission on Hurricane Loss Projection Methodology, the model shall be considered when establishing the windstorm portion of the corporation's rates. The corporation may use the public model results in combination with the results of private models to calculate rates for the windstorm portion of the corporation's rates. This subparagraph does not require or allow the corporation to adopt rates lower than the rates otherwise required or allowed by this paragraph.

4. The corporation must make a recommended actuarially sound rate filing for each personal and commercial line of business it writes.

5. Notwithstanding the board's recommended rates and the office's final order regarding the corporation's filed rates under subparagraph 1., the corporation shall annually implement a rate increase which, except for sinkhole coverage, does not exceed the following for any single policy issued by the corporation, excluding coverage changes and surcharges:

a. Twelve percent for 2023.

b. Thirteen percent for 2024.

c. Fourteen percent for 2025.

d. Fifteen percent for 2026 and all subsequent years.

6. The corporation may also implement an increase to reflect the effect on the corporation of the cash buildup factor pursuant to s. 215.555(5)(b).

7. The corporation's implementation of rates as prescribed in subparagraphs 5. and 8. shall cease for any line of business written by the corporation upon the corporation's implementation of actuarially sound rates. Thereafter, the corporation shall annually make a recommended actuarially sound rate filing that is not competitive with approved rates in the admitted voluntary market for each commercial and personal line of business the corporation writes.

8. The following ~~For any~~ new or renewal personal lines policies ~~policy~~ written on or after November 1, 2023, are ~~which does not cover a primary residence, the rate to be applied in calculating premium is~~ not subject to the rate increase limitations in subparagraph 5., but ~~However, the policyholder~~ may not be charged more than 50 percent above, and may not be charged less than, the established rate for the corporation which was in effect 1 year before the date of the application:

a. Policies that do not cover a primary residence; or

b. Policies where coverage for the insured risk, prior to the date of application with the corporation, was last provided by an insurer determined by the office to be unsound or an insurer placed in receivership under chapter 631.

9. As used in this paragraph, the term "primary residence" means the dwelling that is the policyholder's primary home or is a rental property that is the primary home of the tenant, and which the policyholder or tenant occupies for more than 9 months

of each year.

(aa) Except as otherwise provided in this paragraph, the corporation shall require the securing and maintaining of flood insurance as a condition of coverage of a personal lines residential risk. The insured or applicant must execute a form approved by the office affirming that flood insurance is not provided by the corporation and that if flood insurance is not secured by the applicant or insured from an insurer other than the corporation and in addition to coverage by the corporation, the risk will not be eligible for coverage by the corporation. The corporation may deny coverage of a personal lines residential risk to an applicant or insured who refuses to secure and maintain flood insurance. The requirement to purchase flood insurance shall be implemented as follows:

1. Except as provided in subparagraphs 2. and 3., all personal lines residential policyholders must have flood coverage in place for policies effective on or after:

a. January 1, 2024, for a structure that has a dwelling replacement cost of ~~property valued at~~ $600,000 or more.

b. January 1, 2025, for a structure that has a dwelling replacement cost of ~~property valued at~~ $500,000 or more.

c. January 1, 2026, for a structure that has a dwelling replacement cost of ~~property valued at~~ $400,000 or more.

d. January 1, 2027, for all other personal lines residential property insured by the corporation.

2. All personal lines residential policyholders whose property insured by the corporation is located within the special flood hazard area defined by the Federal Emergency Management Agency must have flood coverage in place:

a. At the time of initial policy issuance for all new personal lines residential policies issued by the corporation on or after April 1, 2023.

b. By the time of the policy renewal for all personal lines residential policies renewing on or after July 1, 2023.

3. Policyholders ~~whose policies issued by the corporation do not provide coverage for the peril of wind~~ are not required to purchase flood insurance as a condition for maintaining the following ~~their~~ policies issued by ~~with~~ the corporation:

a. Policies that do not provide coverage for the peril of wind.

b. Policies that provide coverage under a condominium unit owners form.

The flood insurance required under this paragraph must meet, at a minimum, the coverage available from the National Flood Insurance Program or the requirements of subparagraphs s. 627.715(1)(a)1., 2., and 3.

Section 3. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

04/12/23
Meeting Date

Fiscal Policy
Committee

594
Bill Number or Topic

372918
Amendment Barcode (if applicable)

Name Christine Ashburn

Phone 8505133757

Address 2101 Maryland Circle
Street

Email christine.ashburn@citizensfla.com

Tallahassee FL 32303
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Citizens Property Insurance Corporation

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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04.13.2023
Meeting Date

Fiscal Policy
Committee

SB 0594
Bill Number or Topic

Amendment Barcode (if applicable)

Name Chanté Jones Phone 850.272.0551

Address 215 S Monroe St St 603 Email cejones@aarp.org
Street

Tallahassee Fl 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
AARP Florida

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

4/13/23
Meeting Date

Fiscal Policy
Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

594
Bill Number or Topic

Amendment Barcode (if applicable)

Name Christine Ashburn

Phone 8505333757

Address 2101 Maryland Circle
Street
Tallahassee, FL 32303
City State Zip

Email christine.ashburn@citizensfla.com

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Citizens Property Insurance Corporation

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/CS/SB 1188
INTRODUCER:	Fiscal Policy Committee; Governmental Oversight and Accountability Committee and Senator Boyd
SUBJECT:	Contract Liability
DATE:	April 14, 2023
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney	GO	**Fav/CS**
2.	McVaney	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1188 requires each contract for more than $35,000 of contractual services to include a provision limiting a vendor's liability to a defined monetary threshold. The bill requires all contracts for services in excess of $35,000 to include a provision limiting vendor liability for direct damages to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the contractor under the purchase order. This limitation of liability clause does not impact other contractual provisions relating to indemnification for any contractual services or insurance coverage for professional services contracts.

This requirement also applies to purchases by the early learning coalitions.

The bill is expected to have an indeterminate impact on state expenditures.

The bill takes effect July 1, 2023.

II. Present Situation:

Competitive Solicitation for Commodities or Contractual Services

Chapter 287, F.S., regulates state agency procurement of personal property and services. The Department of Management Services (DMS) oversees state purchasing, including professional and contractual services, as well as commodities needed to support agency activities.[1]

Current law establishes the following purchasing categories:
- Category One: $20,000.
- Category Two: $35,000.
- Category Three: $65,000.
- Category Four: $195,000.
- Category Five: $325,000.[2]

Florida law requires state agencies procuring for commodities or contractual services in excess of $35,000[3] to use a competitive solicitation process.[4] A competitive solicitation is the process of requesting and receiving two or more sealed bids, proposals, or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of procurement method.[5] Depending on the type of contract and scope of work or goods sought, an agency may use one of three procurement methods: invitation to bid,[6] request for proposals,[7] or invitation to negotiate.[8]

Invitation to Bid

When an agency is capable of defining the scope of work or specific commodity sought, then an agency must use an invitation to bid (ITB). An ITB must include a detailed description of the commodity or contractual service sought and whether the agency contemplates renewal of the contract. If the agency contemplates renewal of the contract, then each bid submitted in response to an ITB must include the price for each year for which the contract may be renewed. Bid evaluations must include consideration of the total cost for each year of the contract, including renewal years, and the contract must be awarded to the responsible[9] and responsive vendor[10] who submits the lowest responsive bid.[11]

---

[1] *See* ss. 287.032 and 287.042, F.S., which establish the powers and duties of DMS.
[2] Section 287.017, F.S.
[3] *See* s. 287.017, F.S., for a list of purchasing categories and their corresponding threshold amounts.
[4] Section 287.057(1), F.S.
[5] Section 287.012(6), F.S.
[6] Section 287.057(1)(a), F.S.
[7] Section 287.057(1)(b), F.S.
[8] Section 287.057(1)(c), F.S.
[9] A "responsible vendor" is a vendor who has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. Section 287.012(25), F.S.
[10] A "responsive vendor" is a vendor that has submitted a bid, proposal, or reply that conforms in all material aspects to the solicitation. Section 287.012(27), F.S.
[11] Section 287.057(1)(a), F.S.

Request for Proposals

An agency must use a request for proposals (RFP) when the purposes and uses for the contractual service or commodity sought can be specifically defined and the agency is capable of identifying necessary deliverables. A vendor may respond with various versions of services or commodities to meet the specification of the solicitation document. Before issuing an RFP, the agency must specify in writing the reasons an ITB is not practicable. An RFP must include a statement describing the commodities or contractual services sought, the relative importance of price and other evaluation criteria, and whether the agency contemplates renewal of the contract. The contract is awarded by written notice to the responsible and responsive vendor whose proposal is most advantageous to the state.[12]

Invitation to Negotiate

An invitation to negotiate (ITN) is a solicitation used by an agency that is intended to determine the best method for achieving a specific goal or solving a particular problem. It identifies one or more responsive vendors with which the agency may negotiate in order to receive the best value. Before issuing an ITN, the agency head must specify in writing the reasons an ITB or an RFP are not practicable. An ITN must include questions being explored, the facts being sought, and the specific goals of the solicitation. The agency may select one or more vendors to begin negotiations and then award the contract to the responsible and responsive vendor that the agency determines will provide the best value to the state.[13]

Contracts

A competitive solicitation for contractual services in excess of $35,000[14] must be evidenced in writing by a written agreement embodying all provisions and conditions of the procurement of such services.[15] The written agreement must include, but not be limited to, a provision:

- That bills for fees or other compensation for services or expenses be submitted in detail sufficient for a proper preaudit and postaudit thereof.
- That bills for any travel expenses be submitted in accordance with the law on per diem and travel expenses of public officers, employees, or authorized persons.[16]
- Allowing unilateral cancellation by the agency for refusal by the contractor to allow public access to all documents, papers, letters, or other material made or received by the contractor in conjunction with the contract, unless the records are exempt.
- Specifying a scope of work that clearly establishes all tasks the contractor is required to perform.
- Dividing the contract into quantifiable, measurable, and verifiable units of deliverables that must be received and accepted in writing by the contract manager before payment.
- Specifying the criteria and the final date by which such criteria must be met for completion of the contract.

[12] Section 287.057(1)(b), F.S.
[13] Section 287.057(1)(c), F.S.
[14] There is an exception for the written agreement for contractual services that provide health and mental health services or drugs in the examination, diagnosis, or treatment of sick or injured state employees or provide other benefits as required by ch. 440, F.S.
[15] Section 287.058(1), F.S.
[16] *See* s. 112.061, F.S.

- Specifying that the contract may be renewed for a period that may not exceed three years or the term of the original contract, whichever is longer.
- Specifying the renewal price for the contractual service as set forth in the bid, proposal, or reply.
- Specifying that costs for the renewal may not be charged.
- Specifying that renewals are contingent upon satisfactory performance evaluations by the agency and subject to the availability of funds.
- Specifying the financial consequences that the agency must apply if the contractor fails to perform in accordance with the contract.
- Addressing the property rights of any intellectual property related to the contract and the specific rights of the state regarding the intellectual property if the contractor fails to provide the services or is no longer providing services.[17]

The written agreement must be signed by the agency head or designee and the contractor before the rendering of any contractual service in excess of $35,000.[18, 19] Unless otherwise provided in the General Appropriations Act (GAA) or the substantive bill implementing the GAA, the Chief Financial Officer (CFO) may waive these requirements for certain services that are exempt from competitive solicitation requirements.[20,21] A contract may not prohibit a contractor from lobbying the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding any contract to which the contractor and a state agency are parties, after contract execution and during the contract term.[22]

Each public agency contract for services must authorize the public agency to inspect the:
- Financial records, papers, and documents of the contractor that are directly related to the performance of the contract or the expenditure of state funds.
- Programmatic records, papers, and documents of the contractor that the public agency determines are necessary to monitor the performance of the contract or to ensure that the terms of the contract are being met.[23]

The contract must require the contractor to provide the records, papers, and documents requested by the public agency within 10 business days after the request is made.[24]

State Purchasing Rules

The DMS has adopted Form PUR 1000 General Contracting Conditions which must be included in any contract competitively procured by an agency, unless superseded through negotiation with the vendor. There are 47 distinct provisions that must be included. The twentieth, "Limitation of Liability", in pertinent part, provides:

[17] Section 287.058(1)(a)-(i), F.S.
[18] There is an exception in the case of a valid emergency as certified by the agency head.
[19] Section 287.058(2), F.S.
[20] Section 287.058(5), F.S.
[21] Section 287.057(3)(e), F.S., exempts certain services from the competitive solicitation requirements of chapter 287, F.S.
[22] Section 287.058(6), F.S.
[23] Section 216.1366(1), F.S.
[24] Section 216.1366(2), F.S.

> **Limitation of Liability.** For all claims against the Contractor under any contract or purchase order, and regardless of the basis on which the claim is made, the Contractor's liability under a contract or purchase order for ***direct damages shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the Contractor under the purchase order.*** This limitation shall not apply to claims arising under the Indemnity paragraph contain in this agreement.

The DMS has also adopted Special Contract Conditions to be used in state term contracts and alternative source contracts. These conditions supersede the PUR 1000 conditions and serve as a baseline for all agency purchases off a state term contract or alternative contract source. These conditions do not include a cap on vendor liability.

III. Effect of Proposed Changes:

Section 1 amends s. 287.058, F.S, to require all contracts for services in excess of $35,000, without exceptions for any services, to include a specific contractual provision that limits the vendor's liability for direct damages to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the contractor under the purchase order. This limitation of liability clause does not impact other contractual provisions relating to indemnification for any contractual services or insurance coverage for professional services contracts.

Section 2 reenacts s. 287.0571, F.S., to incorporate by reference the changes made in section 1 to be included in the business case to outsource services.

Section 3 reenacts s. 1002.84, F.S., to incorporate by reference the changes made in section 1 to require each early learning coalition to comply with the new requirement.

Section 4 provides that the bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may significantly limit a vendor's liability under a contract with a state agency.

C. Government Sector Impact:

State agencies will have more limited remedies to offset costs associated with a vendor's breach of contract, including damages related to data breaches, lost revenues, and institutional savings.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 287.058, 287.0571, and 1002.84 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Fiscal Policy on April 13, 2023:
The committee substitute establishes a limitation on a vendor's liability for breach of contract. However, this limitation does not impact any other contractual provisions relating to indemnification for any contractual services or insurance coverage for professional service contracts.

CS by Governmental Oversight and Accountability on March 22, 2023:
The committee substitute requires all contracts for services in excess of $35,000 to include a provision limiting vendor liability for direct damages to the greater of

$100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the contractor under the purchase order.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Boyd) recommended the following:

Senate Amendment (with title amendment)

Delete lines 20 - 87
and insert:
Section 1. Subsection (8) is added to section 287.058, Florida Statutes, to read:
287.058 Contract document.—
(8) In addition to any other provision required to be included, the written agreement for a procurement of contractual services in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO must include the following limitation

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of liability provision for breach of contract:

For all claims against the Contractor under any contract or purchase order, and regardless of the basis on which the claim is made, the Contractor's liability for direct damages under a contract or purchase order shall be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the Contractor under the purchase order. The limitation of liability contemplated herein does not apply to any claim arising under an indemnity section of the agreement or any section of the agreement relating to insurance for the provision of Professional Services as defined in section 287.055, Florida Statutes, unless otherwise agreed to by the parties to the contract. Unless otherwise specifically enumerated in the Contract or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the contract or purchase order requires the Contractor to back up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and Customer may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due the Contractor as may be

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necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State.

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

And the title is amended as follows:

Delete lines 3 - 10

and insert:

287.058, F.S.; requiring that certain procurement agreements or purchase orders include a specified provision; reenacting ss.

By the Committee on Governmental Oversight and Accountability; and Senator Boyd

585-02905-23 20231188c1

A bill to be entitled

An act relating to contract liability; amending s. 287.058, F.S.; requiring that certain procurement contracts contain a provision specifying a finite maximum limit of liability for a contractor; requiring maximum liability terms for such contract or purchase order to be specified as a defined monetary threshold or formula; providing applicability; requiring that certain procurement agreements or purchase orders include a specified provision; reenacting ss. 287.0571(5) and 1002.84(13), F.S., relating to contract requirements for proposed outsourcing and procurement contract requirements for early learning coalitions, respectively, to incorporate the amendment made to s. 287.058, F.S., in references thereto; providing an effective date.

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

Section 1. Present paragraph (i) of subsection (1) of section 287.058, Florida Statutes, is redesignated as paragraph (j), a new paragraph (i) is added to that subsection, and subsection (8) is added to that section, to read:

287.058 Contract document.—

(1) Every procurement of contractual services in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO, except for the providing of health and mental health services or drugs in the examination, diagnosis, or treatment of sick or injured state employees or the providing of other benefits as

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

585-02905-23 20231188c1

required by chapter 440, shall be evidenced by a written agreement embodying all provisions and conditions of the procurement of such services, which shall, where applicable, include, but not be limited to, a provision:

(i) Specifying a finite maximum limit of liability for the contractor by a defined monetary threshold or monetary formula.

1. Liability terms as enumerated under any contract or purchase order of a governmental entity must specify a defined monetary threshold or monetary formula that establishes the maximum liability of the contractor for the contract or purchase order.

2. The monetary threshold or monetary formula may not apply to claims arising under separate contractual provisions specific to indemnification.

In lieu of a written agreement, the agency may authorize the use of a purchase order for classes of contractual services if the provisions of paragraphs (a)-(j) ~~(a)-(i)~~ are included in the purchase order or solicitation. The purchase order must include, but need not be limited to, an adequate description of the services, the contract period, and the method of payment. In lieu of printing the provisions of paragraphs (a)-(c) and (g) in the contract document or purchase order, agencies may incorporate the requirements of paragraphs (a)-(c) and (g) by reference.

(8) Every procurement of contractual services in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO must be evidenced by a written agreement that includes the following provision:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

For all claims against the contractor under any contract or purchase order, regardless of the basis on which the claim is made, the contractor's liability for direct damages under a contract or purchase order must be limited to the greater of $100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the contractor under the purchase order. This limitation does not apply to claims arising under the indemnity section of the agreement. Unless otherwise specifically enumerated in the contract or in the purchase order, a party may not be liable to another for special, indirect, punitive, or consequential damages, including lost data or records, unless the contract or purchase order requires the contractor to back up such data or records, even if the party has been advised that such damages are possible. A party may not be liable for lost profits, lost revenue, or lost institutional operating savings. The state and agency may, in addition to other remedies available to them at law or equity and upon notice to the contractor, retain such monies from amounts due to the contractor as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The state may offset any liability or other obligation of the contractor or its affiliates to the state against any payments due to the contractor under any contract with the state.

Section 2. For the purpose of incorporating the amendment made by this act to section 287.058, Florida Statutes, in a reference thereto, subsection (5) of section 287.0571, Florida Statutes, is reenacted to read:

287.0571 Business case to outsource; applicability.—

(5) In addition to the contract requirements provided in s. 287.058, each contract for a proposed outsourcing, pursuant to this section, must include, but need not be limited to, the following contractual provisions:

(a) A scope-of-work provision that clearly specifies each service or deliverable to be provided, including a description of each deliverable or activity that is quantifiable, measurable, and verifiable. This provision must include a clause that states if a particular service or deliverable is inadvertently omitted or not clearly specified but determined to be operationally necessary and verified to have been performed by the agency within the 12 months before the execution of the contract, such service or deliverable will be provided by the contractor through the identified contract-amendment process.

(b) A service-level-agreement provision describing all services to be provided under the terms of the agreement, the state agency's service requirements and performance objectives, specific responsibilities of the state agency and the contractor, and the process for amending any portion of the service-level agreement. Each service-level agreement must contain an exclusivity clause that allows the state agency to retain the right to perform the service or activity, directly or with another contractor, if service levels are not being achieved.

(c) A provision that identifies all associated costs, specific payment terms, and payment schedules, including provisions governing incentives and financial disincentives and criteria governing payment.

(d) A provision that identifies a clear and specific transition plan that will be implemented in order to complete all required activities needed to transfer the service or activity from the state agency to the contractor and operate the service or activity successfully.

(e) A performance-standards provision that identifies all required performance standards, which must include, at a minimum:

1. Detailed and measurable acceptance criteria for each deliverable and service to be provided to the state agency under the terms of the contract which document the required performance level.

2. A method for monitoring and reporting progress in achieving specified performance standards and levels.

3. The sanctions or disincentives that shall be imposed for nonperformance by the contractor or state agency.

(f) A provision that requires the contractor and its subcontractors to maintain adequate accounting records that comply with all applicable federal and state laws and generally accepted accounting principles.

(g) A provision that authorizes the state agency to have access to and to audit all records related to the contract and subcontracts, or any responsibilities or functions under the contract and subcontracts, for purposes of legislative oversight, and a requirement for audits by a service

organization in accordance with professional auditing standards, if appropriate.

(h) A provision that requires the contractor to interview and consider for employment with the contractor each displaced state employee who is interested in such employment.

(i) A contingency-plan provision that describes the mechanism for continuing the operation of the service or activity, including transferring the service or activity back to the state agency or successor contractor if the contractor fails to perform and comply with the performance standards and levels of the contract and the contract is terminated.

(j) A provision that requires the contractor and its subcontractors to comply with public records laws, specifically to:

1. Keep and maintain the public records that ordinarily and necessarily would be required by the state agency in order to perform the service or activity.

2. Provide the public with access to such public records on the same terms and conditions that the state agency would provide the records and at a cost that does not exceed that provided in chapter 119 or as otherwise provided by law.

3. Ensure that records that are exempt or records that are confidential and exempt are not disclosed except as authorized by law.

4. Meet all requirements for retaining records and transfer to the state agency, at no cost, all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must

be provided to the state agency in a format that is compatible with the information technology systems of the state agency.

(k)1. A provision that provides that any copyrightable or patentable intellectual property produced as a result of work or services performed under the contract, or in any way connected with the contract, shall be the property of the state, with only such exceptions as are clearly expressed and reasonably valued in the contract.

2. A provision that provides that, if the primary purpose of the contract is the creation of intellectual property, the state shall retain an unencumbered right to use such property.

(l) If applicable, a provision that allows the agency to purchase from the contractor, at its depreciated value, assets used by the contractor in the performance of the contract. If assets have not depreciated, the agency shall retain the right to negotiate to purchase at an agreed-upon cost.

Section 3. For the purpose of incorporating the amendment made by this act to section 287.058, Florida Statutes, in a reference thereto, subsection (13) of section 1002.84, Florida Statutes, is reenacted to read:

1002.84 Early learning coalitions; school readiness powers and duties.—Each early learning coalition shall:

(13) Comply with federal procurement requirements and the procurement requirements of ss. 215.971, 287.057, and 287.058, except that an early learning coalition is not required to competitively procure direct services for school readiness program and Voluntary Prekindergarten Education Program providers.

Section 4. This act shall take effect July 1, 2023.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/CS/SB 1258
INTRODUCER:	Fiscal Policy Committee; Transportation Committee; and Senator Trumbull, and others
SUBJECT:	Use of Phosphogypsum
DATE:	April 14, 2023
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Vickers	TR	**Fav/CS**
2.	Carroll	Rogers	EN	**Favorable**
3.	Price	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1258 authorizes the Florida Department of Transportation (FDOT) to undertake demonstration projects using phosphogypsum from phosphate production in road construction aggregate material.

The bill authorizes the FDOT to conduct a study to evaluate the suitability of using phosphogypsum as a construction aggregate material. The FDOT may consider any prior or ongoing studies of phosphogypsum's road suitability. The study and a determination of suitability must be completed by April 1, 2024.

Upon the FDOT's determination of suitability, the bill authorizes the use of phosphogypsum from phosphate production as a construction aggregate material in accordance with the conditions of the United States Environmental Protection Agency's approval for such use.

Lastly, the bill provides that phosphogypsum placed in a phosphogypsum stack system permitted by the FDEP or used in accordance with an allowed use expressly specified in EPA regulations or pursuant to an express EPA approval for the specific use is not solid waste and is an allowable use in this state.

The FDOT is expected to incur costs associated with conducting the study required by the bill, which costs are expected to be absorbed within existing resources. See the "Fiscal Impact Statement" heading.

The bill takes effect July 1, 2023.

II. Present Situation:

Phosphogypsum Stacks

The production of fertilizer from phosphoric rock is a major industry in Florida. Unfortunately, the process results in wastewater and byproducts that are difficult to manage. The process produces phosphoric acid, wastewater, and gypsum to produce a slurry that is pumped to the top of a stack of gypsum. There, it is held until it seeps below and is redistributed to cooling ponds. It is critical that this acidic water not overflow the reservoir on the top of the stack or the cooling ponds. A phosphate plant relies heavily on its system of pipes and pumps to distribute the acidic water so as to prevent overflows, particularly during heavy rains.[1]

According to the United States Environmental Protection Agency (EPA):

> Phosphogypsum is a solid waste[2] byproduct that results from processing phosphate ore to make phosphoric acid that is later used in fertilizer. Because the phosphate ore contains uranium and radium, phosphogypsum also contains these radionuclides. The radium is of particular concern because it decays to form radon, a cancer-causing, radioactive gas.[3]

Florida Polytechnic University's Florida Industrial and Phosphate Research Institute (FIPRI) notes that there are about one billion tons of phosphogypsum stacked in 24 stacks[4] in Florida and, each year, about 30 million new tons are generated.[5] Stacking became necessary, according to the FIPRI, as a matter of legal necessity when the EPA banned the use of phosphogypsum in 1989. The EPA subsequently allowed the lawful removal and distribution of phosphogypsum from a stack for outdoor agricultural purposes,[6] for indoor research and development,[7] and for other purposes under certain conditions.[8]

Phosphogypsum may not be lawfully removed from a stack and distributed or used for any purposes not expressly specified in the provisions for outdoor agricultural use and for indoor research and development.[9] A request that EPA approve distribution and/or use of phosphogypsum for any other purpose must be submitted in writing containing specified

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[1] Failure of phosphogypsum stacks can occur for other reasons; *e.g.*, *see* wfla.com, Stacks, water and waste: What the Piney Point leak means for Tampa Bay | WFLA (last visited March 8, 2023).
[2] Under the EPA's rules, "phosphogypsum" is defined as the solid waste byproduct which results from the process of wet acid phosphorus production. 14 C.F.R. §61.20(1)(b).
[3] *See* epa.gov, Subpart R: National Emission Standards for Radon Emissions From Phosphogypsum Stacks | US EPA (last visited March 7, 2023).
[4] Section 403.4154(1)(d), F.S., defines "phosphogypsum stack" as any defined geographic area associated with a phosphoric acid production facility in which phosphogypsum is disposed of or stored, other than within a fully enclosed building, container, or tank.
[5] *See* fipr.floridapoly.edu, Phosphogypsum Stacks (floridapoly.edu) (last visited March 7, 2023).
[6] 40 C.F.R. §61.204.
[7] 40 C.F.R. §61.205.
[8] 40 C.F.R. §61.206.
[9] 40 C.F.R. §61.206(a).

information. A request may be approved by the Assistant Administrator for Air and Radiation if he or she determines that the proposed distribution and/or use is at least as protective of public health, in both the short term and the long term, as disposal of phosphogypsum in a stack or a mine.[10] If a request is granted, each of the following requirements must be satisfied:

- The owner or operator of the stack from which the phosphogypsum will be removed must annually determine the average radium-226 concentration at the location in the stack from which the phosphogypsum will be removed, as specified;
- All phosphogypsum distributed in commerce by the owner or operator of a phosphogypsum stack, or by a distributor, retailer, or reseller, or purchased by the end-user, shall be accompanied at all times by specified certification documents;[11] and
- The end-user of the phosphogypsum must maintain specified records.[12]

EPA Approval for Use in Road Construction and Subsequent Withdrawal

On October 14, 2020, the EPA approved a request from The Fertilizer Institute (TFI) to allow phosphogypsum to be used in government road construction projects, subject to certain terms and conditions.[13] Effective July 7, 2021, the EPA withdrew its approval: "Upon further review, EPA has determined that the approval was premature and should be withdrawn because the request did not contain all of the required information. With this action, phosphogypsum remains prohibited from use in road construction projects."[14]

TFI responded:

> Importantly, the EPA withdrew the PG [phosphogypsum] road base approval based solely on procedural grounds, and its withdrawal did not contradict TFI's robust risk assessment in support of the use of PG in road construction. In fact, the decision to withdraw the categorical approval to use PG in road construction definitively left the window open for site specific projects to be considered for EPA approval based on the same scientific merits which focus on safe, sustainable use. We concur with EPA's scientific evaluation and conclusion that the risk associated with the use of PG in road construction is no greater than stacking the material or placing it in mines.
>
> TFI will continue to work with the EPA and other stakeholders so that the United States can join with the numerous countries throughout South

[10] 40 C.F.R. §61.206(c).
[11] Those that conform to 40 C.F.R. § 209(c).
[12] 40 C.F.R. §61.206(d).
[13] *See* the EPA New Release, EPA Approves Use of Phosphogypsum in Road Construction | US EPA (last visited March 13, 2023). To review the terms and conditions, *see* the EPA letter to The Fertilizer Institute, October 14, 2020, available at document (epa.gov) (lasts visited March 13, 2023). To review The Fertilizer Institute's supporting documents, *see* EPA, Request to Use Phosphogypsum in Government Road Projects: Supporting Documents | US EPA (last visited March 13, 2023).
[14] *See* 86 F.R. 35795, available at Federal Register :: Withdrawal of Approval for Use of Phosphogypsum in Road Construction (last visited March 13, 2023).

America, Asia, Europe, Africa, and Canada that permit the safe and environmentally conscious beneficial use of PG.[15]

Other stakeholders are awaiting the outcome of TFI's ongoing efforts to achieve EPA approval of the use of phosphogypsum in road construction.

Florida Department of Environment Protection Phosphogypsum and Solid Waste Management Programs

The Florida Department of Environmental Protection's (FDEP's) Phosphogypsum Management Program administers and implements industrial wastewater permitting, compliance, and enforcement activities for the phosphate industry and regulates the design, construction, operation, and maintenance of phosphogypsum stack systems. Ensuring the proper closure and long-term monitoring and maintenance of those systems which have shut down, or which are otherwise required by rule to be closed, is the goal of the program.[16]

The FDEP issues permits for construction, operation, and closure of stack systems[17] and permits for discharge to surface waters under the National Pollutant Discharge Elimination System, as authorized by the EPA.[18] The FDEP also administers financial responsibility requirements intended to guarantee that owners and operators have the financial ability to properly close and manage phosphogypsum stack systems.[19]

The FDEP's Solid Waste Section of the Permitting and Compliance Assistance Program is charged with responsibility for rule development, solid waste policy, financial assurance compliance, and implementing the state's solid waste management program.[20] FDEP district offices receive technical assistance regarding the permitting, compliance, and enforcement activities associated with solid waste facilities. Such facilities can include landfills, material recovery facilities, transfer stations, composting and processing facilities, and waste tire management sites. The district offices manage permitting, compliance, and enforcement issues associated with such sites.[21]

The term "solid waste" is defined in Florida law to mean sludge[22] unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other

[15] *See* tfi.org, TFI Statement on EPA Phosphogypsum Decision | TFI | The Fertilizer Institute (last visited March 13, 2023).
[16] For additional information, s*ee* floridadep.gov, Phosphate Management Program | Florida Department of Environmental Protection (last visited March 13, 2023).
[17] *See* ss. 403.4154 and 403.4155, F.S.
[18] The NPDES is a permit program that addresses water pollution by regulating point sources that discharge pollutants to waters of the U.S., created in 1972 by the Clean Water Act. The EPA authorizes state governments to perform many permitting, administrative, and enforcement aspects of the program. For more information, *see* epa.gov, National Pollutant Discharge Elimination System (NPDES) | US EPA (last visited March 16. 2023).
[19] Id.
[20] Section 403.705, F.S.
[21] *See* floridadep.gov, Solid Waste Section | Florida Department of Environmental Protection (last visited March 16, 2023).
[22] "Sludge" includes the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar waste disposal appurtenances. Section 403.703(34), F.S.

discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or government operations, excluding certain recovered materials and post-use polymers.[23]

The FDEP currently may not regulate the following wastes or activities:

- Byproduct material, source material, and special nuclear material, the generation, transportation, disposal, storage, or treatment of which is regulated under chapter 404 or the federal Atomic Energy Act of 1954, ch. 1073, 68 Stat. 923, as amended.
- Suspended solids and dissolved materials in domestic sewage effluent or irrigation return flows or other discharges which are point sources subject to permits pursuant to chapter 403, F.S., concerning environmental control, or s. 402 of the Clean Water Act, Pub. L. No. 95-217.
- Emissions to the air from a stationary installation or source regulated under chapter 403, F.S., concerning environmental control, or the Clean Air Act, Pub. L. No. 95-95.
- Drilling fluids, produced waters, and other wastes associated with the exploration for, or development and production of, crude oil or natural gas which are regulated under Chapter 377, F.S.
- Recovered materials, post-use polymers, recovered materials processing facilities, or pyrolysis facilities, except as provided and under specified conditions.
- Industrial byproducts, under specified conditions.[24]

Additionally, sludge from an industrial waste treatment works that meets certain exemption requirements is not solid waste as defined in s. 403.703, F.S.

Phosphogypsum is a solid waste as defined in current law and is regulated in Florida pursuant to waste and industry-specific requirements[25] and the FDEP's rules and permitting requirements.[26] The FDEP advises that while phosphogypsum is currently defined as a solid waste, "phosphogypsum stack systems are not regulated as solid waste management facilities, as they are separately regulated under the FDEP's rules for siting, construction, operation, closure and long-term care of phosphogypsum stack systems in Florida."[27]

Florida Department of Transportation Road Construction Material

Generally speaking construction aggregate materials are mined resources that provide the basic material for concrete, asphalt, and road base. The Florida Department of Transportation's (FDOT's) rule defines the term "aggregate" to mean a granular construction material such as sand, limerock, limestone, gravel, shell, slag, and crushed stone; manufactured materials such as shales, slates, and clays; and recycled material such as crushed concrete used as specified, or for

[23] Section 403.703(35), F.S.
[24] Section 403.7045(1), F.S.
[25] See ss. 403.4154 and 403.4155, F.S.
[26] Chapters 62-672 and 62-673, F.A.C.
[27] *See* FDEP email to committee staff, March 16, 2023 (on file in the Senate Transportation Committee).

other construction materials and uses not yet developed, but which may have potential usage by the FDOT.[28]

The FDOT has implemented a standardized method for producers of construction aggregates to apply for, receive, and maintain FDOT approval of construction aggregate sources for use on FDOT projects. The FDOT's primary methods of determining acceptability of aggregate are source and product approval, and maintenance of an on-going quality control program as monitored by the FDOT.[29]

Current law reflects legislative intent that the FDOT continue to expand its current use of recovered materials in its construction programs.[30] The Legislature declares it to be in the public interest to find alternative ways to use certain recyclable materials that currently are part of the solid waste stream and that contribute to problems of declining space in landfills.

To determine the feasibility of using certain recyclable materials for paving materials, the FDOT may undertake demonstration projects using the following materials in road construction:

- Ground rubber from automobile tires in road resurfacing or subbase materials for roads;
- Ash residue from coal combustion byproducts for concrete and ash residue from waste incineration facilities and oil combustion byproducts for subbase material;
- Recycled mixed-plastic material for guardrail posts or right-of-way fence posts;
- Construction steel, including reinforcing rods and I-beams, manufactured from scrap metals disposed of in the state; and
- Glass and glass aggregates.[31]

The FDOT must review and revise existing bid procedures and specifications for the purchase or use of products and materials to eliminate any procedures and specifications that explicitly discriminate against products and materials with recycled content, except where such procedures and specifications are necessary to protect the health, safety, and welfare of the people of this state.[32]

The FDOT must also review and revise its bid procedures and specifications on a continuing basis to encourage the use of products and materials with recycled content and shall, in developing new procedures and specifications, encourage the use of products and materials with recycled content.[33]

The FDOT has participated in at least two experimental projects using phosphogypsum on secondary roads in Columbia County and in Polk County.[34]

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[28] Rule 14-103.003(3), F.A.C. Section 337.261, F.S., defines "construction aggregate materials" to mean crushed stone, limestone, dolomite, limerock, shell rock, cemented coquina, sand for use a component of mortars, concrete, bituminous mixtures, or underdrain filters, and other mined resources providing the basic material for concrete, asphalt, and road base.
[29] Rule 14-103.002(1), F.A.C.
[30] Section 336.044(1), F.S.
[31] Section 336.044(2), F.S.
[32] Section 336.044(3), F.S.
[33] Section 336.044(4), F.S.
[34] *See* fipr.floridapoly.edu, Phosphogypsum for Secondary Road Construction (floridapoly.edu) (last visited March 16, 2023).

III. Effect of Proposed Changes:

Use of Recyclable Material in Construction (Section 1)

The bill amends s. 336.044(2), F.S., authorizing the Florida Department of Transportation (FDOT) to undertake demonstration projects using phosphogypsum from phosphate production in road construction aggregate material.

So long as the use of phosphogypsum is prohibited by federal law, as is currently the case, the FDOT would not be authorized to undertake any such demonstration project. Such a demonstration project could only occur in accordance with conditions or limitations specified in any United States Environmental Protection Agency (EPA) approval for use of phosphogypsum in such a demonstration project.

Study and Use of Phosphogypsum as a Construction Aggregate Material (Section 2)

The bill creates s. 337.02611, F.S., requiring the FDOT to conduct a study to evaluate the suitability of using phosphogypsum as a construction aggregate material. The FDOT may consider any prior or ongoing studies of phosphogypsum's road suitability. The study and a determination of suitability must be completed by April 1, 2024. Upon the FDOT's determination of suitability, the bill authorizes the use of phosphogypsum from phosphate production as a construction aggregate material in accordance with the conditions of the EPA approval for such use.

Again, until such time as the EPA approves such use, the FDOT would be prohibited from any use of phosphogypsum as a road construction aggregate material. Such use could only occur if the EPA issues an approval, and only under the conditions imposed by the EPA.

Wastes and Activities Not Regulated by the FDEP (Section 3)

The bill amends s. 403.7045, F.S., providing that phosphogypsum used in accordance with an allowed use expressly specified in EPA regulations or pursuant to an express EPA approval for the specific use is not solid waste as defined in s. 403.703, F.S., and is an allowable use in this state. The bill restates current law that phosphogypsum may be placed in a phosphogypsum stack system permitted by the Florida Department of Environmental Protection (FDEP).

The FDEP advises that excluding phosphogypsum as a solid waste "would conflict with existing permitting and regulatory framework. Like the state provisions under section 403.7045(2)(c), F.S., under federal regulations at 40 CFR 261.4(b), phosphogypsum, along with process water from phosphoric acid production, are solid wastes that are not hazardous wastes. Accordingly, the proposed statutory revision in Section 3 of the bill, where phosphogypsum would not be a solid waste, creates uncertainty in the application of both the state and federal hazardous waste exemptions for phosphogypsum."[35]

[35] FDEP email to committee staff, March 16, 2023 (on file in the Senate Transportation Committee).

Effective Date (Section 4)

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate. Should the EPA approve the use of phosphogypsum in road construction, the private sector may benefit from a reduction of the number of phosphogypsum stacks in the state. A literature review suggests the existence of opposing opinions relating to the advantages and disadvantages of exposure to phosphogypsum.

C. Government Sector Impact:

The FDOT will incur costs associated with conducting the study required by the bill, which costs are expected to be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 336.044 and 403.7045.

This bill creates the following section of the Florida Statutes: 337.02611.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Fiscal Policy on April 13, 2023:
The committee substitute extends from January 1, 2024, to April 1, 2024, the date by which the FDOT must complete the study to evaluate and determine the suitability of using phosphogypsum as a construction aggregate material.

CS by Transportation on March 20, 2023:
The committee substitute removes ambiguity by separating the provision that use of phosphogypsum in accordance with an allowed use expressly specified in the United States Environmental Protection Agency (EPA) regulations or pursuant to an express EPA approval for the specific use is not solid waste and is an allowed use in this state from the restatement of current law authorizing placement of phosphogypsum in a stack system permitted by the Florida Department of Environmental Protection.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

894136

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/13/2023	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Berman) recommended the following:

Senate Amendment (with title amendment)

Delete lines 52 - 53

and insert:

(1) The department shall, in conjunction with the Department of Environmental Protection, conduct a study to evaluate the suitability and environmental impact of using phosphogypsum as a construction aggregate

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

894136

And the title is amended as follows:

Delete line 8

and insert:

department, in conjunction with the Department of Environmental Protection, to conduct a study on the suitability and environmental impact of

719398

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Trumbull) recommended the following:

Senate Amendment

Delete line 57
and insert:
determination of suitability must be completed by April 1,

By the Committee on Transportation; and Senators Trumbull, Burgess, Gruters, and Ingoglia

596-02775-23 20231258c1

A bill to be entitled

An act relating to the use of phosphogypsum; amending s. 336.044, F.S.; authorizing the Department of Transportation to undertake demonstration projects using phosphogypsum in road construction aggregate material to determine its feasibility as a paving material; creating s. 337.02611, F.S.; requiring the department to conduct a study on the suitability of using phosphogypsum as a construction aggregate material; providing requirements for the study; providing that such materials may be used as a construction aggregate material in accordance with specified regulations if the department determines it suitable for such use; amending s. 403.7045, F.S.; prohibiting phosphogypsum from being regulated as solid waste if used in accordance with an allowed use under specified federal regulations and approvals; providing that phosphogypsum may be placed in stack systems permitted by the department; providing an effective date.

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

Section 1. Subsection (2) of section 336.044, Florida Statutes, is amended to read:

336.044 Use of recyclable materials in construction.—

(2) The Legislature declares it to be in the public interest to find alternative ways to use certain recyclable materials that currently are part of the solid waste stream and

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

596-02775-23 20231258c1

that contribute to problems of declining space in landfills. To determine the feasibility of using certain recyclable materials for paving materials, the department may undertake demonstration projects using all of the following materials in road construction:

(a) Ground rubber from automobile tires in road resurfacing or subbase materials for roads.~~;~~

(b) Ash residue from coal combustion byproducts for concrete and ash residue from waste incineration facilities and oil combustion byproducts for subbase material.~~;~~

(c) Recycled mixed-plastic material for guardrail posts or right-of-way fence posts.~~;~~

(d) Construction steel, including reinforcing rods and I-beams, manufactured from scrap metals disposed of in the state.~~;~~ ~~and~~

(e) Glass~~,~~ and glass aggregates.

(f) Phosphogypsum from phosphate production in road construction aggregate material.

Section 2. Section 337.02611, Florida Statutes, is created to read:

337.02611 Phosphogypsum as a construction aggregate material; study.—

(1) The department shall conduct a study to evaluate the suitability of using phosphogypsum as a construction aggregate material as defined in s. 337.0261(1). The department may consider any prior or ongoing studies of phosphogypsum's road suitability in the fulfillment of this duty. The study and a determination of suitability must be completed by January 1, 2024.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

(2) Upon a determination of suitability by the department, phosphogypsum from phosphate production may be used as a construction aggregate material in accordance with the conditions of the United States Environmental Protection Agency approval for the use.

Section 3. Paragraph (f) of subsection (1) of section 403.7045, Florida Statutes, is amended to read:

403.7045 Application of act and integration with other acts.—

(1) The following wastes or activities may not be regulated pursuant to this act:

(f) Industrial byproducts, if:

1. A majority of the industrial byproducts are demonstrated to be sold, used, or reused within 1 year; ~~.~~

2. The industrial byproducts are not discharged, deposited, injected, dumped, spilled, leaked, or placed upon any land or water so that such industrial byproducts, or any constituent thereof, may enter other lands or be emitted into the air or discharged into any waters, including groundwaters, or otherwise enter the environment such that a threat of contamination in excess of applicable department standards and criteria or a significant threat to public health is caused; and ~~.~~

3. The industrial byproducts are not hazardous wastes as defined in s. 403.703 and rules adopted under this section.

Sludge from an industrial waste treatment works that meets the exemption requirements of this paragraph is not solid waste as defined in s. 403.703. Phosphogypsum used in accordance with an allowed use expressly specified in United States Environmental

Protection Agency regulations or pursuant to an express United States Environmental Protection Agency approval for the specific use is not solid waste as defined in s. 403.703 and shall be an allowed use in this state. Phosphogypsum may be placed in a phosphogypsum stack system permitted by the department pursuant to ss. 403.4154 and 403.4155.

Section 4. This act shall take effect July 1, 2023.

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 1258
Bill Number or Topic

Amendment Barcode (if applicable)

Name Carolyn Johnson

Phone 521-1200

Address 136 S Bronough St
Street

Email cjohnson@flchamber.com

Tallahassee FL 32301
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
FL Chamber of Commerce

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 1258
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tanner Warwick

Phone 850 728-8419

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Email twarwick@aif.com

Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Associated Industries of Florida

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

Fisc Pol
Committee

1258
Bill Number or Topic

Amendment Barcode (if applicable)

Name David Cullen

Phone 941-323-2404

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Street

Email cullenasea@gmail.com

Tallahassee | FL | 32308
City | *State* | *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** **Waive Speaking:** ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Sierra Club Florida

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/SB 1320
INTRODUCER:	Education Pre-K -12 Committee and Senator Yarborough and others
SUBJECT:	Child Protection in Public Schools
DATE:	April 12, 2023
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Bouck	ED	**Fav/CS**
2.	Brick	Yeatman	FP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1320 includes provisions designed to protect children in public schools. The bill includes requirements for age-appropriate and developmentally appropriate instruction for all students in prekindergarten through grade 12. The bill:

- Includes requirements for specific terminology and instruction relative to health and reproductive education in schools.
- Extends the prohibition on classroom instruction on sexual orientation or gender identity to prekindergarten through grade 8.

The bill enhances the process for transparency and review of library and classroom materials available to students in public schools and the process for parents to make objections to materials. The bill requires the suspension of materials alleged to contain pornography or materials harmful to minors as identified in current law pending resolution of an objection to the material.

The bill takes effect on July 1, 2023.

II. Present Situation:

The Florida Early Learning-20 Education Code includes definitions of terms to be applied throughout the code.[1]

[1] Section 1000.21, F.S.

Classroom Instruction

Classroom instruction by school personnel or third parties on sexual orientation or gender identity may not occur in public schools in kindergarten through grade 3 or in a manner that is not age-appropriate or developmentally appropriate for students in accordance with state standards.[2]

Each district school board is required to adopt procedures for a parent to notify the principal, or his or her designee, regarding concerns about the procedures for notifying a student's parent if there is a change in the student's services or monitoring related to the student's mental, emotional, or physical health or well-being and the school's ability to provide a safe and supportive learning environment for the student at his or her student's school, and the process for resolving those concerns within seven calendar days after notification by the parent.[3]

The procedures must require that within 30 days after notification by the parent that the concern remains unresolved, the district school board must either resolve the concern or provide a statement of the reasons for not resolving the concern.[4] If a concern is not resolved by the district school board, a parent may request the Commissioner of Education to appoint a special magistrate who is a member of The Florida Bar in good standing and who has at least five years' experience in administrative law. The special magistrate must determine facts relating to the dispute over the district school board procedure or practice, consider information provided by the district school board, and render a recommended decision for resolution to the State Board of Education within 30 days after receipt of the request by the parent.[5]

The State Board of Education must approve or reject the recommended decision at its next regularly scheduled meeting that is more than 7 calendar days and no more than 30 days after the date the recommended decision is transmitted. The costs of the special magistrate must be borne by the district school board.[6] District school boards are required to develop procedures for applying this process to complaints related to classroom instruction on sexual orientation or gender identity in charter schools.[7]

A parent may also bring an action against the district school board to obtain a declaratory judgment that the district school board procedure includes inappropriate instruction on sexual orientation or gender identity and seek injunctive relief. A court may award damages, and is required to award reasonable attorney fees and court costs, to a parent who receives declaratory or injunctive relief.[8]

[2] Section 1001.42(8)(c)3., F.S.
[3] Section 1001.42(8)(c)7., F.S.
[4] Section 1001.42(8)(c)7.a., F.S.
[5] Section 1001.42(8)(c)7.b., F.S.
[6] Section 1001.42(8)(c)7.b., F.S.
[7] Rule 6A-6.0791, F.A.C.
[8] Section 1001.42(8)(c)7.b., F.S.

Reproductive and Health Education

Public school teachers are required to teach comprehensive age-appropriate and developmentally appropriate instruction in health education in:[9]

- Kindergarten through grade 12 that addresses concepts of community health, consumer health, environmental health, and family life.
- Grades 6 through 12 that provides awareness of the benefits of sexual abstinence as the expected standard and the consequences of teen pregnancy.
- Grades 7 through 12 that addresses teen dating violence and abuse.
- Grades 9 through 12 that provides life skills that build confidence, support mental and emotional health, and enable students to overcome challenges.

Course standards for instruction concerning reproductive health begin in grade 3, when students are expected to be able to recognize how the circulatory system, digestive system, nervous system, reproductive system, and other body systems work together to form human body systems.[10] Standards for instruction concerning sexual behavior begin in grade 6, when students are expected to predict the potential outcomes of a health-related decision, including prescription drug use or abuse, eating disorders, depression, and sexual behavior.[11] Course standards for health instruction in grade 7 include articulating the possible causes of conflict among youth in schools and communities, including ethnic prejudice and diversity, substance use, group dynamics, relationship issues and dating violence, gossip and rumors, and sexual identity.[12]

When instruction in acquired immune deficiency syndrome, sexually transmitted diseases, or health education contains instruction in human sexuality, a school must:[13]

- Teach abstinence from sexual activity outside of marriage as the expected standard for all school-age students while teaching the benefits of monogamous heterosexual marriage.
- Emphasize that abstinence from sexual activity is a certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, including acquired immune deficiency syndrome, and other associated health problems.
- Teach that each student has the power to control personal behavior and encourage students to base actions on reasoning, self-esteem, and respect for others.
- Provide instruction and material that is appropriate for the grade and age of the student.

All instructional materials used to teach reproductive health or any disease must be annually approved by a district school board in an open, noticed public meeting.[14]

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[9] Section 1003.42(2)(n), F.S.
[10] Department of Education, *Health Education: HE.3.C.1.5*, *available at* https://www.flrules.org/Gateway/reference.asp?No=Ref-13679, at 30, *incorporated by reference in* Rule 6A-1.09412(2)(i), F.A.C.
[11] Department of Education, *Health Education: HE.6.B.5.5*, *available at* https://www.flrules.org/Gateway/reference.asp?No=Ref-13679, at 51, *incorporated by reference in* Rule 6A-1.09412(2)(i), F.A.C.
[12] Department of Education, *Health Education: HE.7.B.4.3*, *available at* https://www.flrules.org/Gateway/reference.asp?No=Ref-13679, at 71, *incorporated by reference in* Rule 6A-1.09412(2)(i), F.A.C.
[13] Section 1003.46(2)(a), F.S.
[14] Section 1003.42(1)(b), F.S.

Review of Materials Available to Students

The district school board has the constitutional duty and responsibility to select and provide adequate instructional materials for all students. The district school board also has the specific duty and responsibility to adopt courses of study, including instructional materials, for use in the schools of the district.[15]
Each district school board is responsible for the content of all instructional materials and any other materials used in a classroom, made available in a school library, or included on a reading list, whether adopted and purchased from the state-adopted instructional materials list, adopted and purchased through a district instructional materials program, or otherwise purchased or made available.[16]

Each school principal is required to assure that instructional materials are used to provide instruction to students enrolled at the grade level or levels for which the materials are designed. The school principal is required to communicate to parents the manner in which instructional materials are used to implement the curricular objectives of the school.[17]

Prohibited Content

If the district school board finds that an instructional material was selected for use in a course or otherwise made available to students in the school district but was not subject to the public notice, review, comment, and hearing procedures or that any material contains prohibited pornographic content or material harmful to minors, the district school board is required to discontinue use of the material for any grade level or age group for which such use is inappropriate or unsuitable.[18]

Materials that are harmful to minors are identified in the criminal law. Except for the distribution or posting of school-approved instructional materials that by design serve as a major tool for assisting in the instruction of a subject or course by certain school personnel, a person commits a felony of the third degree by knowingly providing to a minor:[19]

- Any picture, photograph, drawing, sculpture, motion picture film, videocassette, or similar visual representation or image of a person or portion of the human body which depicts nudity or sexual conduct, sexual excitement, sexual battery, bestiality, or sadomasochistic abuse and which is harmful to minors; or
- Any book, pamphlet, magazine, printed matter however reproduced, or sound recording that contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, or sexual conduct and that is harmful to minors.

Materials that are harmful to minors also include any reproduction, imitation, characterization, description, exhibition, presentation, or representation, of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it:[20]

[15] Section 1006.28(2), F.S.
[16] Section 1006.28(2)(a)1., F.S.
[17] Section 1006.28(4)(a), F.S.
[18] Section 1006.28(2)(a), F.S.
[19] Section 847.012(3) and (6), F.S.
[20] Section 847.001(7), F.S. The Florida Supreme Court has upheld this definition as it relates to the prohibition on the distribution to minors of materials that are harmful. *See Simmons v. State*, 944 So. 2d 317, 329 (Fla. 2006).

- Predominantly appeals to a prurient, shameful, or morbid interest;
- Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and
- Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

Prohibited content includes depictions of sexual conduct, as defined in law,[21] in the form of:[22]

- Actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse.
- Actual or simulated lewd exhibition of the genitals.
- Actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party.
- Any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed.

A mother's breastfeeding of her baby does not under any circumstance constitute "sexual conduct."

Process for Objections

Each district school board must adopt a policy regarding an objection by a parent or a resident of the county to the use of a specific material, which clearly describes a process to handle all objections and provides for resolution. The process must provide the parent or resident the opportunity to proffer evidence to the district school board that any material used in a classroom, made available in a school library, or included on a reading list contains content that is pornographic or harmful to minors,[23] is not suited to student needs and their ability to comprehend the material presented, or is inappropriate for the grade level and age group for which the material is used.[24]

Transparency of Materials Available to Students

Meetings of committees convened for the purpose of ranking, eliminating, or selecting instructional materials for recommendation to the district school board must be noticed and open to the public. Any committees convened for such purposes must include parents of district students.[25]

Each district school board is required to adopt procedures for developing library media center collections and post the procedures on the website for each school within the district. The procedures must:[26]

[21] Section 847.012, F.S., incorporates in prohibited content any matter defined in s. 847.001, F.S., which includes this definition of sexual conduct, as well as the other terms used in the definition.
[22] Section 847.001(19), F.S.
[23] Materials prohibited as harmful to minors are identified in s. 847.012, F.S.
[24] Section 1006.28(2)(a)2., F.S.
[25] Section 1006.28(2)(a)4., F.S.
[26] Section 1006.28(2)(d)2., F.S.

- Require that book selections are free from pornography and specified material identified as harmful to minors.[27]
- Require consultation of reputable, professionally recognized reviewing periodicals and school community stakeholders.
- Provide for library media center collections based on reader interest, support of state academic standards and aligned curriculum, and the academic needs of students and faculty.
- Provide for the regular removal or discontinuance of books based on, at a minimum, physical condition, rate of recent circulation, alignment to state academic standards and relevancy to curriculum, out-of-date content, and prohibited content.

School principals are responsible for overseeing compliance with district school board procedures for selecting school library media center materials at the school to which they are assigned.[28]

Each elementary school must publish on its website, in a searchable format prescribed by the Department of Education (DOE), a list of all materials maintained in the school library media center or required as part of a school or grade-level reading list.[29]

Each district school board is required to publish on its website, in a searchable format prescribed by the DOE, a list of all instructional materials. Each district school board must annually, beginning June 30, 2023, submit to the Commissioner of Education a report that identifies:[30]

- Each material for which the district school board received an objection for containing pornographic content or content harmful to minors for the school year and the specific objections thereto.
- Each material that was removed or discontinued as a result of an objection.
- The grade level and course for which a removed or discontinued material was used, as applicable.

The DOE is required to publish and regularly update the list of materials that were removed or discontinued as a result of an objection and disseminate the list to district school boards for consideration in their selection procedures.[31]

III. Effect of Proposed Changes:

Terminology

CS/SB 1320 modifies s. 1000.21, F.S., to define "sex" as the classification of a human person as either male or female based on the organization of the body of such person for a specific reproductive role, as indicated by the person's sex chromosomes, naturally occurring sex hormones, and internal and external genitalia present at birth.

[27] Section 1006.28(2)(d)1., F.S. Materials harmful to minors are identified in s. 847.012, F.S.
[28] Section 1006.28(4)(f), F.S.
[29] Section 1006.28(2)(d)3., F.S.
[30] Section 1006.28(2)(e), F.S.
[31] Section 1006.28(2)(e), F.S.

The bill creates s. 1001.07, F.S., to require every public K-12 educational institution to have a policy that a person's sex is an immutable, or unchanging, biological trait and that it is false to ascribe to a person a pronoun that does not correspond to such person's sex. The bill authorizes the State Board of Education to adopt rules to implement the policy, which specifically provides that:

- No employee, contractor, or student of a public K-12 educational institution may be required, as a condition of employment, enrollment, or participation in any program, to refer to another person using a preferred personal title or pronoun that does not correspond to that person's sex.
- No employee or contractor at a public K-12 educational institution may provide to students his or her preferred personal title or pronouns if such personal title or pronouns do not correspond to his or her sex.
- No student may be asked for his or her preferred personal titles or pronouns, or penalized or subjected to adverse or discriminatory treatment for not providing preferred personal titles or pronouns.

Classroom Instruction

The bill amends s. 1001.42, F.S., to modify the prohibition on classroom instruction by school personnel or third parties on sexual orientation or gender identity in kindergarten through grade 3. The bill extends the prohibition on such instruction to prekindergarten through grade 8. The bill clarifies that such instruction in grades 9-12 must be age-appropriate or developmentally appropriate for students in accordance with state standards. The bill clarifies that the prohibition applies to charter schools.

The bill maintains the procedure for administrative review through a special magistrate but removes the provision authorizing a parent who is unable to resolve a concern with the district school board to bring an action against the district school board to obtain a declaratory judgment that the district school board procedure or practice includes prohibited instruction on sexual orientation or gender identity and to seek injunctive relief and damages, attorney fees, and court costs.

Reproductive and Health Education

The bill modifies s. 1003.42, F.S., regarding requirements for instructional materials used to teach reproductive health or any disease, including HIV/AIDS, its symptoms, development, and treatment to be annually approved by a district school board in an open, noticed, public meeting. The bill requires that all materials, regardless of whether they fall within the definition in law of an instructional material, that are used for such instruction must be approved by the Department of Education.

The bill modifies s. 1003.46, F.S., regarding instruction in acquired immune deficiency syndrome, sexually transmitted diseases, or health education, when such instruction and course material contains instruction in human sexuality. The bill requires materials used for such instruction to be approved by the DOE. When providing such instruction, the bill requires a school to classify males and females in accordance with the definition of sex and teach that biological males impregnate biological females by fertilizing the female's egg with the male's

sperm; the female then gestates the offspring; and these reproductive roles are binary, stable, and unchangeable.

Review of Classroom Materials

Prohibited Content

The bill modifies s. 1006.28, F.S., to specifically identify the prohibition on materials that depict sexual conduct, as defined in the law regarding materials that are harmful to minors.
The bill provides exceptions for material that is for a required health education or AIDS course, required comprehensive age-appropriate and developmentally appropriate K-12 instruction on the prevention of child sexual abuse, exploitation, and human trafficking, or identified by State Board of Education rule.

Process for Objections

The bill clarifies that a classroom library is included in the list of materials for which each district school board is responsible and is subject to objection by a parent or resident of the county if the material contains content prohibited in current law and in the bill. The bill requires the form, which must be prescribed by State Board of Education rule, and the district school board's process for a parent to object to a specific material, be easy to read and understand, and be easily accessible on the homepage of the district school board's website.

The bill specifies that any material that is subject to an objection for containing prohibited content that is pornographic or harmful to minors must be made unavailable to students until the objection is resolved. The bill provides that parents have the right to read aloud at public meetings passages from material that is subject to an objection.

The bill also provides that meetings of committees convened for the purpose of resolving an objection by a parent or resident to specific materials must be noticed and open to the public. The bill specifies that any committees convened for such purposes must include parents of students who will have access to such materials.

The bill requires school principals to communicate to parents the procedures for contesting the adoption and use of instructional materials and the process for objecting to the use of specific materials.

Transparency of Materials Available to Students

The bill specifies that the parents required to be included in committees convened for the purpose of ranking, eliminating, or selecting instructional materials for recommendation to the district school board must be parents of students who will have access to such materials.

The bill includes classroom libraries in the current requirements for school library media centers regarding:

- Posting on the website for each school in the district the procedures for developing not only the library media center collections, but also classroom libraries.

- Publication on the website of each elementary school in the district all materials maintained in the library. The bill adds that this publication must also include any materials accessible to students.

The bill requires each district school board to adopt and publish on its website the process for a parent to limit the books and media materials his or her student can access in the school's library.

The bill modifies the annual report regarding potentially inappropriate materials that each district school board must submit to the Commissioner of Education. The bill expands the required information concerning each material that was:

- Objected to, which must include the grade level and course the material was used in.
- Removed or discontinued as a result of an objection, to include each material that was removed or discontinued even if no objection was made.
- Not removed or discontinued, and the rationale for not removing or discontinuing the material.

The bill provides a severability clause to specify that, if a provision of the bill is held invalid, that does not affect the validity of the other provisions of the bill.

The bill takes effect on July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 1000.21, 1001.07, 1001.42, 1003.42, 1003.46, and 1006.28.

This bill creates section 1001.07 of the Florida Statutes.

This bill re-enacts the following sections of the Florida Statutes: 1000.05(2), (3), (4)(a), and (5); 1001.453(2)(c); 1002.42(3)(a); 1003.27(2)(b) and (c); 1003.42(3)(a), (c), (e), and (f); 1004.43(2); 1006.205(2)(b) and (3); 1009.23(7); 1009.24(10)(b); 1009.983(6); 1009.986(3)(e); and 1014.05(1)(c), (d), and (f).

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS in Education Pre-K – 12 Committee on March 20, 2023:
The committee substitute clarifies that the prohibition of classroom instruction on sexual orientation and gender identity in grades prekindergarten through grade 8 applies to charter schools.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/13/2023	.	
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The Committee on Fiscal Policy (Berman) recommended the following:

Senate Amendment (with title amendment)

Delete lines 83 - 101

and insert:

institution that is provided or authorized by the State Constitution and general law that all parental rights are reserved to the parent of a minor child without obstruction or interference from the state, any of its political subdivisions, any other governmental entity, or any other institution, including, but not limited to, the following rights of a parent

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of a minor child:

(a) The right to direct the education and care of his or her minor child.

(b) The right to direct the upbringing and moral or religious training of his or her minor child.

(2) An employee or a contractor of a public K-12 educational institution shall address a student by the title and pronouns of the student's perceived sex unless the principal is notified in writing by the student's parent that different titles or pronouns should be used to address the student.

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

And the title is amended as follows:

Delete lines 4 - 13

and insert:

creating s. 1001.07, F.S.; providing that it is the policy of certain public K-12 educational institutions that parental rights are reserved to the parent of a minor child, including specified rights; requiring employees and contractors of such educational institutions to address students by the titles and pronouns of their perceived sex; providing an exception;

By the Committee on Education Pre-K -12; and Senators Yarborough and Perry

581-02783-23 20231320c1

A bill to be entitled

An act relating to child protection in public schools; amending s. 1000.21, F.S.; defining the term "sex"; creating s. 1001.07, F.S.; defining the term "sex"; prohibiting an employee, contractor, or student of a public school from being required to refer to a person using personal titles or pronouns that do not correspond with that person's sex; prohibiting employees and contractors from providing a pronoun or personal title to students which does not correspond with his or her sex; providing that students may not be asked for preferred personal titles or pronouns or penalized for not providing such information; authorizing the State Board of Education to adopt rules; amending s. 1001.42, F.S.; prohibiting classroom instruction by school personnel on sexual orientation or gender identity until grade 9; providing that such prohibition applies to charter schools; deleting a provision authorizing a parent to bring an action against a school district for a declaratory judgment; amending s. 1003.42, F.S.; providing that materials used to teach reproductive health or any disease as part of certain courses must be approved by the Department of Education; amending s. 1003.46, F.S.; requiring that instruction in acquired immune deficiency syndrome, sexually transmitted diseases, and health education identify males and females as provided in a specified provision and teach that the male and female reproductive roles

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

Florida Senate - 2023 **CS for SB 1320**

581-02783-23 20231320c1

are binary, stable, and unchangeable; requiring that such instructional materials be approved by the department; amending s. 1006.28, F.S.; providing that district school boards are responsible for materials used in classroom libraries; requiring that a specified objection form and the district school board's process for handling objections be easy to read and easily accessible on school districts' website homepages; expanding the criteria for materials used in the classroom, available in the school library, or included on a reading list under which a parent or resident may bring an objection; requiring that certain materials be unavailable to students until the resolution of any objection; providing requirements for certain meetings of school district committees relating to instructional materials; revising certain district school board procedures relating to library media center collections; revising elementary school requirements relating to materials in specified libraries; requiring district school boards to adopt and publish a specified process relating to student access to certain materials; revising district school board reporting requirements relating to materials that received certain objections; requiring school principals to communicate to parents the procedures for contesting the adoption and use of instructional materials; reenacting ss. 1000.05(2), (3), (4)(a), (5) and (7)(d), 1001.453(2)(c), 1002.42(3)(a),

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1003.27(2)(b) and (c), 1003.42(3)(a), (c), (e), and (f), 1004.43(2), 1006.205(2)(b) and (3), 1009.23(7), 1009.24(10)(b), 1009.983(6), 1009.986(3)(e), and 1014.05(1)(c), (d), and (f), F.S., relating to biological sex, to incorporate the amendment made to s. 1000.21, F.S., in references thereto; providing for severability; providing an effective date.

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

Section 1. Subsection (9) is added to section 1000.21, Florida Statutes, to read:

1000.21 Systemwide definitions.—As used in the Florida Early Learning-20 Education Code:

(9) "Sex" means the classification of a human person as being either male or female based on the organization of the body of such person for a specific reproductive role, as indicated by the person's sex chromosomes, naturally occurring sex hormones, and internal and external genitalia present at birth.

Section 2. Section 1001.07, Florida Statutes, is created to read:

1001.07 Personal titles.—

(1) It shall be the policy of every public K-12 educational institution that is provided or authorized by the Constitution and laws of Florida that a person's sex is an immutable biological trait and that it is false to ascribe to a person a pronoun that does not correspond to such person's sex. For purposes of this section, "sex" shall have the same meaning as

in s. 1000.21.

(2) No employee, contractor, or student of a public K-12 educational institution shall be required, as a condition of employment, enrollment, or participation in any program, to refer to another person using a preferred personal title or pronoun that does not correspond to that person's sex.

(3) No employee or contractor at a public K-12 educational institution may provide to students his or her preferred personal title or pronouns if such personal title or pronouns do not correspond to his or her sex.

(4) No student may be asked for his or her preferred personal titles or pronouns, or penalized or subjected to adverse or discriminatory treatment for not providing preferred personal titles or pronouns.

(5) The State Board of Education may adopt rules consistent with this section.

Section 3. Paragraph (c) of subsection (8) of section 1001.42, Florida Statutes, is amended to read:

1001.42 POWERS AND DUTIES OF DISTRICT SCHOOL BOARD.—THE DISTRICT SCHOOL BOARD, ACTING AS A BOARD, SHALL EXERCISE ALL POWERS AND PERFORM ALL DUTIES LISTED BELOW:

(8) STUDENT WELFARE.—

(c)1. In accordance with the rights of parents enumerated in ss. 1002.20 and 1014.04, adopt procedures for notifying a student's parent if there is a change in the student's services or monitoring related to the student's mental, emotional, or physical health or well-being and the school's ability to provide a safe and supportive learning environment for the student. The procedures must reinforce the fundamental right of

parents to make decisions regarding the upbringing and control of their children by requiring school district personnel to encourage a student to discuss issues relating to his or her well-being with his or her parent or to facilitate discussion of the issue with the parent. The procedures may not prohibit parents from accessing any of their student's education and health records created, maintained, or used by the school district, as required by s. 1002.22(2).

2. A school district may not adopt procedures or student support forms that prohibit school district personnel from notifying a parent about his or her student's mental, emotional, or physical health or well-being, or a change in related services or monitoring, or that encourage or have the effect of encouraging a student to withhold from a parent such information. School district personnel may not discourage or prohibit parental notification of and involvement in critical decisions affecting a student's mental, emotional, or physical health or well-being. This subparagraph does not prohibit a school district from adopting procedures that permit school personnel to withhold such information from a parent if a reasonably prudent person would believe that disclosure would result in abuse, abandonment, or neglect, as those terms are defined in s. 39.01.

3. Classroom instruction by school personnel or third parties on sexual orientation or gender identity may not occur in prekindergarten ~~kindergarten~~ through grade 8. If provided in grades 9-12, such instruction must be ~~3 or in a manner that is not~~ age-appropriate or developmentally appropriate for students in accordance with state standards. This subparagraph applies to

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

charter schools.

4. Student support services training developed or provided by a school district to school district personnel must adhere to student services guidelines, standards, and frameworks established by the Department of Education.

5. At the beginning of the school year, each school district shall notify parents of each health care service offered at their student's school and the option to withhold consent or decline any specific service as provided in s. 1014.06. Parental consent to a health care service does not waive the parent's right to access his or her student's educational or health records or to be notified about a change in his or her student's services or monitoring as provided by this paragraph.

6. Before administering a student well-being questionnaire or health screening form to a student in kindergarten through grade 3, the school district must provide the questionnaire or health screening form to the parent and obtain the permission of the parent.

7. Each school district shall adopt procedures for a parent to notify the principal, or his or her designee, regarding concerns under this paragraph at his or her student's school and the process for resolving those concerns within 7 calendar days after notification by the parent.

a. At a minimum, the procedures must require that within 30 days after notification by the parent that the concern remains unresolved, the school district must either resolve the concern or provide a statement of the reasons for not resolving the concern.

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b. If a concern is not resolved by the school district, a parent may~~:~~

~~(I)~~ request the Commissioner of Education to appoint a special magistrate who is a member of The Florida Bar in good standing and who has at least 5 years' experience in administrative law. The special magistrate shall determine facts relating to the dispute over the school district procedure or practice, consider information provided by the school district, and render a recommended decision for resolution to the State Board of Education within 30 days after receipt of the request by the parent. The State Board of Education must approve or reject the recommended decision at its next regularly scheduled meeting that is more than 7 calendar days and no more than 30 days after the date the recommended decision is transmitted. The costs of the special magistrate shall be borne by the school district. The State Board of Education shall adopt rules, including forms, necessary to implement this subparagraph.

~~(II) Bring an action against the school district to obtain a declaratory judgment that the school district procedure or practice violates this paragraph and seek injunctive relief. A court may award damages and shall award reasonable attorney fees and court costs to a parent who receives declaratory or injunctive relief.~~

c. Each school district shall adopt policies to notify parents of the procedures required under this subparagraph.

d. Nothing contained in this subparagraph shall be construed to abridge or alter rights of action or remedies in equity already existing under the common law or general law.

Section 4. Paragraph (b) of subsection (1) of section

1003.42, Florida Statutes, is amended to read:

1003.42 Required instruction.—

(1)

(b) All ~~instructional~~ materials~~, as defined in s. 1006.29(2),~~ used to teach reproductive health or any disease, including HIV/AIDS, its symptoms, development, and treatment, as part of the courses referenced in subsection (5), must be ~~annually~~ approved by the department ~~a district school board in an open, noticed public meeting~~.

Section 5. Subsection (2) of section 1003.46, Florida Statutes, is amended to read:

1003.46 Health education; instruction in acquired immune deficiency syndrome.—

(2) Throughout instruction in acquired immune deficiency syndrome, sexually transmitted diseases, or health education, when such instruction and course material contains instruction in human sexuality, a school shall:

(a) Classify males and females as provided in s. 1000.21(9); teach that biological males impregnate biological females by fertilizing the female's egg with the male's sperm; that the female then gestates the offspring; and that these reproductive roles are binary, stable, and unchangeable.

(b) Teach abstinence from sexual activity outside of marriage as the expected standard for all school-age students while teaching the benefits of monogamous heterosexual marriage.

(c)~~(b)~~ Emphasize that abstinence from sexual activity is a certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, including acquired immune deficiency syndrome, and other associated health problems.

(d) ~~(c)~~ Teach that each student has the power to control personal behavior and encourage students to base actions on reasoning, self-esteem, and respect for others.

(e) ~~(d)~~ Provide instruction and material that is appropriate for the grade and age of the student.

Materials used for instruction under this section must be approved by the department.

Section 6. Paragraphs (a), (d), and (e) of subsection (2) and paragraphs (a) and (f) of subsection (4) of section 1006.28, Florida Statutes, are amended to read:

1006.28 Duties of district school board, district school superintendent; and school principal regarding K-12 instructional materials.—

(2) DISTRICT SCHOOL BOARD.—The district school board has the constitutional duty and responsibility to select and provide adequate instructional materials for all students in accordance with the requirements of this part. The district school board also has the following specific duties and responsibilities:

(a) *Courses of study; adoption.*—Adopt courses of study, including instructional materials, for use in the schools of the district.

1. Each district school board is responsible for the content of all instructional materials and any other materials used in a classroom, made available in a school or classroom library, or included on a reading list, whether adopted and purchased from the state-adopted instructional materials list, adopted and purchased through a district instructional materials program under s. 1006.283, or otherwise purchased or made

available.

2. Each district school board must adopt a policy regarding an objection by a parent or a resident of the county to the use of a specific material, which clearly describes a process to handle all objections and provides for resolution. The objection form, as prescribed by State Board of Education rule, and the district school board's process must be easy to read and understand and be easily accessible on the homepage of the school district's website. The process must provide the parent or resident the opportunity to proffer evidence to the district school board that:

a. An instructional material does not meet the criteria of s. 1006.31(2) or s. 1006.40(3)(d) if it was selected for use in a course or otherwise made available to students in the school district but was not subject to the public notice, review, comment, and hearing procedures under s. 1006.283(2)(b)8., 9., and 11.

b. Any material used in a classroom, made available in a school or classroom library, or included on a reading list contains content that:

(I) Is pornographic or prohibited under s. 847.012; ~~,~~

(II) Depicts or describes sexual conduct as defined in s. 847.001, unless such material is for a course required by s. 1003.46 or s. 1003.42(2)(n)1.g. or identified by State Board of Education rule;

(III) Is not suited to student needs and their ability to comprehend the material presented; ~~,~~ or

(IV) Is inappropriate for the grade level and age group for which the material is used.

Any material that is subject to an objection on the basis of sub-sub-subparagraph b.(I) or sub-sub-subparagraph b.(II) must be made unavailable to students until the objection is resolved. Parents have the right to read aloud at public meetings passages from material that is subject to an objection. If the district school board finds that an instructional material does not meet the criteria under sub-subparagraph a. or that any other material contains prohibited content under sub-subparagraph b., the school district shall discontinue use of the material for any grade level or age group for which such use is inappropriate or unsuitable.

3. Each district school board must establish a process by which the parent of a public school student or a resident of the county may contest the district school board's adoption of a specific instructional material. The parent or resident must file a petition, on a form provided by the school board, within 30 calendar days after the adoption of the instructional material by the school board. The school board must make the form available to the public and publish the form on the school district's website. The form must be signed by the parent or resident, include the required contact information, and state the objection to the instructional material based on the criteria of s. 1006.31(2) or s. 1006.40(3)(d). Within 30 days after the 30-day period has expired, the school board must, for all petitions timely received, conduct at least one open public hearing before an unbiased and qualified hearing officer. The hearing officer may not be an employee or agent of the school district. The hearing is not subject to the provisions of

chapter 120; however, the hearing must provide sufficient procedural protections to allow each petitioner an adequate and fair opportunity to be heard and present evidence to the hearing officer. The school board's decision after convening a hearing is final and not subject to further petition or review.

4. Meetings of committees convened for the purpose of ranking, eliminating, or selecting instructional materials for recommendation to the district school board must be noticed and open to the public in accordance with s. 286.011. Any committees convened for such purposes must include parents of ~~district~~ students who will have access to such materials.

5. Meetings of committees convened for the purpose of resolving an objection by a parent or resident to specific materials must be noticed and open to the public in accordance with s. 286.011. Any committees convened for such purpose must include parents of students who will have access to such materials.

(d) *School library media services; establishment and maintenance.*—Establish and maintain a program of school library media services for all public schools in the district, including school library media centers, or school library media centers open to the public, and, in addition such traveling or circulating libraries as may be needed for the proper operation of the district school system. Beginning January 1, 2023, school librarians, media specialists, and other personnel involved in the selection of school district library materials must complete the training program developed pursuant to s. 1006.29(6) before reviewing and selecting age-appropriate materials and library resources. Upon written request, a school district shall provide

access to any material or book specified in the request that is maintained in a district school system library and is available for review.

1. Each book made available to students through a school district library media center or included in a recommended or assigned school or grade-level reading list must be selected by a school district employee who holds a valid educational media specialist certificate, regardless of whether the book is purchased, donated, or otherwise made available to students.

2. Each district school board shall adopt procedures for developing library media center collections and post the procedures on the website for each school within the district. The procedures must:

a. Require that book selections meet the criteria in s. 1006.40(3)(d).

b. Require consultation of reputable, professionally recognized reviewing periodicals and school community stakeholders.

c. Provide for library media center collections, including classroom libraries, based on reader interest, support of state academic standards and aligned curriculum, and the academic needs of students and faculty.

d. Provide for the regular removal or discontinuance of books based on, at a minimum, physical condition, rate of recent circulation, alignment to state academic standards and relevancy to curriculum, out-of-date content, and required removal pursuant to subparagraph (a)2.

3. Each elementary school must publish on its website, in a searchable format prescribed by the department, a list of all

materials maintained and accessible in the school library media center or a classroom library or required as part of a school or grade-level reading list.

4. Each district school board shall adopt and publish on its website the process for a parent to limit the books and media materials his or her student can access in the school's library.

(e) *Public participation.*—Publish on its website, in a searchable format prescribed by the department, a list of all instructional materials, including those used to provide instruction required by s. 1003.42. Each district school board must:

1. Provide access to all materials, excluding teacher editions, in accordance with s. 1006.283(2)(b)8.a. before the district school board takes any official action on such materials. This process must include reasonable safeguards against the unauthorized use, reproduction, and distribution of instructional materials considered for adoption.

2. Select, approve, adopt, or purchase all materials as a separate line item on the agenda and provide a reasonable opportunity for public comment. The use of materials described in this paragraph may not be selected, approved, or adopted as part of a consent agenda.

3. Annually, beginning June 30, 2023, submit to the Commissioner of Education a report that identifies:

a. Each material for which the school district received an objection pursuant to subparagraph (a)2., including the grade level and course the material was used in, for the school year and the specific objections thereto.

b. Each material that was removed or discontinued ~~as a result of an objection~~.

c. Each material that was not removed or discontinued and the rationale for not removing or discontinuing the material ~~The grade level and course for which a removed or discontinued material was used, as applicable~~.

The department shall publish and regularly update a list of materials that were removed or discontinued as a result of an objection and disseminate the list to school districts for consideration in their selection procedures.

(4) SCHOOL PRINCIPAL.—The school principal has the following duties for the management and care of materials at the school:

(a) *Proper use of instructional materials.*—The principal shall assure that instructional materials are used to provide instruction to students enrolled at the grade level or levels for which the materials are designed, pursuant to adopted district school board rule. The school principal shall communicate to parents the manner in which instructional materials are used to implement the curricular objectives of the school and the procedures for contesting the adoption and use of instructional materials.

(f) *Selection of library media center materials.*—School principals are responsible for overseeing compliance with school district procedures for selecting school library media center materials at the school to which they are assigned and notifying parents of the process for objecting to the use of specific materials.

Section 7. Sections 1000.05(2), (3), (4)(a), (5), and (7)(d), 1001.453(2)(c), 1002.42(3)(a), 1003.27(2)(b) and (c), 1003.42(3)(a), (c), (e), and (f), 1004.43(2), 1006.205(2)(b) and (3), 1009.23(7), 1009.24(10)(b), 1009.983(6), 1009.986(3)(e), and 1014.05(1)(c), (d), and (f), Florida Statutes, are reenacted for the purpose of incorporating the amendment made by this act to s. 1000.21, Florida Statutes, in references thereto.

Section 8. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 9. This act shall take effect July 1, 2023.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/13/23
Meeting Date

Fiscal Policy
Committee

SB 1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Madeline Ward

Phone 850-459-2490

Address 1536 Oldfield Dr.
Street

Email lovieemayward@gmail.com

Tallahassee Florida 32308
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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4/13/23
Meeting Date

Finance/Fiscal Policy
Committee

SB 1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Melinda Stanwood

Phone 850-727-1275

Address 4721 Flowerwood Drive
Street

Tallahassee FL 32303
City State Zip

Email FrenchyFrye@hotmail.com

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

The Florida Senate

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4-13-25
Meeting Date

Fiscal
Committee

1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name JT ECKHOFF Phone

Address Email

Street

City *State* *Zip*

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

Fiscal Policy
Committee

1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name John Labriola (Christian Family Coalition) Phone 954-515-2084

Address PO Box 650216 Email JFLABRIOLA@gmail.com
Street

Miami FL 33265
City State Zip

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

4-13-23
Meeting Date

Fiscal
Committee

1520
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ann Bish

Phone

Address
Street

Email

City *State* *Zip*

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/22
Meeting Date

SB 1320
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Kaylee Sandell

Phone

Address

Street

Email

Tallahassee FL 32303
City State Zip

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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04/13/2023
Meeting Date

Fiscle Polic=
Committee

SB 1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jeremy Rodriguez

Phone

Address
Street

Email

City *State* *Zip*

Speaking: ☐ For ☑ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

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Fiscal Policy
Committee

SB 1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jon Harris Mauver

Phone

Address 201 E Park Ave.
Street

Email

TLH FL 32301
City State Zip

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
self

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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Meeting Date

SB 1320
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Kolyn B.

Phone

Address
Street

Email

City *State* *Zip*

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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Meeting Date

Fiscal Policies
Committee

1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Nia Larkins

Phone [redacted]

Address _____
Street

Email _____

_____
City *State* *Zip*

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

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04/13/2023
Meeting Date

Fiscal Policies
Committee

SB 1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Will Larkins

Phone

Address
Street

Email

City *State* *Zip*

Speaking: ☐ For ☑ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

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Committee

The Florida Senate

APPEARANCE RECORD

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Senate professional staff conducting the meeting

SB 1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Maria Ellis

Phone

Address
Street

Email

City *State* *Zip*

Speaking: ☐ For ☑ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

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Fiscal Policy
Committee

1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Aaron DiPietro

Phone 904-608-4471

Address 4853 S. Orange Ave
Street

Email aarond@flfamily.org

Orlando FL 32806
City State Zip

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Florida Family Policy Council

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

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Fiscal policy
Committee

SB 2320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Shane Mulcahy

Phone 407 955 3737

Address
Street

Email

City State Zip

Speaking: ☐ For ☑ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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4/13
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Fiscal Policy
Committee

1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ryan Kennedy

Phone 239-671-5733

Address 9745 Roundstone circle
Street

Email ryan@90tlca.org

Fort Myers FL 33967
City State Zip

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Florida Citizens Alliance

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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04/13/2023
Meeting Date

SB 1320
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Renee Phone

Address 412 Wickham Rd Email

Street

Melbourn FL 32940

City State Zip

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

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Meeting Date

1320.
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Mary Eakins-Durand. Phone 305 607 8556.

Address Street
Oakland Park FL 33309
City State Zip

Email Mary@EqualityFlorida.org

Speaking: ☐ For ☑ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

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APPEARANCE RECORD

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Meeting Date	Bill Number or Topic
	SB 1320
Committee	**Amendment Barcode (if applicable)**

Name Sierra Curisnianna Phone 850-545-3396

Address Email

Street

Tallahassee FL 32309

City State Zip

Speaking: ☐ For ☑ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Fiscal Policy
Committee

1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kara Gross

Phone 786-363-4436

Address 4343 W. Flagler Rd
Street

Email kgross@aclufl.org

Miami FL 32312
City *State* *Zip*

Speaking: ☐ For ☑ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
ACLU of Florida

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Yenisbel Vilorio

Phone

Address
Street

Email

City *State* *Zip*

Speaking: ☐ For ☑ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: State Innovation Exchange Action

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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SB 1320
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Mason Monion

Phone 904-591-5038

Address 339 Cottage Ave
Street

Email mason@equalityflorida.org

Jax FL 32206
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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Senate professional staff conducting the meeting

4/13/23
Meeting Date

Fiscal policy
Committee

SB 1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Eric Rodriguez

Phone

Address

Email

Street

Live Oak FL

City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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Committee

1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Patti Sullivan Parental Rights Florida Phone 772 913 2375

Address 14041 N Indian River Dr Email pattisullivan@pm.me
Street

Sebastian FL 32958
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

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Meeting Date

SB 1320
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Ronald Pollard

Phone

Address 1869 Emerald Cove Blvd
Street

Email

Apopka FL 32712
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

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Bill Number or Topic

Fiscal Policy
Committee

Amendment Barcode (if applicable)

Name Michael Barrett

Phone (850) 222-3803

Address 201 W. Park Ave
Street

Email mbarrett@flacb.org

Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Conference of Cathdic Bishops

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

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4-13-23
Meeting Date

Fiscal Policy
Committee

1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Vicki Kidwell

Phone

Address
Street

Email

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

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Meeting Date

Fiscal Policy
Committee

SB 1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Stephanie Yocum

Phone 863-533-0908

Address 730 E Davidson St.
Street

Email

Barlow FL 33830
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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Deliver both copies of this form to
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04/13/23
Meeting Date

1320
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name DAVID SOULE Phone

Address Email

Street

DAYTONA BEACH FL 32118

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

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Meeting Date

1320
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name KATHRYN ALBOLOICZ

Phone

Address

Email

Street

Daytona Beach

City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4-13-23
Meeting Date

Fiscal Policy
Committee

1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barbara DeVane

Phone 850-251-4280

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Street

Email barbaradevane1@yahoo.com

Tallahassee FL 32308
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
FL NOW

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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April 13, 2023
Meeting Date

Fiscal Policy
Committee

1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 1454 Vieux Carre Drive
Street

Email Barney@BarneyBishop.com

Tallahassee FL 32308
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Fla. Smart Justice

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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April 13, 2023
Meeting Date

Fiscal Policy
Committee

SB 1320 Child Protection
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jonathan Webber

Phone 954-593-4449

Address 400 Washington Ave
Street

Email jonathan.webber@splcactionfund.org

Montgomery AL 36301
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** **Waive Speaking:** ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
SPLC Action Fund

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Nancy Lawther, Ph.D. (Florida PTA) Phone 407 855-7604

Address 1747 Orlando Central Pkwy Email legislation@flpta.org
Street

Orlando FL 32809
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by: Florida PTA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/13/23
Meeting Date

Fiscal Policy
Committee

SB 1320
Bill Number or Topic

Amendment Barcode (if applicable)

Name Wendy CAREY

Phone

Address
Street

Email

Tampa, FL
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☒ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

ANDREA

MONTANEZ

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/SB 1456
INTRODUCER:	Fiscal Policy Committee and Senator Avila
SUBJECT:	Firearm Offenses
DATE:	April 14, 2023
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Stokes	CJ	**Favorable**
2.	Erickson	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1456 expands the scope of the "10-20-Life" statute (s. 775.087, F.S.) to provide for mandatory minimum terms of imprisonment for firearm-related human trafficking, enhances punishment for theft and repeat theft of a firearm, and enhances the detention assessment process and secure detention period for juveniles who unlawfully possess or use firearms. Specifically, the bill:

- Amends the "10-20-Life" statute to provide for mandatory minimum terms of imprisonment for committing human trafficking while possessing or discharging a firearm or other specified weapon;
- Increases the Criminal Punishment Code offense severity level ranking (from level 4 to level 6) for theft of a firearm;
- Creates a level 7 second degree felony for repeat theft of a firearm;
- Increases from 3 days to 5 days the period of secure detention available for a juvenile who unlawfully possesses a firearm, and also increases the secure detention period from 15 days to 21 days for a repeat violation;
- Requires that a juvenile's unlawful use of a firearm be considered in all determinations and court orders regarding the use of detention care;
- Requires the juvenile risk assessment instrument to consider a juvenile's unlawful use of a firearm;
- Requires that a juvenile charged with any offense involving possession or use of a firearm be placed in secure detention until the juvenile's detention hearing; and

- Provides that upon good cause or if the totality of the circumstances warrants an extension, a court may extend the length of secure detention care for up to an additional 21 days if a juvenile is charged with an offense involving the possession or use of a firearm.

The Legislature's Office of Economic and Demographic Research preliminary estimates that the bill will have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds). See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2023.

II. Present Situation:

"10-20-Life" Statute

Section 775.087, F.S., the "10-20-Life" statute, in part, requires a judge to sentence a person convicted of a specified offense to a mandatory minimum term of imprisonment if, while committing the offense, the person possesses or discharges a firearm or destructive device[1] or if the discharge results in death or great bodily harm. Specified offenses include such offenses as murder, sexual battery, robbery, and burglary.[2]

Under s. 775.087, F.S., a person convicted of a specified offense, or the attempt to commit such offense, must be sentenced to the following mandatory minimum term of imprisonment:
- 10 years for possession of a firearm;
- 15 years for possession of a semi-automatic/machine gun;
- 20 years for discharge of a firearm (any type); and
- 25 years to life imprisonment for discharge with great bodily injury or death.[3]

However, s. 775.087(2)(a)1., F.S., provides for a minimum mandatory sentence of 3 years, instead of 10 years, for the possession of a firearm by a felon or burglary of a conveyance if the possession occurred during the commission of the offense.

Currently, the crime of human trafficking is not a specified offense that would require a mandatory minimum term of imprisonment under the "10-20-Life" statute. Florida law defines "human trafficking" as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, purchasing, patronizing, procuring, or obtaining another person for the purpose of exploitation of that person.[4]

Possession of a Firearm by a Minor

Section 790.22(3), F.S., prohibits a minor under 18 years of age from possessing a firearm, other than an unloaded firearm at his or her home, unless:
- The minor is engaged in a lawful hunting activity and is:
  - At least 16 years of age; or

[1] The terms "firearm" and "destructive device" are defined in s. 790.001, F.S.
[2] For a complete list of offenses, *see* s. 775.087(3)(a)1., F.S.
[3] Section 775.087(2)(a)1.-3. and (3)(a)1.-3., F.S.
[4] Section 787.06(2)(d), F.S.

  - Under 16 years of age and supervised by an adult; or
- The minor is engaged in a lawful marksmanship competition or practice or other lawful recreational shooting activity and is:
  - At least 16 years of age; or
  - Under 16 years of age and supervised by an adult who is acting with the consent of the minor's parent or guardian; or
- The firearm is unloaded and is being transported by the minor directly to or from an event previously described.[5]

A minor who violates subsection (3) commits a first degree misdemeanor,[6] and may serve a period of detention up to 3 days in a secure detention facility for a first offense.[7] For a second or subsequent offense, the minor commits a third degree felony and must serve a period of detention of up to 15 days in a secure detention facility.[8]

Theft of a Firearm

Section 812.014, F.S., provides that a person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to, either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or
- Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.[9]

Third degree grand theft, a third degree felony,[10] includes theft of a firearm, regardless of its value.[11]

Detention of Children in Florida - Intake and Assessment

Every child under the age of 18 charged with a crime in Florida is referred to the Department of Juvenile Justice (DJJ).[12] The DJJ serves as the primary case manager responsible for managing, coordinating, and monitoring services provided to the child.[13] Intake and screening services for a child referred to the DJJ are performed at a Juvenile Assessment Center.[14] The purpose of the intake process is to assess the child's needs and risks and to determine the most appropriate

[5] Section 790.22(3), F.S.
[6] A first degree misdemeanor is punishable by not more than 1 year in county jail and a fine not exceeding $1,000. Sections 775.082 and 775.083, F.S.
[7] Section 790.22(5)(a), F.S.
[8] Section 790.22(5)(b), F.S.
[9] Section 812.014(1), F.S.
[10] A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding $5,000. Sections 775.082 and 775.083, F.S.
[11] Section 812.014(2)(c)5., F.S. The offense is ranked in level 4 of the Criminal Punishment Code offense severity ranking level chart. Section 921.0022(3)(d), F.S.
[12] A referral is similar to an arrest in the adult criminal justice system. *See Probation and Community Intervention, Overview*, Department of Juvenile Justice, available at http://www.djj.state.fl.us/services/probation (last visited on March 20, 2023).
[13] Section 985.145(1), F.S.
[14] Section 985.135(4), F.S.

treatment plan and setting for the child's programmatic need and risks. [15] Once a child is in the custody of the DJJ, the DJJ determines whether detention care is appropriate.[16]

The DJJ makes an initial decision regarding detention care placement using the "Detention Risk Assessment Instrument."[17] This instrument takes into consideration, but need not be limited to, the following:

- Pending felony and misdemeanor offenses;
- Offenses committed pending adjudication;
- Prior offenses;
- Unlawful possession of a firearm;
- Prior history of failure to appear;
- Supervision violations;
- Supervision status at the time the child is taken into custody;
- All statutory mandates for detention care; and
- Any information on the child's history of abuse and neglect.[18]

A child taken into custody and placed in detention care is entitled to a detention hearing within 24 hours of being taken into custody. At the hearing, the court may order continued detention care under certain circumstances, including but not limited to, the result of the risk assessment instrument indicates secure or supervised release detention.[19] However, a child must be placed in secure detention care until the child's detention hearing if the child is a prolific juvenile offender[20] or is charged with possessing or discharging a firearm on school property in violation of s. 790.115, F.S.[21]

---

[15] Section 985.14(2), F.S. The intake process consists of a preliminary screening and may be followed by a comprehensive assessment, consisting of a full mental health, cognitive impairment, substance abuse, or psychosexual evaluation.
[16] Section 985.25(1), F.S.
[17] Sections 985.25(1) and 985.245, F.S. Section 985.245, F.S., outlines with whom the Detention Risk Assessment Instrument must be developed, when and how it must be updated, and what factors the assessment instrument should identify when evaluating a child to determine whether detention placement is appropriate. "The [DJJ] ... utilizes the Detention Risk Assessment Instrument (DRAI) to determine the most appropriate placement for youth upon arrest. The DRAI was developed by the department in partnership with representatives appointed by the Conference of Circuit Judges, the Prosecuting Attorneys Association, the Public Defenders Association, the Florida Sheriff's Association, and the Florida Association of Chiefs of Police. Initially, the DRAI was conducted manually." *2023 Agency Legislative Analysis (SB 1456)* (March 23, 2023), Department of Juvenile Justice (on file with the Senate Committee on Criminal Justice).
[18] Section 985.245(2)(b), F.S. "Youth taken into custody (arrested) by law enforcement are screened by the department's detention screening staff using the DRAI to determine whether a youth, prior to their detention hearing, should be detained in a secure detention facility, placed on supervised release (community-based detention status), or released without any additional supervision. The DRAI uses a criteria-based point system. Youth are held in secure detention if they score 13 points or more. In accordance with the DRAI, youth charged with "any offense involving the use or possession of firearm" score 20 points and are therefore held in secure detention until their detention hearing. Youth with a detention status appear before the court within 24 hours of being taken into custody, at which time the juvenile judge determines whether there is a need for continued detention supervision." *Supra*, at n. 16.
[19] Section 985.255(1), F.S.
[20] A "prolific juvenile offender" is a child that is charged with a delinquent act that would be a felony if committed by an adult, has a prior adjudication or adjudication withheld for a delinquent act that would be a felony if committed by an adult, and has 5 or more arrests, adjudications, or adjudications withheld, 3 of which must have been felony offenses. Sections 985.255(1)(f), F.S.
[21] Section 985.25(1)(b), F.S.

"Detention care" means "the temporary care of a child in secure or supervised release detention, pending a court adjudication or disposition or execution of a court order."[22] There are two types of detention care, including:

- "Secure detention," which is the temporary custody of a child while he or she is under the physical restriction of a secure detention center or facility pending adjudication, disposition, or placement.
- "Supervised release detention," which is the temporary, nonsecure custody of a child while the child is released to the custody of the parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of the DJJ staff pending adjudication or disposition, through programs that include, but are not limited to, electronic monitoring, day reporting centers, and nonsecure shelters, in addition to other court-imposed requirements.[23]

The use of detention care must be based primarily on findings that the child:

- Presents a substantial risk of not appearing at a subsequent hearing;
- Presents a substantial risk of inflicting bodily harm on others as evidenced by recent behavior, including the illegal possession of a firearm;
- Presents a history of committing a property offense prior to adjudication, disposition, or placement;
- Has committed contempt of court by:
  - Intentionally disrupting the administration of the court;
  - Intentionally disobeying a court order; or
  - Engaging in a punishable act or speech in the court's presence which shows disrespect for the authority and dignity of the court; or
- Requests protection from imminent bodily harm.[24]

Additionally, the use of detention care may not be used for the following reasons:

- To allow a parent to avoid his or her legal responsibility;
- To permit more convenient administrative access to the child;
- To facilitate further interrogation or investigation; or
- Due to a lack of more appropriate facilities.[25]

Further, a child who is alleged to be dependent under ch. 39, F.S., but who is not alleged to have committed a delinquent act or violation of law, may not, under any circumstances, be placed into secure detention care.[26]

Generally, a child may not be held in secure detention care under a special detention order for more than 21 days, unless an adjudicatory hearing for the case has been commenced in good faith by the court. The court may extend the length of detention for an additional 21days if there is good cause shown that the nature of the charge requires additional time for the prosecution or defense of the case or that the totality of the circumstances, including the preservation of public safety, warrants an extension, and the child is charged with one of the following offenses:

[22] Section 985.03(18), F.S.
[23] *Id.*
[24] Section 985.24(1), F.S.
[25] Section 985.24(3), F.S.
[26] Section 985.24(4), F.S.

- Capital felony;
- Life felony;
- First degree felony;
- Second degree felony; or
- Third degree felony involving violence against any individual. [27]

The court may continue to extend the period of secure detention care in increments of up to 21 days each by conducting a hearing before the expiration of the current period to determine the need for continued secure detention of the child.[28]

A prolific juvenile offender must be placed on supervised release detention care with electronic monitoring or in secure detention care under a special detention order until disposition.[29] If secure detention care is ordered by the court for a prolific juvenile offender, such secure detention care must not exceed 21 days unless an adjudicatory hearing for the case has been commenced in good faith, or 15 days after the entry of an order of adjudication.[30]

Except as previously described, a child may not be held in detention care for more than 15 days after the entry of an order of adjudication.[31]

Time limitations on detention care do not include periods of delay resulting from a continuance granted by the court. Upon an order granting a continuance, the court must conduct a hearing at the end of each 72-hour period to determine the need for continued detention and for further continuance of proceedings for the child or for the state.[32]

III. Effect of Proposed Changes:

The bill expands the scope of the "10-20-Life" statute (s. 775.087, F.S.) to provide for mandatory minimum terms of imprisonment for firearm-related human trafficking, enhances punishment for theft and repeat theft of a firearm, and enhances the detention assessment process and secure detention period for juveniles who unlawfully possess or use firearms.

The bill amends s. 775.087, F.S., to provide for the following mandatory minimum terms of imprisonment for committing human trafficking while possessing or discharging a firearm or other specified weapon:

- 10 years for possession of a firearm;
- 15 years for possession of a semi-automatic/machine gun;
- 20 years for discharge of a firearm (any type); and
- 25 years to life imprisonment for discharge with great bodily injury or death.

The bill amends s. 921.0022, F.S., to increase the Criminal Punishment Code offense severity level ranking (from level 4 to level 6) for theft of a firearm.

[27] Section 985.26, F.S.
[28] *Id.*
[29] Section 985.26, F.S.
[30] Section 985.26(2)(c), F.S.
[31] Section 985.26(3), F.S
[32] Section 985.26(4), F.S.

The bill amends ss. 812.014 and 921.0022, F.S., to create a level 7 second degree felony[33] for repeat theft of a firearm.

The bill amends s. 790.22, F.S., to increase from 3 days to 5 days the period of secure detention available for a juvenile who unlawfully possesses a firearm, and also increases the secure detention period from 15 days to 21 days for a repeat violation.

The bill amends s. 985.24, F.S., to require that a juvenile's unlawful use of a firearm be considered in all determinations and court orders regarding the use of detention care.

The bill amends s. 985.245, F.S., to require the juvenile risk assessment instrument to consider a juvenile's unlawful use of a firearm.

The bill amends s. 985.25, F.S., to require that a juvenile charged with any offense involving possession or use of a firearm be placed in secure detention until the juvenile's detention hearing.

Finally, the bill amends s. 985.26, F.S., to provide that upon good cause or if the totality of the circumstances warrants an extension, a court may extend the length of secure detention care for up to an additional 21 days if a juvenile is charged with an offense involving the possession or use of a firearm.

The bill takes effect October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

[33] A second degree felony is punishable by not more than 15 years in state prison and a fine not exceeding $10,000. Sections 775.082 and 775.083, F.S.

E. Other Constitutional Issues:

None identified

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Office of Economic and Demographic Research

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. The Legislature's Office of Economic and Demographic Research (EDR) preliminary estimated that the original would have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds).[34]

The EDR provided the following information relevant to its estimate:

> In FY 18-19, the incarceration rate for a Level 6, 3rd degree felony was 26.6%, and in FY 19-20 the incarceration rate was 24.4%. In FY 20-21, the incarceration rate for a Level 6, 3rd degree felony was 23.5%, and in FY 21-22 the incarceration rate was 23.8%. In FY 18-19, the incarceration rate for a Level 7, 2nd degree felony was 47.7%, and in FY 19-20 the incarceration rate was 44.5%. In FY 20-21, the incarceration rate for a Level 7, 2nd degree felony was 43.3%, and in FY 21-22 the incarceration rate was 43.8%.
>
> Per [Department of Corrections or] DOC, there were 20 new commitments to prison for human trafficking violations in FY 18-19, and there were 8 new commitments in FY 19-20. There were 8 new commitments in FY 20-21, and there were 28 new commitments in FY 21-22. Additionally, of the human trafficking offenders committed to prison over the last three fiscal years, there were 2 offenders who also had a firearm charge.
>
> Per DOC, in FY 18-19, there were 18 new commitments to prison for grand theft of a firearm. In FY 19-20, there were 18 new commitments, and there were 14 new commitments in FY 20-21. There were 16 new commitments in FY 21-22. Incarceration rates for these offenses varied considerably, with 17.3% going to

[34] *HB 1465 – Firearm and Destructive Device Offenses (Identical SB 1456)*, Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice).

prison in FY 18-19, 14.0% going to prison in FY 19-20, 15.2% going to prison in FY 20-21, and 25.6% going to prison in FY 21-22. It is not known how many of these offenders were committing grand theft of a firearm for a second time.[35]

Department of Juvenile Justice

The DJJ did not indicate that the bill would have a fiscal impact on the department that could not be absorbed within existing resources.[36]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 775.087, 790.22, 812.014, 985.24, 985.245, 985.25, 985.26, and 921.0022.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Fiscal Policy on April 13, 2023:
The committee substitute provides that upon good cause or if the totality of the circumstances warrants an extension, a court may extend the length of secure detention care for up to an additional 21 days if a juvenile is charged with an offense involving the possession or use of a firearm.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

[35] *Id.*
[36] *Supra*, at n. 16.

957060

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Avila) recommended the following:

Senate Amendment (with title amendment)

Between lines 420 and 421
insert:

Section 7. Paragraph (b) of subsection (2) of section 985.26, Florida Statutes, is amended to read:

985.26 Length of detention.—

(2)

(b) Upon good cause being shown that the nature of the charge requires additional time for the prosecution or defense

957060

of the case or that the totality of the circumstances, including the preservation of public safety, warrants an extension, the court may extend the length of secure detention care for up to an additional 21 days if the child is charged with an offense which, if committed by an adult, would be a capital felony, a life felony, a felony of the first degree or the second degree, ~~or~~ a felony of the third degree involving violence against any individual, or any other offense involving the possession or use of a firearm. The court may continue to extend the period of secure detention care in increments of up to 21 days each by conducting a hearing before the expiration of the current period to determine the need for continued secure detention of the child. At the hearing, the court must make the required findings in writing to extend the period of secure detention. If the court extends the time period for secure detention care, it shall ensure an adjudicatory hearing for the case commences as soon as is reasonably possible considering the totality of the circumstances. The court shall prioritize the efficient disposition of cases in which the child has served 60 or more days in secure detention care.

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

And the title is amended as follows:

Delete line 29

and insert:

specified hearing; amending s. 985.26, F.S.; authorizing a court to extend the length of secure detention when a juvenile is charged with an offense involving the possession or use of a firearm; amending

957060

s. 921.0022, F.S.; ranking

By Senator Avila

39-01872A-23 20231456__

A bill to be entitled

An act relating to firearm offenses; amending s. 775.087, F.S.; adding the conviction for committing or the attempt to commit a felony offense of human trafficking to the list of offenses during the commission of which if a person possesses a firearm, destructive device, a semiautomatic firearm and its high-capacity detachable box magazine, or a machine gun, such person is subject to a specified mandatory minimum term of imprisonment; conforming provisions to changes made by the act; amending s. 790.22, F.S.; increasing the maximum number of days of detention that a minor who violates specified provisions for a first, second, or subsequent offense may serve in a secure detention facility; amending s. 812.014, F.S.; increasing the criminal penalties and providing that it is grand theft of the second degree if the property stolen is a firearm and the offender has previously been convicted for grand theft of a firearm under a specified provision; conforming a provision to changes made by the act; amending s. 985.24, F.S.; requiring consideration of a juvenile's use of a firearm when determining detention; amending s. 985.245, F.S.; requiring the juvenile risk assessment instrument to consider a juvenile's unlawful use of a firearm; amending s. 985.25, F.S.; requiring a juvenile charged with an offense involving the possession or use of a firearm to be placed in secure detention care at a specified hearing; amending s. 921.0022, F.S.; ranking

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

39-01872A-23 20231456__

offenses on the offense severity ranking chart of the Criminal Punishment Code; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2) and paragraph (a) of subsection (3) of section 775.087, Florida Statutes, are amended to read:

775.087 Possession or use of weapon; aggravated battery; felony reclassification; minimum sentence.—

(2)(a)1. Any person who is convicted of a felony or an attempt to commit a felony, regardless of whether the use of a weapon is an element of the felony, and the conviction was for:

a. Murder;

b. Sexual battery;

c. Robbery;

d. Burglary;

e. Arson;

f. Aggravated battery;

g. Kidnapping;

h. Escape;

i. Aircraft piracy;

j. Aggravated child abuse;

k. Aggravated abuse of an elderly person or disabled adult;

l. Unlawful throwing, placing, or discharging of a destructive device or bomb;

m. Carjacking;

n. Home-invasion robbery;

o. Aggravated stalking;

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p. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1); ~~or~~

q. Human trafficking; or

r. Possession of a firearm by a felon;

and during the commission of the offense, such person actually possessed a "firearm" or "destructive device" as those terms are defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 10 years, except that a person who is convicted for possession of a firearm by a felon or burglary of a conveyance shall be sentenced to a minimum term of imprisonment of 3 years if such person possessed a "firearm" or "destructive device" during the commission of the offense. However, if an offender who is convicted of the offense of possession of a firearm by a felon has a previous conviction of committing or attempting to commit a felony listed in s. 775.084(1)(b)1. and actually possessed a firearm or destructive device during the commission of the prior felony, the offender shall be sentenced to a minimum term of imprisonment of 10 years.

2. Any person who is convicted of a felony or an attempt to commit a felony listed in sub-subparagraphs 1.a.-q. ~~sub-subparagraphs (a)1.a.-p.~~, regardless of whether the use of a

weapon is an element of the felony, and during the course of the commission of the felony such person discharged a "firearm" or "destructive device" as defined in s. 790.001 shall be sentenced to a minimum term of imprisonment of 20 years.

3. Any person who is convicted of a felony or an attempt to commit a felony listed in sub-subparagraphs 1.a.-q. ~~sub-subparagraphs (a)1.a.-p.~~, regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a "firearm" or "destructive device" as defined in s. 790.001 and, as the result of the discharge, death or great bodily harm was inflicted upon any person, the convicted person shall be sentenced to a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison.

(3)(a)1. Any person who is convicted of a felony or an attempt to commit a felony, regardless of whether the use of a firearm is an element of the felony, and the conviction was for:

a. Murder;

b. Sexual battery;

c. Robbery;

d. Burglary;

e. Arson;

f. Aggravated battery;

g. Kidnapping;

h. Escape;

i. Sale, manufacture, delivery, or intent to sell, manufacture, or deliver any controlled substance;

j. Aircraft piracy;

k. Aggravated child abuse;

l. Aggravated abuse of an elderly person or disabled adult;

m. Unlawful throwing, placing, or discharging of a destructive device or bomb;

n. Carjacking;

o. Home-invasion robbery;

p. Aggravated stalking; ~~or~~

q. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1); or

r. Human trafficking;

and during the commission of the offense, such person possessed a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun as defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 15 years.

2. Any person who is convicted of a felony or an attempt to commit a felony listed in subparagraph 1. ~~subparagraph (a)1.~~, regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a semiautomatic firearm and its high-capacity box magazine or a "machine gun" as defined in s. 790.001 shall be sentenced to a minimum term of imprisonment of 20 years.

3. Any person who is convicted of a felony or an attempt to commit a felony listed in subparagraph 1. ~~subparagraph (a)1.~~, regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a semiautomatic firearm and its high-capacity box magazine or a "machine gun" as defined in s. 790.001 and, as the result of the discharge, death or great bodily harm was inflicted upon any person, the convicted person shall be sentenced to a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison.

Section 2. Subsection (5) of section 790.22, Florida Statutes, is amended, and subsection (3) of that section is republished, to read:

790.22 Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.—

(3) A minor under 18 years of age may not possess a firearm, other than an unloaded firearm at his or her home, unless:

(a) The minor is engaged in a lawful hunting activity and is:

1. At least 16 years of age; or

2. Under 16 years of age and supervised by an adult.

(b) The minor is engaged in a lawful marksmanship competition or practice or other lawful recreational shooting activity and is:

1. At least 16 years of age; or

2. Under 16 years of age and supervised by an adult who is

acting with the consent of the minor's parent or guardian.

(c) The firearm is unloaded and is being transported by the minor directly to or from an event authorized in paragraph (a) or paragraph (b).

(5)(a) A minor who violates subsection (3) commits a misdemeanor of the first degree; for a first offense, may serve a period of detention of up to 5 ~~3~~ days in a secure detention facility; and, in addition to any other penalty provided by law, shall be required to perform 100 hours of community service; and:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 1 year.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of up to 1 year.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible.

(b) For a second or subsequent offense, a minor who violates subsection (3) commits a felony of the third degree and shall serve a period of detention of up to 21 ~~15~~ days in a

secure detention facility and shall be required to perform not less than 100 nor more than 250 hours of community service, and:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor's driver license or driving privilege for up to 2 years.

2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of up to 2 years.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.

For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

Section 3. Subsection (2) of section 812.014, Florida Statutes, is amended to read:

812.014 Theft.—

(2)(a)1. If the property stolen is valued at $100,000 or more or is a semitrailer that was deployed by a law enforcement officer; or

2. If the property stolen is cargo valued at $50,000 or more that has entered the stream of interstate or intrastate commerce from the shipper's loading platform to the consignee's receiving dock; or

3. If the offender commits any grand theft and:

a. In the course of committing the offense the offender uses a motor vehicle as an instrumentality, other than merely as a getaway vehicle, to assist in committing the offense and thereby damages the real property of another; or

b. In the course of committing the offense the offender causes damage to the real or personal property of another in excess of $1,000,

the offender commits grand theft in the first degree, punishable as a felony of the first degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

(b)1. If the property stolen is valued at $20,000 or more, but less than $100,000;

2. If the property stolen is cargo valued at less than $50,000 that has entered the stream of interstate or intrastate commerce from the shipper's loading platform to the consignee's receiving dock;

3. If the property stolen is emergency medical equipment, valued at $300 or more, that is taken from a facility licensed under chapter 395 or from an aircraft or vehicle permitted under chapter 401; or

4. If the property stolen is law enforcement equipment, valued at $300 or more, that is taken from an authorized emergency vehicle, as defined in s. 316.003,

the offender commits grand theft in the second degree, punishable as a felony of the second degree, as provided in s. 775.082, s. 775.083, or s. 775.084. Emergency medical equipment means mechanical or electronic apparatus used to provide emergency services and care as defined in s. 395.002(9) or to treat medical emergencies. Law enforcement equipment means any property, device, or apparatus used by any law enforcement officer as defined in s. 943.10 in the officer's official business. However, if the property is stolen during a riot or an aggravated riot prohibited under s. 870.01 and the perpetration of the theft is facilitated by conditions arising from the riot; or within a county that is subject to a state of emergency declared by the Governor under chapter 252, the theft is committed after the declaration of emergency is made, and the perpetration of the theft is facilitated by conditions arising from the emergency, the theft is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this paragraph, the term "conditions arising from the riot" means civil unrest, power outages, curfews, or a reduction in the presence of or response time for first responders or homeland security personnel and the term "conditions arising from the emergency" means civil unrest, power outages, curfews, voluntary or mandatory evacuations, or a reduction in the presence of or response time for first responders or homeland security personnel. A person arrested for committing a theft during a riot or an aggravated riot or within a county that is subject to a state of emergency may not be released until the person appears before a committing magistrate at a first

appearance hearing. For purposes of sentencing under chapter 921, a felony offense that is reclassified under this paragraph is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

(c) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is:

1. Valued at $750 or more, but less than $5,000.

2. Valued at $5,000 or more, but less than $10,000.

3. Valued at $10,000 or more, but less than $20,000.

4. A will, codicil, or other testamentary instrument.

5. A firearm, except as provided in paragraph (f).

6. A motor vehicle, except as provided in paragraph (a).

7. Any commercially farmed animal, including any animal of the equine, avian, bovine, or swine class or other grazing animal; a bee colony of a registered beekeeper; and aquaculture species raised at a certified aquaculture facility. If the property stolen is a commercially farmed animal, including an animal of the equine, avian, bovine, or swine class or other grazing animal; a bee colony of a registered beekeeper; or an aquaculture species raised at a certified aquaculture facility, a $10,000 fine shall be imposed.

8. Any fire extinguisher that, at the time of the taking, was installed in any building for the purpose of fire prevention and control. This subparagraph does not apply to a fire extinguisher taken from the inventory at a point-of-sale business.

9. Any amount of citrus fruit consisting of 2,000 or more individual pieces of fruit.

10. Taken from a designated construction site identified by the posting of a sign as provided for in s. 810.09(2)(d).

11. Any stop sign.

12. Anhydrous ammonia.

13. Any amount of a controlled substance as defined in s. 893.02. Notwithstanding any other law, separate judgments and sentences for theft of a controlled substance under this subparagraph and for any applicable possession of controlled substance offense under s. 893.13 or trafficking in controlled substance offense under s. 893.135 may be imposed when all such offenses involve the same amount or amounts of a controlled substance.

However, if the property is stolen during a riot or an aggravated riot prohibited under s. 870.01 and the perpetration of the theft is facilitated by conditions arising from the riot; or within a county that is subject to a state of emergency declared by the Governor under chapter 252, the property is stolen after the declaration of emergency is made, and the perpetration of the theft is facilitated by conditions arising from the emergency, the offender commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property is valued at $5,000 or more, but less than $10,000, as provided under subparagraph 2., or if the property is valued at $10,000 or more, but less than $20,000, as provided under subparagraph 3. As used in this paragraph, the terms “conditions arising from a riot” and “conditions arising from the emergency” have the same meanings as provided in paragraph (b). A person arrested for committing a theft during a

riot or an aggravated riot or within a county that is subject to a state of emergency may not be released until the person appears before a committing magistrate at a first appearance hearing. For purposes of sentencing under chapter 921, a felony offense that is reclassified under this paragraph is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

(d) It is grand theft of the third degree and a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is valued at $100 or more, but less than $750, and is taken from a dwelling as defined in s. 810.011(2) or from the unenclosed curtilage of a dwelling pursuant to s. 810.09(1).

(e) Except as provided in paragraph (d), if the property stolen is valued at $100 or more, but less than $750, the offender commits petit theft of the first degree, punishable as a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(f) It is grand theft of the second degree and a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the property stolen is a firearm and the offender has previously been convicted of grand theft of a firearm under subparagraph (c)5.

Section 4. Paragraph (b) of subsection (1) of section 985.24, Florida Statutes, is amended to read:

985.24 Use of detention; prohibitions.—

(1) All determinations and court orders regarding the use of detention care shall be based primarily upon findings that the child:

(b) Presents a substantial risk of inflicting bodily harm on others as evidenced by recent behavior, including the illegal possession or use of a firearm;

Section 5. Paragraph (b) of subsection (2) of section 985.245, Florida Statutes, is amended to read:

985.245 Risk assessment instrument.—

(2)

(b) The risk assessment instrument shall take into consideration, but need not be limited to, pending felony and misdemeanor offenses, offenses committed pending adjudication, prior offenses, unlawful possession or use of a firearm, prior history of failure to appear, violations of supervision, and supervision status at the time the child is taken into custody. The risk assessment instrument shall also take into consideration all statutory mandates for detention care. The risk assessment instrument shall also include any information concerning the child's history of abuse and neglect. The risk assessment shall indicate whether detention care is warranted, and, if detention care is warranted, whether the child should be placed into secure or supervised release detention care.

Section 6. Paragraph (b) of subsection (1) of section 985.25, Florida Statutes, is amended to read:

985.25 Detention intake.—

(1) The department shall receive custody of a child who has been taken into custody from the law enforcement agency or court and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be necessary to determine whether detention care is appropriate.

(b) The department shall base the decision whether to place

the child into detention care on an assessment of risk in accordance with the risk assessment instrument and procedures developed by the department under s. 985.245, except that a child shall be placed in secure detention care until the child's detention hearing if the child meets the criteria specified in s. 985.255(1)(f), ~~or~~ is charged with possessing or discharging a firearm on school property in violation of s. 790.115, or is charged with any other offense involving the possession or use of a firearm.

Under no circumstances shall the department or the state attorney or law enforcement officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults, without an order of the court.

Section 7. Paragraphs (d), (f), and (g) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(d) LEVEL 4

Florida Statute	Felony Degree	Description
316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
499.0051(1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
499.0051(5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
517.07(1)	3rd	Failure to register securities.
517.12(1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.

784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
784.075	3rd	Battery on detention or commitment facility staff.
784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
784.081(3)	3rd	Battery on specified official or employee.
784.082(3)	3rd	Battery by detained person on visitor or other detainee.
784.083(3)	3rd	Battery on code inspector.
784.085	3rd	Battery of child by throwing, tossing,

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		projecting, or expelling certain fluids or materials.
787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
787.07	3rd	Human smuggling.
790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.

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790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
790.115(2)(c)	3rd	Possessing firearm on school property.
794.051(1)	3rd	Indecent, lewd, or lascivious touching of certain minors.
800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
806.135	2nd	Destroying or demolishing a memorial or historic property.
810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
810.02(4)(b)	3rd	Burglary, or attempted burglary, of an

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		unoccupied conveyance; unarmed; no assault or battery.
810.06	3rd	Burglary; possession of tools.
810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
812.014(2)(c)3.	3rd	Grand theft, 3rd degree $10,000 or more but less than $20,000.
812.014 (2)(c)4. & 6.-10. ~~812.014 (2)(c)4.-10.~~	3rd	Grand theft, 3rd degree; specified items.
812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen $300 or more.
817.505(4)(a)	3rd	Patient brokering.
817.563(1)	3rd	Sell or deliver substance other than

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		controlled substance agreed upon, excluding s. 893.03(5) drugs.
817.568(2)(a)	3rd	Fraudulent use of personal identification information.
817.625(2)(a)	3rd	Fraudulent use of scanning device, skimming device, or reencoder.
817.625(2)(c)	3rd	Possess, sell, or deliver skimming device.
828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
836.14(2)	3rd	Person who commits theft of a sexually explicit image with intent to promote it.

836.14(3)	3rd	Person who willfully possesses a sexually explicit image with certain knowledge, intent, and purpose.
837.02(1)	3rd	Perjury in official proceedings.
837.021(1)	3rd	Make contradictory statements in official proceedings.
838.022	3rd	Official misconduct.
839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
839.13(2)(c)	3rd	Falsifying records of the Department of Children and Families.
843.021	3rd	Possession of a concealed handcuff key by a person in custody.
843.025	3rd	Deprive law

		enforcement, correctional, or correctional probation officer of means of protection or communication.
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
870.01(3)	2nd	Aggravated rioting.
870.01(5)	2nd	Aggravated inciting a riot.
874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a),

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		(2)(b), or (2)(c)5. drugs).
914.14(2)	3rd	Witnesses accepting bribes.
914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
916.1085 (2)(c)1.	3rd	Introduction of specified contraband into certain DCF facilities.
918.12	3rd	Tampering with jurors.
934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
944.47(1)(a)6.	3rd	Introduction of contraband (cellular

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		telephone or other portable communication device) into correctional institution.
951.22(1)(h), (j) & (k)	3rd	Intoxicating drug, instrumentality or other device to aid escape, or cellular telephone or other portable communication device introduced into county detention facility.

(f) LEVEL 6

Florida Statute	Felony Degree	Description
316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
400.9935(4)(c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
499.0051(2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
499.0051(3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
499.0051(4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
775.0875(1)	3rd	Taking firearm from law enforcement officer.
784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
784.021(1)(b)	3rd	Aggravated assault;

		intent to commit felony.
784.041	3rd	Felony battery; domestic battery by strangulation.
784.048(3)	3rd	Aggravated stalking; credible threat.
784.048(5)	3rd	Aggravated stalking of person under 16.
784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
784.081(2)	2nd	Aggravated assault on specified official or employee.

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784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
784.083(2)	2nd	Aggravated assault on code inspector.
787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
790.164(1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence

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		to state property, or use of firearms in violent manner.
790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
794.05(1)	2nd	Unlawful sexual activity with specified minor.
800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.
800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.

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806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
810.145(8)(b)	2nd	Video voyeurism; certain minor victims; 2nd or subsequent offense.
812.014(2)(b)1.	2nd	Property stolen $20,000 or more, but less than $100,000, grand theft in 2nd degree.
812.014(2)(c)5.	3rd	Grand theft; third degree; firearm.
812.014(6)	2nd	Theft; property stolen $3,000 or more; coordination of others.
812.015(9)(a)	2nd	Retail theft; property

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		stolen $750 or more; second or subsequent conviction.
812.015(9)(b)	2nd	Retail theft; aggregated property stolen within 30 days is $3,000 or more; coordination of others.
812.015(9)(d)	2nd	Retail theft; multiple thefts within specified period.
812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
817.49(2)(b)2.	2nd	Willful making of a false report of a crime resulting in death.

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817.505(4)(b)	2nd	Patient brokering; 10 or more patients.
825.102(1)	3rd	Abuse of an elderly person or disabled adult.
825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
825.103(3)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than $10,000.
827.03(2)(c)	3rd	Abuse of a child.
827.03(2)(d)	3rd	Neglect of a child.
827.071(2) & (3)	2nd	Use or induce a child in a sexual

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		performance, or promote or direct such performance.
828.126(3)	3rd	Sexual activities involving animals.
836.05	2nd	Threats; extortion.
836.10	2nd	Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.
843.12	3rd	Aids or assists person to escape.
847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
847.012	3rd	Knowingly using a minor in the production of

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		materials harmful to minors.
847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
918.13(2)(b)	2nd	Tampering with or fabricating physical evidence relating to a capital felony.
944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
944.40	2nd	Escapes.

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Florida Statute	Felony Degree	Description
944.46	3rd	Harboring, concealing, aiding escaped prisoners.
944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
951.22(1)(i)	3rd	Firearm or weapon introduced into county detention facility.

(g) LEVEL 7

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to

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		another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; $10,000 or less.
409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than $10,000, but less than $50,000.
456.065(2)	3rd	Practicing a health care

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		profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.
462.17	3rd	Practicing naturopathy without a license.
463.015(1)	3rd	Practicing optometry without a license.

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464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(7)	3rd	Practicing medical physics without a license.
484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.

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484.053	3rd	Dispensing hearing aids without a license.
494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $300 but less than $20,000 by a money services business.
560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.
655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding $300 but less than $20,000 by

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		financial institution.
775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement,

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		or culpable negligence of another (manslaughter).
782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.

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784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.048(7)	3rd	Aggravated stalking; violation of court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.

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784.083(1)	1st	Aggravated battery on code inspector.
787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
790.165(3)	2nd	Possessing, displaying, or threatening to use

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		any hoax bomb while committing or attempting to commit a felony.
790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of

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		age.
796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
800.04(5)(e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior

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		conviction for specified sex offense.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
812.014(2)(a)1.	1st	Property stolen, valued at $100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st

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		degree grand theft.
812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than $50,000, grand theft in 2nd degree.
812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
812.014(2)(f)	2nd	Grand theft; second degree; firearm with previous conviction of s. 812.014(2)(c)5.
812.0145(2)(a)	1st	Theft from person 65 years of age or older; $50,000 or more.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft

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		of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
817.034(4)(a)1.	1st	Communications fraud, value greater than $50,000.
817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
817.234(11)(c)	1st	Insurance fraud; property value $100,000 or more.
817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false

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		statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
817.418(2)(a)	3rd	Offering for sale or advertising personal protective equipment with intent to defraud.
817.504(1)(a)	3rd	Offering or advertising a vaccine with intent to defraud.
817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
817.611(2)(b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily

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		harm, disability, or disfigurement.
825.103(3)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $10,000 or more, but less than $50,000.
827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
838.015	2nd	Bribery.
838.016	2nd	Unlawful compensation or reward for official behavior.

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838.021(3)(a)	2nd	Unlawful harm to a public servant.
838.22	2nd	Bid tampering.
843.0855(2)	3rd	Impersonation of a public officer or employee.
843.0855(3)	3rd	Unlawful simulation of legal process.
843.0855(4)	3rd	Intimidation of a public officer or employee.
847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
872.06	2nd	Abuse of a dead human body.
874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s.

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			893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5., within 1,000 feet of property used for religious services or a specified business site.
658			
	893.13(4)(a)	1st	Use or hire of minor; deliver to minor other controlled substance.
659			
	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
660			
	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
661			
	893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
662			
	893.135 (1)(c)2.a.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.

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663			
	893.135 (1)(c)2.b.	1st	Trafficking in hydrocodone, 50 grams or more, less than 100 grams.
664			
	893.135 (1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
665			
	893.135 (1)(c)3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
666			
	893.135 (1)(c)4.b.(I)	1st	Trafficking in fentanyl, 4 grams or more, less than 14 grams.
667			
	893.135 (1)(d)1.a.	1st	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.
668			
	893.135(1)(e)1.	1st	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.

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893.135(1)(f)1.	1st	Trafficking in amphetamine, 14 grams or more, less than 28 grams.
893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
893.135 (1)(j)1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
893.135 (1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
893.135 (1)(m)2.a.	1st	Trafficking in synthetic cannabinoids, 280 grams

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		or more, less than 500 grams.
893.135 (1)(m)2.b.	1st	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.
893.135 (1)(n)2.a.	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.
893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than

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		$20,000.
943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address

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		verification; providing false registration information.
944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
985.4815(10)	3rd	Sexual offender; failure

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		to submit to the taking of a digitized photograph.
985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

Section 8. This act shall take effect October 1, 2023.

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The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

April 13, 2023
Meeting Date

Fiscal Policy
Committee

1456
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 1454 Vieux Carre Drive
Street

Email Barney@BarneyBishop.com

Tallahassee FL 32308
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Fla. Smart Justice

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

DUPLICATE

The Florida Senate

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April 13, 2023
Meeting Date

Fiscal Policy
Committee

1456
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

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Tallahassee FL 32308
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

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S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/SB 1534
INTRODUCER:	Fiscal Policy Committee and Senator Martin
SUBJECT:	Pretrial Release and Detention
DATE:	April 14, 2023
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Parker	Stokes	CJ	**Favorable**
2.	Parker	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1534 amends several statutes related to bail, pretrial detention, and pretrial release.

The bill amends s. 903.011, F.S., to:
- Specify that only a judge may set, reduce, or otherwise alter a defendant's bail.
- Require the Florida Supreme Court (FSC) to adopt a uniform statewide bond schedule by January 1, 2024, and provides for when an inferior court may establish a local bond schedule.
- Provide circumstances in which a person may not be released before a first appearance hearing.

The bill amends s. 903.047, F.S., to provide that a court must consider s. 903.046(2), F.S., when determining whether to impose nonmonetary conditions in addition to or in lieu of monetary bond, and provides specific nonmonetary conditions that may be imposed.

The bill amends s. 903.0471, F.S., to authorize the court to revoke pretrial release and order pretrial detention if the court finds probable cause to believe that the defendant committed a new crime while on pretrial release or violated any other condition of pretrial release in a material respect.

The bill amends s. 907.041, F.S., to:
- Revise the term "dangerous crime" to include DUI manslaughter and BUI manslaughter and trafficking in any controlled substance, extortion, and written threats to kill.

- Provide that if a defendant is arrested for a dangerous crime that is a capital felony, a life felony, or a felony of the first degree, and the court determines there is probable cause to believe the defendant committed the offense, the state attorney, or the court on its own motion shall motion for pretrial detention.
- Provide that a person arrested for a dangerous crime may not be granted nonmonetary pretrial release at first appearance if the court has determined there is probable cause to believe the person has committed the offense.
- Provide that if the court finds a substantial probability that the defendant committed the offense and, based on the defendant's past and present patterns of behavior, consideration of the criteria in s. 903.046, F.S., and any other relevant facts, that no conditions of release or bail will reasonably protect the community from risk of physical harm, ensure the presence of the defendant at trial, or assure the integrity of the judicial process, the court must order pretrial detention.
- Provide that when a person charged with a crime for which pretrial detention could be ordered is arrested, the arresting agency may detain the defendant prior to his or her first appearance.
- Provide that if a motion for pretrial detention is required, the pretrial detention hearing must be held within 5 days after the defendant's first appearance hearing or, if there is no first appearance hearing, within 5 days after the defendant's arraignment.
- Require that if a defendant is released on bail pending a pretrial detention hearing and the defendant uses a surety bond to meet the monetary component, the court must inform the defendant that he or she will not be entitled to a return of the premium on such surety bond.
- Provide that the rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of evidence at the detention hearing.
- Provide that a party may motion for a pretrial detention order to be reconsidered at any time before a defendant's trial if the judge finds that information exists that was not known to the party moving for reconsideration at the time of the pretrial detention hearing.

The bill may have a positive indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill is effective January 1, 2024.

II. Present Situation:

The Florida Constitution provides that every person charged with a crime is entitled to pretrial release with reasonable conditions.[1] There are three types of pretrial release for a person who is awaiting trial: the posting of a bail or surety bond, pretrial release conditions, or the release on his or her own recognizance.[2]

[1] Article I, s. 14, Fla. Const. This right does not apply to persons charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great. *Id*.
[2] *See* art. I, s. 14. Fla. Const.; See also ss. 903.046 and 907.041. F.S.

Bail and Surety Bond

The purpose of a bail determination in criminal proceedings is to ensure the appearance of a defendant at subsequent proceedings and to protect the community against unreasonable danger from the defendant.[3] For the defendant to be released from jail, a court may require bail by a defendant to provide security, such as cash or a bond to ensure that he or she will return for trial and any other required court appearances.[4]

As an alternative to posting the entire bail amount, a defendant may provide a criminal surety bail bond[5] executed by a bail bond agent. A cash bond is paid directly to the court for the total amount of the bond, in cash. If the arrestee does not appear after posting a cash bond, the money will be forfeited. After the final disposition of the case, bond money will be refunded, minus any unpaid court fees, costs, and criminal penalties.[6]

Bail Determination

When determining whether to release a defendant on bail or other conditions and what that bail or those conditions may be, the court shall consider:

- The nature and circumstances of the offense charged.
- The weight of the evidence against the defendant.
- The defendant's family ties, length of residence in the community, employment history, financial resources, and mental condition.
- The defendant's past and present conduct, including any record of convictions, previous flight to avoid prosecution or failure to appear at court proceedings.
- The nature and probability of danger which the defendant's release poses to the community.
- The source of funds used to post bail or procure an appearance bond, particularly whether the proffered funds, real property, property, or any proposed collateral or bond premium may be linked to or derived from the crime alleged to have been committed or from any other criminal or illicit activities. The burden of establishing the noninvolvement in or nonderivative from criminal or other illicit activity of such proffered funds, real property, property, or any proposed collateral or bond premium falls upon the defendant or other person proffering them to obtain the defendant's release.
- Whether the defendant is already on release pending resolution of another criminal proceeding or on probation, parole, or other release pending completion of a sentence.
- The street value of any drug or controlled substance connected to or involved in the criminal charge.
- The nature and probability of intimidation and danger to victims.
- Whether there is probable cause to believe that the defendant committed a new crime while on pretrial release.

[3] Section 903.046(1), F.S.
[4] *Universal Bail Bonds v. State*, 929 So.2d 697, 699 (Fla. 3d DCA 2006).
[5] Sections 903.011 and 903.105, F.S.
[6] Office of Program Policy Analysis and Government Accountability, County Pretrial Release Programs: Calendar Year 2021, Report No. 22-09 at 2 (December 2022) available at https://oppaga.fl.gov/Documents/Reports/22-09.pdf (last visited March 21, 2023).

- Whether the crime charged is a violation of ch. 874, F.S., or alleged to be subject to enhanced punishment under ch. 874, F.S., or reclassification under s. 843.22, F.S.[7]
- Whether the defendant, other than a defendant whose only criminal charge is a misdemeanor offense under ch. 316, F.S, is required to register as a sexual offender or a sexual predator.[8]
- Any other facts that the court considers relevant.[9]

Pretrial Release

Prior to an indictment, affidavit, or information being filed in a criminal case the court having jurisdiction over the case has jurisdiction to hear and rule on all preliminary motions regarding bail.[10] If a court determines pretrial release is appropriate, it must impose certain conditions on the defendant while on release, including refraining from criminal activity of any kind[11] and complying with all conditions of pretrial release ordered by the court.[12]

While there is a presumption in favor of release on nonmonetary conditions for any person granted pretrial release, monetary conditions may be imposed for a person charged with a dangerous crime or if it is determined that such monetary conditions are necessary to assure the presence of the person at trial or at other proceedings, to protect the community from risk of physical harm to persons, or to assure the integrity of the judicial process.[13] A dangerous crime means any of the following:

- Arson;
- Aggravated assault;
- Aggravated battery;
- Illegal use of explosives;
- Child abuse or aggravated child abuse;
- Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult;
- Aircraft piracy;
- Kidnapping;
- Homicide;
- Manslaughter;
- Sexual battery;
- Robbery;
- Carjacking;
- Lewd, lascivious or indecent assault or act upon or in presence of a child under the age of 16 years;

[7] Section 903.046(2)(l), F.S., If any such violation is charged against a defendant or if the defendant is charged with a crime that is alleged to be subject to such enhancement or reclassification, he or she is not eligible for release on bail or surety bond until the first appearance on the case in order to ensure the full participation of the prosecutor and the protection of the public.
[8] Section 903.046(2)(m), F.S. Such offender is not eligible for release on bail or surety bond until the first appearance on the case in order to ensure the full participation of the prosecutor and the protection of the public.
[9] Section 903.046(2)(a)-(m), F.S.
[10] Section 903.03(1), F.S.; "Bail" includes any and all forms of pretrial release. Section 903.011(1), F.S
[11] Section 903.047(1)(a), F.S.
[12] Section 903.047(1)(c), F.S.
[13] Section 907.041(3)(a), F.S.

- Sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority;[14]
- Burglary of a dwelling;
- Stalking and aggravated stalking;
- Act of domestic violence as defined in s. 741.28, F.S.;
- Home invasion robbery;
- Act of terrorism as defined in s. 775.30, F.S.;
- Manufacturing any substances in violation of ch. 893, F.S.;
- Attempting or conspiring to commit any such crime; and
- Human trafficking.[15]

Pretrial Detention

No person charged with a dangerous crime shall be granted nonmonetary pretrial release at a first appearance hearing; however, the court shall retain the discretion to release an accused on electronic monitoring or on recognizance bond if the findings on the record of facts and circumstances warrant such a release.[16] The state attorney has the burden of showing the need of pretrial detention.[17]

A judge may order pretrial detention if he or she finds a substantial probability, based on a defendant's past and present patterns of behavior, consideration of the criteria used for determining bail, and any other relevant facts, that any of the following circumstances exist:

- The defendant has previously violated conditions of release and that no further conditions of release are reasonably likely to assure the defendant's appearance at subsequent proceedings;
- The defendant, with the intent to obstruct the judicial process, has threatened, intimidated, or injured any victim, potential witness, juror, or judicial officer, or has attempted or conspired to do so, and that no condition of release will reasonably prevent the obstruction of the judicial process;

[14] Section 907.041(4)(a)15., F.S.
[15] Section 907.041(4)(a)1.-23., F.S.
[16] Section 907.041(4)(b), F.S.
[17] Section 907.041(4)(g), F.S.

- The defendant is charged with trafficking in controlled substances,[18] that there is a substantial probability that the defendant has committed the offense and that no conditions of release will reasonably assure the defendant's appearance at subsequent criminal proceedings;[19]
- The defendant is charged with DUI manslaughter,[20] and that there is a substantial probability that the defendant committed the crime and that the defendant poses a threat of harm to the community; conditions that would support a finding by the court pursuant to this subparagraph that the defendant poses a threat of harm to the community include, but are not limited to, any of the following:
  - The defendant has previously been convicted of any crime under s. 316.193, F.S., or of any crime in any other state or territory of the United States that is substantially similar to any crime under s. 316.193;
  - The defendant was driving with a suspended driver license when the charged crime was committed; or
  - The defendant has previously been found guilty of or has had adjudication of guilt withheld for, driving while the defendant's driver license was suspended or revoked in violation of s. 322.34, F.S.;
- The defendant poses the threat of harm to the community.[21]
- The defendant was on probation, parole, or other release pending completion of sentence or on pretrial release for a dangerous crime at the time the current offense was committed;[22]
- The defendant has violated one or more conditions of pretrial release or bond for the offense currently before the court and the violation, in the discretion of the court, supports a finding that no conditions of release can reasonably protect the community from risk of physical harm to persons or assure the presence of the accused at trial; or
- The defendant has ever been sentenced as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal,[23] or the state attorney files a notice seeking that the defendant be sentenced as a prison releasee reoffender,

[18] Section 893.02(4), F.S., a "controlled substance" means any substance named or described in Schedules I-V of s. 893.03, F.S. Laws controlling the manufacture, distribution, preparation, dispensing, or administration of such substances are drug abuse laws. Section 893.03, F.S., Schedule I-and II substances are substances that have a high potential for abuse and no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards. Schedule III substances have a potential for abuse less than the substances contained in Schedules I and II and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to moderate or low physical dependence or high psychological dependence or, in the case of anabolic steroids, may lead to physical damage. Schedule IV substances have a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to limited physical or psychological dependence relative to the substances in Schedule III. Schedule V substances have a low potential for abuse relative to the substances in Schedule IV and has a currently accepted medical use in treatment in the United States, and abuse of such compound, mixture, or preparation may lead to limited physical or psychological dependence relative to the substances in Schedule IV.

[19] Section 907.041(4)(c)3., F.S.

[20] DUI Manslaughter occurs when a person operates a vehicle and by reason of such operation, causes the death of a person, and at the time of such operation he or she was under the influence of alcoholic beverages, a chemical substance, or a controlled substance to the extent the his or her normal faculties were impaired and he or she had a blood alcohol level of 0.10 percent or higher. *Standard Jury Instructions in Criminal Cases (97–2)*, 723 So.2d 123, 146–48 (Fla.1998).

[21] The court may so conclude if it finds that the defendant is presently charged with a dangerous crime, that there is a substantial probability that the defendant committed such crime, that the factual circumstances of the crime indicate a disregard for the safety of the community, and that there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons.

[22] Section 907.041(4)(c)6., F.S.

[23] Section 775.082(9), F.S., and Section 775.084, F.S.

habitual violent felony offender, three-time violent felony offender, or violent career criminal:[24]

- There is a substantial probability that the defendant committed the offense;[25] and
- There are no conditions of release that can reasonably protect the community from risk of physical harm or ensure the presence of the accused at trial.[26]

Standard Bond Schedule

Currently judicial circuits may establish their own uniform bond schedule. Such schedules are established so that persons arrested for certain criminal offenses may be released on a bail bond prior to the person's first appearance hearing. When determining the amount of bail, judges should consider the criteria set out in s. 903.046, F.S., and Fla. R. Crim. P. 3.131.[27]

To improve efficiency and ensure consistency in determining a defendant's bail amount, the Chief Judge of a judicial circuit may issue an administrative order promulgating a "bond schedule." Generally, a bond schedule provides the bail amount required to bond out of jail for a specified crime prior to first appearance.[28] A bond schedule also prohibits certain defendants from being released before first appearance due to the severity of the offense committed or the status of the defendant. If a defendant is prohibited from being released before first appearance, his or her bond is set by a judge at a first appearance.

A court is authorized on its own motion to revoke pretrial release and order pretrial detention if a court finds probable cause to believe that a defendant committed a new crime while on pretrial release.

III. Effect of Proposed Changes:

This bill amends several statutes related to bail, pretrial detention, and pretrial release. Specifically, the bill amends s. 903.011, F.S., to:

- Specify that only a judge may set, reduce, or otherwise alter a defendant's bail. Upon motion by a defendant, or on the court's own motion, a court may reconsider the monetary component of a defendant's bail if he or she is unable to post a monetary bond.
- Require the FSC to adopt a uniform statewide bond schedule by January 1, 2024, and annually thereafter. The FSC shall make the revised uniform statewide bond schedule available to each judicial circuit. Additionally, the FSC must evaluate the amount of monetary bond necessary to protect the community from risk of physical harm, to assume the presence of the accused at trial, and to protect the integrity of the judicial process.
- Prohibit a judge of an inferior court from establishing a local bond schedule that sets a lower bond amount than that required by the uniform stateside bond schedule.

[24] Section 907.041(4)(c)1.-8.a., F.S.
[25] Section 907.041(4)(c)8.b., F.S.
[26] Section 907.041(4)(c)8.c., F.S.
[27] Twelfth Judicial Circuit, *Bond Schedule for Criminal Proceedings*, https://www.jud12.flcourts.org/Portals/0/AdminOrders/Section03/13-11.3.pdf?ver=JvXXR9P2G_o2gySEJ1qhsA%3D%3D (last visited March 21, 2023).
[28] *Id*.

- Provide the chief judge of a judicial circuit may petition the FSC for approval of a local bond schedule that sets a lower bond amount than required by the uniform statewide bond schedule. If the Supreme Court reviews and approves such local bond schedule, such schedule may be used for the purpose of setting a defendant's bail before a first appearance hearing or bail determination pending the adoption of a new or revised uniform statewide bond schedule.
- Authorize the chief judge of a judicial circuit to establish a bond schedule that increases the monetary bond applicable to an offense that is included in the uniform statewide bond schedule adopted by the FSC.
- Provide that a person may not be released before his or her first appearance hearing, and a judge must determine the appropriate bail, if any, based on an individualized consideration of the criteria in s. 903.046(2), F.S., if the person meets any of the following criteria:
  - The person was, at the time of arrest for any felony, on pretrial release, probation, or community control in this state or any other state.
  - The person was, at the time of arrest, designated as a sexual offender or sexual predator in this state or any other state.
  - The person was arrested for violating a protective injunction.
  - The person was, at the time of arrest, on release from supervision under s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731, F.S.
  - The person has, at any time before the current arrest, been sentenced as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal.
  - The person has been arrested three or more times in the 12 months immediately preceding his or her arrest for the current offense.
  - The offense for which he or she is currently arrested is for committing one or more of specified crimes.

The bill amends s. 903.047, F.S., to provide that a court must consider s. 903.046(2), F.S., when determining whether to impose nonmonetary conditions in addition to or in lieu of monetary bond. Such nonmonetary conditions may include, but are not limited to, requiring a defendant to:

- Maintain employment or, if unemployed, actively seek employment;
- Maintain or commence an educational program;
- Abide by specified restrictions on personal associations, place of residence, or travel;
- Report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency;
- Comply with a specified curfew;
- Refrain from possessing a firearm, destructive device, or other dangerous weapon;
- Refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance without a prescription from a licensed medical practitioner;
- Undergo available medical, psychological, psychiatric, mental health, or substance abuse evaluation and follow all recommendations, including treatment for drug or alcohol dependency, and remain in a specified institution, if required for that purpose;
- Return to custody for specified hours following release for employment, school, or other limited purposes; and

- Comply with any other condition that is reasonably necessary to assure his or her appearance at subsequent proceedings and to protect the community against unreasonable danger of harm.

The bill amends s. 903.0471, F.S., to authorize the court to revoke pretrial release and order pretrial detention if the court finds probable cause to believe that the defendant committed a new crime while on pretrial release or violated any other condition of pretrial release in a material respect.

The bill amends s. 907.041, F.S., to:

- Revise the term "dangerous crime" to include DUI manslaughter and BUI manslaughter and trafficking in any controlled substance, extortion, and written threats to kill.
- Provide that a person arrested for a dangerous crime may not be granted nonmonetary pretrial release at first appearance if the court has determined there is probable cause to believe the person has committed the offense.
- Provide that if a defendant is arrested for a dangerous crime that is a capital felony, a life felony, or a felony of the first degree, and the court determines there is probable cause to believe the defendant committed the offense, the state attorney, or the court on its own motion shall motion for pretrial detention.
- Provide that if the court finds a substantial probability that the defendant committed the offense and, based on the defendant's past and present patterns of behavior, consideration of the criteria in s. 903.046, F.S., and any other relevant facts, that no conditions of release or bail will reasonably protect the community from risk of physical harm, ensure the presence of the defendant at trial, or assure the integrity of the judicial process, the court must order pretrial detention.
- Provide that when a person charged with a crime for which pretrial detention could be ordered is arrested, the arresting agency may detain the defendant prior to his or her first appearance.
- Provide that if a motion for pretrial detention is required, the pretrial detention hearing must be held within 5 days after the defendant's first appearance hearing or, if there is no first appearance hearing, within 5 days after the defendant's arraignment.
- Require that if a defendant is released on bail pending a pretrial detention hearing and the defendant uses a surety bond to meet the monetary component, the court must inform the defendant that he or she will not be entitled to a return of the premium on such surety bond.
- Provide that the rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of evidence at the detention hearing.
- Provide that a party may motion for a pretrial detention order to be reconsidered at any time before a defendant's trial if the judge finds that information exists that was not known to the party moving for reconsideration at the time of the pretrial detention hearing.

The bill is effective January 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may add an administrative burden, on an annual basis, on the FSC and on petitioning chief judges who seek to deviate from the FSC's uniform bond schedule.

The bill may also significantly increase judicial workload in the trial courts as there will likely be a marked increase in the number of:

- Cases on first appearance dockets;
- Pretrial detention hearings; and
- Pretrial release revocation hearings.

The degree to which judicial workload will increase is difficult to quantify because it is not known how many additional first appearance and bond-related hearings will be required. The bill may also result in increased litigation.[29]

The fiscal impact of this legislation is indeterminate due to the unavailability of data needed to quantifiably establish the anticipated increase in judicial workload as discussed above.

[29] Office of the State Courts Administrator, *2023 Judicial Impact Statement* on HB 1627, pg. 8 (on file with the Senate Committee on Criminal Justice).

Trial court judicial workload is measured using a case weighting system that calculates the amount of time that it takes for a judge to dispose of a case. Passage of this bill may impact the case weighting system. The number of case filings using the case weighting system is used to determine the needs for additional judicial resources each year. Any judicial workload increases in the future as a result of this bill will be reflected in the Supreme Court's annual opinion In re: *Certification of Need for Additional Judges*.[30]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 903.011, 903.047, 903.0471, and 907.041.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Fiscal Policy on April 13, 2023:
The committee substitute:

- Removes the language that a chief judge may establish additional nonmonetary conditions to be imposed upon certain defendants.
- Revises the list of circumstances which would prohibit a person from being released before his or her first appearance.
- Adds extortion and written threats to kill to the list of dangerous crimes.
- Removes the requirement that the court hold a detention hearing within 5 days for certain offenses.
- Revises provisions relating to the pretrial detention hearing.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

[30] *Id.*

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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/13/2023	.	
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The Committee on Fiscal Policy (Martin) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsections (4), (5), and (6) are added to section 903.011, Florida Statutes, to read:

903.011 Pretrial release ~~"Bail" and "bond" defined~~; general terms; statewide uniform bond schedule.—

(4) Except as authorized in subsection (5), only a judge may set, reduce, or otherwise alter a defendant's bail. Upon



motion by a defendant, or on the court's own motion, a court may reconsider the monetary component of a defendant's bail if he or she is unable to post a monetary bond.

(5)(a) Beginning January 1, 2024, and annually thereafter, the Supreme Court must adopt a uniform statewide bond schedule for criminal offenses not described in subsection (6) for which a person may be released on bail before and in lieu of his or her first appearance hearing or bail determination. The Supreme Court must make the revised uniform statewide bond schedule available to each judicial circuit.

(b) Except as provided in paragraph (c), the chief judge of a judicial circuit may not establish a local bond schedule that sets a lower bond amount than that required by the uniform statewide bond schedule for the purpose of setting a defendant's bail before a first appearance hearing or bail determination.

(c) The chief judge of a judicial circuit may petition the Supreme Court for approval of a local bond schedule that sets a lower bond amount than that required by the uniform statewide bond schedule. If the Supreme Court reviews and approves the local bond schedule, such schedule may be used for the purpose of setting a defendant's bail before a first appearance hearing or bail determination pending the adoption of a new or revised uniform statewide bond schedule pursuant to paragraph (a).

(d) The chief judge of a judicial circuit may establish a local bond schedule that increases the monetary bond applicable to an offense that is included in the uniform statewide bond schedule adopted by the Supreme Court. Such a deviation from the uniform statewide bond schedule does not require approval by the Supreme Court.



(e) In adopting the uniform statewide bond schedule or reviewing a petition for a local bond schedule that deviates from the uniform statewide bond schedule, the Florida Supreme Court shall evaluate the amount of monetary bond necessary to protect the community from risk of physical harm, to assure the presence of the accused at trial, and to protect the integrity of the judicial process.

(f) The uniform statewide bond schedule shall not bind a judge in an individual case who is conducting a first appearance hearing or bail determination.

(6) A person may not be released before his or her first appearance hearing or bail determination and a judge must determine the appropriate bail, if any, based on an individualized consideration of the criteria in s. 903.046(2), if the person meets any of the following criteria:

(a) The person was, at the time of arrest for any felony, on pretrial release, probation, or community control in this state or any other state;

(b) The person was, at the time of arrest, designated as a sexual offender or sexual predator in this state or any other state;

(c) The person was arrested for violating a protective injunction;

(d) The person was, at the time of arrest, on release from supervision under s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731;

(e) The person has, at any time before the current arrest, been sentenced pursuant to s. 775.082(9) or s. 775.084 as a prison releasee reoffender, habitual violent felony offender,



three-time violent felony offender, or violent career criminal;

(f) The person has been arrested three or more times in the 12 months immediately preceding his or her arrest for the current offense; or

(g) The person's current offense of arrest is for one or more of the following crimes:

1. A capital felony, life felony, felony of the first degree, or felony of the second degree;

2. A homicide under chapter 782; or any attempt, solicitation, or conspiracy to commit a homicide;

3. Assault in furtherance of a riot or an aggravated riot; felony battery; domestic battery by strangulation; domestic violence, as defined in s. 741.28; stalking; mob intimidation; assault or battery on a law enforcement officer; assault or battery on juvenile probation officer, or other staff of a detention center or commitment facility, or a staff member of a commitment facility, or health services personnel; assault or battery on a person 65 years of age or older; robbery; burglary; carjacking; or resisting an officer with violence;

4. Kidnapping, false imprisonment, human trafficking, or human smuggling;

5. Possession of a firearm or ammunition by a felon, violent career criminal, or person subject to an injunction against committing acts of domestic violence, stalking, or cyberstalking;

6. Sexual battery; indecent, lewd, or lascivious touching; exposure of sexual organs; incest; luring or enticing a child; or child pornography;

7. Abuse, neglect, or exploitation of an elderly person or

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disabled adult;

8. Child abuse or aggravated child abuse;

9. Arson; riot, aggravated riot, inciting a riot, or aggravated inciting a riot; or a burglary or theft during a riot;

10. Escape; tampering or retaliating against a witness, victim, or informant; destruction of evidence; or tampering with a jury;

11. Any offense committed for the purpose of benefitting, promoting, or furthering the interests of a criminal gang;

12. Trafficking in a controlled substance, including conspiracy to engage in trafficking in a controlled substance;

13. Racketeering; or

14. Failure to appear at required court proceedings while on bail.

Section 2. Paragraph (c) of subsection (1) of section 903.047, Florida Statutes, is amended to read:

903.047 Conditions of pretrial release.—

(1) As a condition of pretrial release, whether such release is by surety bail bond or recognizance bond or in some other form, the defendant must:

(c) Comply with all conditions of pretrial release imposed by the court. A court must consider s. 903.046(2) when determining whether to impose nonmonetary conditions in addition to or in lieu of monetary bond. Such nonmonetary conditions may include, but are not limited to, requiring a defendant to:

1. Maintain employment, or, if unemployed, actively seek employment.

2. Maintain or commence an educational program.



3. Abide by specified restrictions on personal associations, place of residence, or travel.

4. Report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency.

5. Comply with a specified curfew.

6. Refrain from possessing a firearm, destructive device, or other dangerous weapon.

7. Refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance without a prescription from a licensed medical practitioner.

8. Undergo available medical, psychological, psychiatric, mental health, or substance abuse evaluation and follow all recommendations, including treatment for drug or alcohol dependency, and remain in a specified institution, if required for that purpose.

9. Return to custody for specified hours following release for employment, school, or other limited purposes.

10. Any other condition that is reasonably necessary to assure the appearance of the defendant at subsequent proceedings and to protect the community against unreasonable danger of harm.

Section 3. Section 903.0471, Florida Statutes, is amended to read:

903.0471 Violation of condition of pretrial release.—Notwithstanding s. 907.041, a court may, on its own motion, revoke pretrial release and order pretrial detention if the court finds probable cause to believe that the defendant committed a new crime while on pretrial release or violated any other condition of pretrial release in a material respect.

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Section 4. Subsection (4) of section 907.041, Florida Statutes, is amended to read:

907.041 Pretrial detention and release.—

(4) PRETRIAL DETENTION.—

(a) As used in this subsection, "dangerous crime" means any of the following:

1. Arson;

2. Aggravated assault;

3. Aggravated battery;

4. Illegal use of explosives;

5. Child abuse or aggravated child abuse;

6. Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult;

7. Aircraft piracy;

8. Kidnapping;

9. Homicide;

10. Manslaughter, including DUI manslaughter and BUI manslaughter;

11. Sexual battery;

12. Robbery;

13. Carjacking;

14. Lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years;

15. Sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority;

16. Burglary of a dwelling;

17. Stalking and aggravated stalking;

18. Act of domestic violence as defined in s. 741.28;



19. Home invasion robbery;

20. Act of terrorism as defined in s. 775.30;

21. Manufacturing any substances in violation of chapter 893;

22. Attempting or conspiring to commit any such crime; ~~and~~

23. Human trafficking;

24. Trafficking in any controlled substance described in s. 893.135(1)(c)4.;

25. Extortion in violation of s. 836.05; and

26. Written threats to kill in violation of s. 836.10.

(b) A ~~No~~ person arrested for ~~charged with~~ a dangerous crime may not ~~shall~~ be granted nonmonetary pretrial release at a first appearance hearing if the court has determined there is probable cause to believe the person has committed the offense~~; however, the court shall retain the discretion to release an accused on electronic monitoring or on recognizance bond if the findings on the record of facts and circumstances warrant such a release~~.

(c) Upon motion by the state attorney, the court may order pretrial detention if it finds a substantial probability, based on a defendant's past and present patterns of behavior, the criteria in s. 903.046, and any other relevant facts, that any of the following circumstances exist:

1. The defendant has previously violated conditions of release and that no further conditions of release are reasonably likely to assure the defendant's appearance at subsequent proceedings;

2. The defendant, with the intent to obstruct the judicial process, has threatened, intimidated, or injured any victim, potential witness, juror, or judicial officer, or has attempted



or conspired to do so, and that no condition of release will reasonably prevent the obstruction of the judicial process;

3. The defendant is charged with trafficking in controlled substances as defined by s. 893.135, that there is a substantial probability that the defendant has committed the offense, and that no conditions of release will reasonably assure the defendant’s appearance at subsequent criminal proceedings;

4. The defendant is charged with DUI manslaughter, as defined by s. 316.193, and that there is a substantial probability that the defendant committed the crime and that the defendant poses a threat of harm to the community; conditions that would support a finding by the court pursuant to this subparagraph that the defendant poses a threat of harm to the community include, but are not limited to, any of the following:

a. The defendant has previously been convicted of any crime under s. 316.193, or of any crime in any other state or territory of the United States that is substantially similar to any crime under s. 316.193;

b. The defendant was driving with a suspended driver license when the charged crime was committed; or

c. The defendant has previously been found guilty of, or has had adjudication of guilt withheld for, driving while the defendant’s driver license was suspended or revoked in violation of s. 322.34;

5. The defendant poses the threat of harm to the community. The court may so conclude, if it finds that the defendant is presently charged with a dangerous crime, that there is a substantial probability that the defendant committed such crime, that the factual circumstances of the crime indicate a disregard



for the safety of the community, and that there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons;

6. The defendant was on probation, parole, or other release pending completion of sentence or on pretrial release for a dangerous crime at the time the current offense was committed;

7. The defendant has violated one or more conditions of pretrial release or bond for the offense currently before the court and the violation, in the discretion of the court, supports a finding that no conditions of release can reasonably protect the community from risk of physical harm to persons or assure the presence of the accused at trial; or

8.a. The defendant has ever been sentenced pursuant to s. 775.082(9) or s. 775.084 as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal, or the state attorney files a notice seeking that the defendant be sentenced pursuant to s. 775.082(9) or s. 775.084, as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal;

b. There is a substantial probability that the defendant committed the offense; and

c. There are no conditions of release that can reasonably protect the community from risk of physical harm or ensure the presence of the accused at trial.

(d) If a defendant is arrested for a dangerous crime that is a capital felony, a life felony, or a felony of the first degree, and the court determines there is probable cause to believe the defendant committed the offense, the state attorney,



or the court on its own motion, shall motion for pretrial detention. If the court finds a substantial probability that the defendant committed the offense and, based on the defendant's past and present patterns of behavior, consideration of the criteria in s. 903.046, and any other relevant facts, that no conditions of release or bail will reasonably protect the community from risk of physical harm, ensure the presence of the defendant at trial, or assure the integrity of the judicial process, the court must order pretrial detention.

(e) ~~(d)~~ When a person charged with a crime for which pretrial detention could be ordered is arrested, the arresting agency shall promptly notify the state attorney of the arrest and shall provide the state attorney with such information as the arresting agency has obtained relative to:

1. The nature and circumstances of the offense charged;

2. The nature of any physical evidence seized and the contents of any statements obtained from the defendant or any witness;

3. The defendant's family ties, residence, employment, financial condition, and mental condition; and

4. The defendant's past conduct and present conduct, including any record of convictions, previous flight to avoid prosecution, or failure to appear at court proceedings.

(f) ~~(e)~~ When a person charged with a crime for which pretrial detention could be ordered is arrested, the arresting agency may detain such defendant, prior to his or her first appearance hearing or prior to the filing by the state attorney of a motion seeking pretrial detention, for a period not to exceed 24 hours.



(g)1.~~(f)~~ If a motion for pretrial detention is required under paragraph (d), the pretrial detention hearing must ~~shall~~ be held within 5 days after the defendant's first appearance hearing or, if there is no first appearance hearing, within 5 days after the defendant's arraignment ~~of the filing by the state attorney of a complaint to seek pretrial detention~~.

2. If a state attorney files a motion for pretrial detention under paragraph (c), the pretrial detention hearing must be held within 5 days after the filing of such motion.

3. The defendant may request a continuance of a pretrial detention hearing. No continuance shall be for longer than 5 days unless there are extenuating circumstances. ~~The defendant may be detained pending the hearing.~~ The state attorney shall be entitled to one continuance for good cause.

4. The defendant may be detained pending the completion of the pretrial detention hearing. If a defendant is released on bail pending a pretrial detention hearing under paragraph (d), the court must inform the defendant that if he or she uses a surety bond to meet the monetary component of pretrial release and the motion for pretrial detention is subsequently granted, the defendant will not be entitled to the return of the premium on such surety bond.

(h)~~(g)~~ The state attorney has the burden of showing the need for pretrial detention.

(i)~~(h)~~ The defendant is entitled to be represented by counsel, to present witnesses and evidence, and to cross-examine witnesses. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of evidence at the detention hearing ~~The court may~~



~~admit relevant evidence without complying with the rules of evidence~~, but evidence secured in violation of the United States Constitution or the Constitution of the State of Florida shall not be admissible. No testimony by the defendant shall be admissible to prove guilt at any other judicial proceeding, but such testimony may be admitted in an action for perjury, based upon the defendant's statements made at the pretrial detention hearing, or for impeachment.

(j) A party may motion for a pretrial detention order to be reconsidered at any time before a defendant's trial if the judge finds that information exists that was not known to the party moving for reconsideration at the time of the pretrial detention hearing and that such information has a material bearing on determining whether there are conditions of release or bail that will reasonably assure the appearance of the defendant as required and the safety of any other person and the community from harm.

(k) ~~(i)~~ The pretrial detention order of the court shall be based solely upon evidence produced at the hearing and shall contain findings of fact and conclusions of law to support it. The order shall be made either in writing or orally on the record. The court shall render its findings within 24 hours of the pretrial detention hearing.

(l) ~~(j)~~ A defendant convicted at trial following the issuance of a pretrial detention order shall have credited to his or her sentence, if imprisonment is imposed, the time the defendant was held under the order, pursuant to s. 921.161.

(m) ~~(k)~~ The defendant shall be entitled to dissolution of the pretrial detention order whenever the court finds that a



~~(l) The Legislature finds that a person who manufactures any substances in violation of chapter 893 poses a threat of harm to the community and that the factual circumstances of such a crime indicate a disregard for the safety of the community. The court shall order pretrial detention if the court finds that there is a substantial probability that a defendant charged with manufacturing any substances in violation of chapter 893 committed such a crime and if the court finds that there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons.~~

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to pretrial release and detention; amending s. 903.011, F.S.; providing for setting, reduction, and alteration of bail; requiring the Supreme Court to create and periodically update a statewide uniform bail bond schedule for certain offenses; providing for the chief judge of a judicial circuit to establish a lower bail bond schedule in certain cases; requiring Supreme Court approval for local deviations from the statewide uniform bail bond schedule; providing that arrested persons in certain categories may not be released until a first appearance and that bond for such persons be



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individually determined based on specified factors; amending s. 903.047, F.S.; authorizing a court to consider nonmonetary conditions in addition to or in lieu of a monetary amount subject to specified limitations; listing possible nonmonetary conditions; amending s. 903.0471, F.S.; providing that a court may revoke pretrial release and order pretrial detention if a defendant materially violates any release condition; amending s. 907.041, F.S.; revising the definition of the term "dangerous crime"; providing that a person arrested for a dangerous crime may not be granted nonmonetary pretrial release at a first appearance hearing; specifying that upon motion by the state attorney, a court may order pretrial detention in certain circumstances; providing for a detention hearing for persons charged with dangerous crimes; authorizing a state attorney or a court to move for detention of persons charged with dangerous crimes in certain circumstances; requiring a court to order pretrial detention in certain circumstances; providing requirements for detention hearings; revising requirements for a pretrial detention order; requiring a court to provide specified information to certain defendants; providing that a party may move for reconsideration of a pretrial detention order any time before trial in certain circumstances; removing a requirement for pretrial detention for defendants charged with illegally manufacturing controlled substances in certain cases; providing an effective

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417 date.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
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	.	
	.	

The Committee on Fiscal Policy (Martin) recommended the following:

Senate Substitute for Amendment (118746) (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsections (4), (5), and (6) are added to section 903.011, Florida Statutes, to read:

903.011 Pretrial release ~~"Bail" and "bond" defined~~; general terms; statewide uniform bond schedule.—

(4) Except as authorized in subsection (5), only a judge

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may set, reduce, or otherwise alter a defendant's bail. Upon motion by a defendant, or on the court's own motion, a court may reconsider the monetary component of a defendant's bail if he or she is unable to post a monetary bond.

(5)(a) Beginning January 1, 2024, and annually thereafter, the Supreme Court must adopt a uniform statewide bond schedule for criminal offenses not described in subsection (6) for which a person may be released on bail before and in lieu of his or her first appearance hearing or bail determination. The Supreme Court must make the revised uniform statewide bond schedule available to each judicial circuit.

(b) Except as provided in paragraph (c), the chief judge of a judicial circuit may not establish a local bond schedule that sets a lower bond amount than that required by the uniform statewide bond schedule for the purpose of setting a defendant's bail before a first appearance hearing or bail determination.

(c) The chief judge of a judicial circuit may petition the Supreme Court for approval of a local bond schedule that sets a lower bond amount than that required by the uniform statewide bond schedule. If the Supreme Court reviews and approves the local bond schedule, such schedule may be used for the purpose of setting a defendant's bail before a first appearance hearing or bail determination pending the adoption of a new or revised uniform statewide bond schedule pursuant to paragraph (a).

(d) The chief judge of a judicial circuit may establish a local bond schedule that increases the monetary bond applicable to an offense that is included in the uniform statewide bond schedule adopted by the Supreme Court. Such a deviation from the uniform statewide bond schedule does not require approval by the

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Supreme Court.

(e) In adopting the uniform statewide bond schedule or reviewing a petition for a local bond schedule that deviates from the uniform statewide bond schedule, the Florida Supreme Court shall evaluate the amount of monetary bond necessary to protect the community from risk of physical harm, to assure the presence of the accused at trial, and to protect the integrity of the judicial process.

(f) The uniform statewide bond schedule shall not bind a judge in an individual case who is conducting a first appearance hearing or bail determination.

(6) A person may not be released before his or her first appearance hearing or bail determination and a judge must determine the appropriate bail, if any, based on an individualized consideration of the criteria in s. 903.046(2), if the person meets any of the following criteria:

(a) The person was, at the time of arrest for any felony, on pretrial release, probation, or community control in this state or any other state;

(b) The person was, at the time of arrest, designated as a sexual offender or sexual predator in this state or any other state;

(c) The person was arrested for violating a protective injunction;

(d) The person was, at the time of arrest, on release from supervision under s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731;

(e) The person has, at any time before the current arrest, been sentenced pursuant to s. 775.082(9) or s. 775.084 as a

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prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal;

(f) The person has been arrested three or more times in the 12 months immediately preceding his or her arrest for the current offense; or

(g) The person's current offense of arrest is for one or more of the following crimes:

1. A capital felony, life felony, felony of the first degree, or felony of the second degree;

2. A homicide under chapter 782; or any attempt, solicitation, or conspiracy to commit a homicide;

3. Assault in furtherance of a riot or an aggravated riot; felony battery; domestic battery by strangulation; domestic violence, as defined in s. 741.28; stalking; mob intimidation; assault or battery on a law enforcement officer; assault or battery on juvenile probation officer, or other staff of a detention center or commitment facility, or a staff member of a commitment facility, or health services personnel; assault or battery on a person 65 years of age or older; robbery; burglary; carjacking; or resisting an officer with violence;

4. Kidnapping, false imprisonment, human trafficking, or human smuggling;

5. Possession of a firearm or ammunition by a felon, violent career criminal, or person subject to an injunction against committing acts of domestic violence, stalking, or cyberstalking;

6. Sexual battery; indecent, lewd, or lascivious touching; exposure of sexual organs; incest; luring or enticing a child; or child pornography;

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7. Abuse, neglect, or exploitation of an elderly person or disabled adult;

8. Child abuse or aggravated child abuse;

9. Arson; riot, aggravated riot, inciting a riot, or aggravated inciting a riot; or a burglary or theft during a riot;

10. Escape; tampering or retaliating against a witness, victim, or informant; destruction of evidence; or tampering with a jury;

11. Any offense committed for the purpose of benefitting, promoting, or furthering the interests of a criminal gang;

12. Trafficking in a controlled substance, including conspiracy to engage in trafficking in a controlled substance;

13. Racketeering; or

14. Failure to appear at required court proceedings while on bail.

Section 2. Paragraph (c) of subsection (1) of section 903.047, Florida Statutes, is amended to read:

903.047 Conditions of pretrial release.—

(1) As a condition of pretrial release, whether such release is by surety bail bond or recognizance bond or in some other form, the defendant must:

(c) Comply with all conditions of pretrial release imposed by the court. A court must consider s. 903.046(2) when determining whether to impose nonmonetary conditions in addition to or in lieu of monetary bond. Such nonmonetary conditions may include, but are not limited to, requiring a defendant to:

1. Maintain employment, or, if unemployed, actively seek employment.

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2. Maintain or commence an educational program.

3. Abide by specified restrictions on personal associations, place of residence, or travel.

4. Report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency.

5. Comply with a specified curfew.

6. Refrain from possessing a firearm, destructive device, or other dangerous weapon.

7. Refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance without a prescription from a licensed medical practitioner.

8. Undergo available medical, psychological, psychiatric, mental health, or substance abuse evaluation and follow all recommendations, including treatment for drug or alcohol dependency, and remain in a specified institution, if required for that purpose.

9. Return to custody for specified hours following release for employment, school, or other limited purposes.

10. Any other condition that is reasonably necessary to assure the appearance of the defendant at subsequent proceedings and to protect the community against unreasonable danger of harm.

Section 3. Section 903.0471, Florida Statutes, is amended to read:

903.0471 Violation of condition of pretrial release.—Notwithstanding s. 907.041, a court may, on its own motion, revoke pretrial release and order pretrial detention if the court finds probable cause to believe that the defendant committed a new crime while on pretrial release or violated any


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other condition of pretrial release in a material respect.

Section 4. Subsection (4) of section 907.041, Florida Statutes, is amended to read:

907.041 Pretrial detention and release.—

(4) PRETRIAL DETENTION.—

(a) As used in this subsection, "dangerous crime" means any of the following:

1. Arson;

2. Aggravated assault;

3. Aggravated battery;

4. Illegal use of explosives;

5. Child abuse or aggravated child abuse;

6. Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult;

7. Aircraft piracy;

8. Kidnapping;

9. Homicide;

10. Manslaughter, including DUI manslaughter and BUI manslaughter;

11. Sexual battery;

12. Robbery;

13. Carjacking;

14. Lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years;

15. Sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority;

16. Burglary of a dwelling;

17. Stalking and aggravated stalking;



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18. Act of domestic violence as defined in s. 741.28;

19. Home invasion robbery;

20. Act of terrorism as defined in s. 775.30;

21. Manufacturing any substances in violation of chapter 893;

22. Attempting or conspiring to commit any such crime; ~~and~~

23. Human trafficking;

24. Trafficking in any controlled substance described in s. 893.135(1)(c)4.;

25. Extortion in violation of s. 836.05; and

26. Written threats to kill in violation of s. 836.10.

(b) A ~~No~~ person arrested for ~~charged with~~ a dangerous crime may not ~~shall~~ be granted nonmonetary pretrial release at a first appearance hearing if the court has determined there is probable cause to believe the person has committed the offense~~; however, the court shall retain the discretion to release an accused on electronic monitoring or on recognizance bond if the findings on the record of facts and circumstances warrant such a release~~.

(c) Upon motion by the state attorney, the court may order pretrial detention if it finds a substantial probability, based on a defendant's past and present patterns of behavior, the criteria in s. 903.046, and any other relevant facts, that any of the following circumstances exist:

1. The defendant has previously violated conditions of release and that no further conditions of release are reasonably likely to assure the defendant's appearance at subsequent proceedings;

2. The defendant, with the intent to obstruct the judicial process, has threatened, intimidated, or injured any victim,



potential witness, juror, or judicial officer, or has attempted or conspired to do so, and that no condition of release will reasonably prevent the obstruction of the judicial process;

3. The defendant is charged with trafficking in controlled substances as defined by s. 893.135, that there is a substantial probability that the defendant has committed the offense, and that no conditions of release will reasonably assure the defendant's appearance at subsequent criminal proceedings;

4. The defendant is charged with DUI manslaughter, as defined by s. 316.193, and that there is a substantial probability that the defendant committed the crime and that the defendant poses a threat of harm to the community; conditions that would support a finding by the court pursuant to this subparagraph that the defendant poses a threat of harm to the community include, but are not limited to, any of the following:

a. The defendant has previously been convicted of any crime under s. 316.193, or of any crime in any other state or territory of the United States that is substantially similar to any crime under s. 316.193;

b. The defendant was driving with a suspended driver license when the charged crime was committed; or

c. The defendant has previously been found guilty of, or has had adjudication of guilt withheld for, driving while the defendant's driver license was suspended or revoked in violation of s. 322.34;

5. The defendant poses the threat of harm to the community. The court may so conclude, if it finds that the defendant is presently charged with a dangerous crime, that there is a substantial probability that the defendant committed such crime,



that the factual circumstances of the crime indicate a disregard for the safety of the community, and that there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons;

6. The defendant was on probation, parole, or other release pending completion of sentence or on pretrial release for a dangerous crime at the time the current offense was committed;

7. The defendant has violated one or more conditions of pretrial release or bond for the offense currently before the court and the violation, in the discretion of the court, supports a finding that no conditions of release can reasonably protect the community from risk of physical harm to persons or assure the presence of the accused at trial; or

8.a. The defendant has ever been sentenced pursuant to s. 775.082(9) or s. 775.084 as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal, or the state attorney files a notice seeking that the defendant be sentenced pursuant to s. 775.082(9) or s. 775.084, as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal;

b. There is a substantial probability that the defendant committed the offense; and

c. There are no conditions of release that can reasonably protect the community from risk of physical harm or ensure the presence of the accused at trial.

(d) If a defendant is arrested for a dangerous crime that is a capital felony, a life felony, or a felony of the first degree, and the court determines there is probable cause to

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believe the defendant committed the offense, the state attorney, or the court on its own motion, shall motion for pretrial detention. If the court finds a substantial probability that the defendant committed the offense and, based on the defendant's past and present patterns of behavior, consideration of the criteria in s. 903.046, and any other relevant facts, that no conditions of release or bail will reasonably protect the community from risk of physical harm, ensure the presence of the defendant at trial, or assure the integrity of the judicial process, the court must order pretrial detention.

(e) ~~(d)~~ When a person charged with a crime for which pretrial detention could be ordered is arrested, the arresting agency shall promptly notify the state attorney of the arrest and shall provide the state attorney with such information as the arresting agency has obtained relative to:

1. The nature and circumstances of the offense charged;

2. The nature of any physical evidence seized and the contents of any statements obtained from the defendant or any witness;

3. The defendant's family ties, residence, employment, financial condition, and mental condition; and

4. The defendant's past conduct and present conduct, including any record of convictions, previous flight to avoid prosecution, or failure to appear at court proceedings.

(f) ~~(e)~~ When a person charged with a crime for which pretrial detention could be ordered is arrested, the arresting agency may detain such defendant, prior to his or her first appearance hearing or prior to the filing by the state attorney of a motion seeking pretrial detention, for a period not to

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exceed 24 hours.

(g)1.~~(f)~~ If a motion for pretrial detention is required under paragraph (d), the pretrial detention hearing must ~~shall~~ be held within 5 days after the defendant's first appearance hearing or, if there is no first appearance hearing, within 5 days after the defendant's arraignment ~~of the filing by the state attorney of a complaint to seek pretrial detention~~.

2. If a state attorney files a motion for pretrial detention under paragraph (c), the pretrial detention hearing must be held within 5 days after the filing of such motion.

3. The defendant may request a continuance of a pretrial detention hearing. No continuance shall be for longer than 5 days unless there are extenuating circumstances. ~~The defendant may be detained pending the hearing.~~ The state attorney shall be entitled to one continuance for good cause.

4. The defendant may be detained pending the completion of the pretrial detention hearing. If a defendant is released on bail pending a pretrial detention hearing under paragraph (d), the court must inform the defendant that if he or she uses a surety bond to meet the monetary component of pretrial release and the motion for pretrial detention is subsequently granted, the defendant will not be entitled to the return of the premium on such surety bond.

(h)~~(g)~~ The state attorney has the burden of showing the need for pretrial detention.

(i)~~(h)~~ The defendant is entitled to be represented by counsel, to present witnesses and evidence, and to cross-examine witnesses. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and



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consideration of evidence at the detention hearing ~~The court may admit relevant evidence without complying with the rules of evidence~~, but evidence secured in violation of the United States Constitution or the Constitution of the State of Florida shall not be admissible. No testimony by the defendant shall be admissible to prove guilt at any other judicial proceeding, but such testimony may be admitted in an action for perjury, based upon the defendant's statements made at the pretrial detention hearing, or for impeachment.

(j) A party may motion for a pretrial detention order to be reconsidered at any time before a defendant's trial if the judge finds that information exists that was not known to the party moving for reconsideration at the time of the pretrial detention hearing and that such information has a material bearing on determining whether there are conditions of release or bail that will reasonably assure the appearance of the defendant as required and the safety of any other person and the community from harm.

(k) ~~(i)~~ The pretrial detention order of the court shall be based solely upon evidence produced at the hearing and shall contain findings of fact and conclusions of law to support it. The order shall be made either in writing or orally on the record. The court shall render its findings within 24 hours of the pretrial detention hearing.

(l) ~~(j)~~ A defendant convicted at trial following the issuance of a pretrial detention order shall have credited to his or her sentence, if imprisonment is imposed, the time the defendant was held under the order, pursuant to s. 921.161.

(m) ~~(k)~~ The defendant shall be entitled to dissolution of

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the pretrial detention order whenever the court finds that a subsequent event has eliminated the basis for detention.

~~(l) The Legislature finds that a person who manufactures any substances in violation of chapter 893 poses a threat of harm to the community and that the factual circumstances of such a crime indicate a disregard for the safety of the community. The court shall order pretrial detention if the court finds that there is a substantial probability that a defendant charged with manufacturing any substances in violation of chapter 893 committed such a crime and if the court finds that there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons.~~

Section 5. This act shall take effect January 1, 2024.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to pretrial release and detention; amending s. 903.011, F.S.; providing for setting, reduction, and alteration of bail; requiring the Supreme Court to create and periodically update a statewide uniform bail bond schedule for certain offenses; providing for the chief judge of a judicial circuit to establish a lower bail bond schedule in certain cases; requiring Supreme Court approval for local deviations from the statewide uniform bail bond schedule; providing that arrested persons in certain

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categories may not be released until a first appearance and that bond for such persons be individually determined based on specified factors; amending s. 903.047, F.S.; authorizing a court to consider nonmonetary conditions in addition to or in lieu of a monetary amount subject to specified limitations; listing possible nonmonetary conditions; amending s. 903.0471, F.S.; providing that a court may revoke pretrial release and order pretrial detention if a defendant materially violates any release condition; amending s. 907.041, F.S.; revising the definition of the term "dangerous crime"; providing that a person arrested for a dangerous crime may not be granted nonmonetary pretrial release at a first appearance hearing; specifying that upon motion by the state attorney, a court may order pretrial detention in certain circumstances; providing for a detention hearing for persons charged with dangerous crimes; authorizing a state attorney or a court to move for detention of persons charged with dangerous crimes in certain circumstances; requiring a court to order pretrial detention in certain circumstances; providing requirements for detention hearings; revising requirements for a pretrial detention order; requiring a court to provide specified information to certain defendants; providing that a party may move for reconsideration of a pretrial detention order any time before trial in certain circumstances; removing a requirement for pretrial detention for defendants

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charged with illegally manufacturing controlled substances in certain cases; providing an effective date.

By Senator Martin

33-00880B-23 20231534__

A bill to be entitled

An act relating to pretrial release and detention; amending s. 903.011, F.S.; specifying that only a judge is authorized to set, reduce, or alter a defendant's bail; authorizing a court to reconsider the monetary component imposed as part of bail under a certain circumstance; requiring the Florida Supreme Court to adopt by a specified date, and annually thereafter, a uniform statewide bond schedule for specified offenses; prohibiting judges of inferior courts from establishing a bond schedule that is less restrictive; authorizing the chief judge of a judicial circuit to petition the Florida Supreme Court for approval of a countywide or circuitwide bond schedule that sets a lower bond amount than required by the uniform statewide bond schedule; authorizing the chief judge of a judicial circuit to establish a countywide or circuitwide bond schedule that meets certain criteria; prohibiting a person who meets specified criteria from being released before his or her first appearance hearing; amending s. 903.047, F.S.; revising the requirements with which a defendant must comply as conditions of pretrial release imposed by the court; authorizing a court to consider specified nonmonetary conditions in determining appropriate conditions of release; amending s. 903.0471, F.S.; authorizing a court to revoke pretrial release and order pretrial detention if the court finds probable cause to believe that the defendant materially

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violated any condition of his or her pretrial release; amending s. 907.041, F.S.; revising the definition of the term "dangerous crime"; prohibiting persons arrested for, rather than charged with, a dangerous crime from being granted nonmonetary pretrial release at a first appearance hearing; deleting a provision granting a court discretion to release an accused person on electronic monitoring or recognizance bond; requiring a court to hold a detention hearing under specified circumstances; authorizing a state attorney to move for the pretrial detention of a defendant not charged with a dangerous crime under certain circumstances; requiring, rather than authorizing, a court to order pretrial detention if it finds, because of specified circumstances, that no conditions of release or bail will reasonably protect the community from risk of physical harm, assure the presence of the accused at trial, or assure the integrity of the judicial process; authorizing the arresting agency to detain a defendant before his or her first appearance hearing for a certain period of time when a person is arrested in connection with a crime for which pretrial detention could be ordered; revising the circumstances and requirements of a pretrial detention hearing; authorizing the detention of the defendant pending completion of the hearing; specifying that the state attorney has the burden of showing the need for pretrial detention by clear and convincing evidence; requiring that the defendant be afforded specified

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

rights during the pretrial detention hearing; providing and revising requirements related to the pretrial detention hearing and the pretrial detention order; making technical changes; providing an effective date.

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

Section 1. Section 903.011, Florida Statutes, is amended to read:

903.011 Pretrial release ~~"Bail" and "bond" defined~~; general terms; statewide uniform bond schedule.—

(1) As used in this chapter, the terms "bail" and "bond" include any and all forms of pretrial release.

(2) Any monetary or cash component of any form of pretrial release may be met by a surety bond.

(3) Differing monetary amounts may not be set for cash, surety, or other forms of pretrial release.

(4) Except as authorized in subsection (5), only a judge may set, reduce, or otherwise alter a defendant's bail. Upon motion by a defendant, or on the court's own motion, a court may reconsider the monetary component of a defendant's bail if he or she is unable to post a monetary bond.

(5)(a) Beginning January 1, 2024, and annually thereafter, the Florida Supreme Court shall adopt a uniform statewide bond schedule for criminal offenses not described in subsection (6) for which a person may be released on bail before and in lieu of his or her first appearance hearing or bail determination. The Florida Supreme Court shall make the revised uniform statewide

bond schedule available to each judicial circuit.

(b) Except as provided in paragraph (c), a judge of an inferior court may not establish a countywide or circuitwide bond schedule that sets a lower bond amount than that required by the uniform statewide bond schedule for the purpose of setting a defendant's bail before a first appearance hearing or bail determination.

(c) The chief judge of a judicial circuit may petition the Florida Supreme Court for approval of a countywide or circuitwide bond schedule that sets a lower bond amount than required by the uniform statewide bond schedule. If the Florida Supreme Court reviews and approves such countywide or circuitwide bond schedule, such schedule may be used for the purpose of setting a defendant's bail before a first appearance hearing or bail determination pending the adoption of a new or revised uniform statewide bond schedule pursuant to paragraph (a).

(d) The chief judge of a judicial circuit may establish a countywide or circuitwide bond schedule that:

1. Requires additional nonmonetary conditions to be imposed upon a defendant who is charged with specified offenses or who has a specified criminal history; or

2. Increases the monetary bond applicable to an offense that is included in the uniform statewide bond schedule adopted by the Florida Supreme Court.

(e) In adopting the uniform statewide bond schedule or reviewing a petition for a countywide or circuitwide bond schedule that deviates from the uniform statewide bond schedule, the Florida Supreme Court shall evaluate the amount of monetary

bond necessary to protect the community from risk of physical harm, to assure the presence of the accused at trial, and to protect the integrity of the judicial process.

(f) The uniform statewide bond schedule may not bind a judge in an individual case who is conducting a first appearance hearing or bail determination.

(6) A person may not be released before his or her first appearance hearing, and a judge must determine the appropriate bail, if any, based on an individualized consideration of the criteria in s. 903.046(2), if the person meets any of the following criteria:

(a) The person was, at the time of arrest for any felony, on pretrial release, probation, or community control in this state or any other state.

(b) The person was, at the time of arrest, designated as a sexual offender or sexual predator in this state or any other state.

(c) The person was arrested for violating a protective injunction.

(d) The person was, at the time of arrest, on release from supervision under s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731.

(e) The person has, at any time before the current arrest, been sentenced pursuant to s. 775.082(9) or s. 775.084 as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal.

(f) The person was previously arrested or issued a summons for a criminal violation within the immediately preceding 6 months.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

(g) The offense for which he or she is currently arrested is for committing one or more of the following crimes:

1. A capital felony, life felony, felony of the first degree, or felony of the second degree;

2. A homicide, or any attempt, solicitation, or conspiracy to commit a homicide, under chapter 782;

3. Assault in furtherance of a riot or an aggravated riot; felony battery; domestic battery by strangulation; an act of domestic violence as defined in s. 741.28; stalking; mob intimidation; assault or battery on a law enforcement officer; assault or battery on a juvenile probation officer, a staff member of a detention center, a staff member of a commitment facility, or a health care services personnel; assault or battery on a person 65 years of age or older; robbery; burglary; carjacking; or resisting an officer with violence;

4. Kidnapping, false imprisonment, human trafficking, or human smuggling;

5. Possession of a firearm or any ammunition by a felon, violent career criminal, or person subject to an injunction against committing acts of domestic violence, stalking, or cyberstalking;

6. Sexual battery; indecent, lewd, or lascivious touching; exposure of sexual organs; incest; luring or enticing a child; or child pornography;

7. Abuse, neglect, or exploitation of an elderly person or disabled adult;

8. Child abuse or aggravated child abuse;

9. Arson; riot, aggravated riot, inciting a riot, or aggravated inciting a riot; or burglary or theft during a riot;

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

10. Escape; tampering or retaliating against a witness, victim, or informant; destruction of evidence; or tampering with a jury;

11. Any offense committed for the purpose of benefiting, promoting, or furthering the interests of a criminal gang;

12. Trafficking in a controlled substance, including conspiracy to engage in trafficking in a controlled substance;

13. Racketeering; or

14. Failure to appear at a required court proceeding while on bail.

Section 2. Paragraph (c) of subsection (1) of section 903.047, Florida Statutes, is amended to read:

903.047 Conditions of pretrial release.—

(1) As a condition of pretrial release, whether such release is by surety bail bond or recognizance bond or in some other form, the defendant must:

(c) Comply with all conditions of pretrial release imposed by the court. In determining appropriate conditions of release, a court may consider imposing nonmonetary conditions in addition to or in lieu of monetary bond subject to the limitations contained in ss. 903.046 and 903.0471. Such nonmonetary conditions may include, but are not limited to, requiring a defendant to:

1. Maintain employment or, if unemployed, actively seek employment;

2. Maintain or commence an educational program;

3. Abide by specified restrictions on personal associations, place of residence, or travel;

4. Report on a regular basis to a designated law

enforcement agency, pretrial services agency, or other agency;

5. Comply with a specified curfew;

6. Refrain from possessing a firearm, destructive device, or other dangerous weapon;

7. Refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance without a prescription from a licensed medical practitioner;

8. Undergo available medical, psychological, psychiatric, mental health, or substance abuse evaluation and follow all recommendations, including treatment for drug or alcohol dependency, and remain in a specified institution, if required for that purpose;

9. Return to custody for specified hours following release for employment, school, or other limited purposes; and

10. Comply with any other condition that is reasonably necessary to assure his or her appearance at subsequent proceedings and to protect the community against unreasonable danger of harm.

Section 3. Section 903.0471, Florida Statutes, is amended to read:

903.0471 Violation of condition of pretrial release.—Notwithstanding s. 907.041, a court may, on its own motion, revoke pretrial release and order pretrial detention if the court finds probable cause to believe that the defendant committed a new crime while on pretrial release or violated any other condition of pretrial release in a material respect.

Section 4. Subsection (4) of section 907.041, Florida Statutes, is amended to read:

907.041 Pretrial detention and release.—

(4) PRETRIAL DETENTION.—

(a) As used in this subsection, the term "dangerous crime" includes all ~~means any~~ of the following:

1. Arson;

2. Aggravated assault;

3. Aggravated battery;

4. Illegal use of explosives;

5. Child abuse or aggravated child abuse;

6. Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult;

7. Aircraft piracy;

8. Kidnapping;

9. Homicide;

10. Manslaughter, including DUI manslaughter and BUI manslaughter;

11. Sexual battery;

12. Robbery;

13. Carjacking;

14. Lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years;

15. Sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority;

16. Burglary of a dwelling;

17. Stalking and aggravated stalking;

18. Act of domestic violence as defined in s. 741.28;

19. Home invasion robbery;

20. Act of terrorism as defined in s. 775.30;

21. Manufacturing any substances in violation of chapter

893;

22. Attempting or conspiring to commit any such crime; ~~and~~

23. Human trafficking; and

24. Trafficking in any controlled substance described in s. 893.135(1)(c)4.

(b) A ~~No~~ person arrested for ~~charged with~~ a dangerous crime may not ~~shall~~ be granted nonmonetary pretrial release at a first appearance hearing~~; however, the court shall retain the discretion to release an accused on electronic monitoring or on recognizance bond if the findings on the record of facts and circumstances warrant such a release~~.

(c) The court must hold a detention hearing during, or within 5 days after, the defendant's:

1. First appearance hearing, if the defendant has been arrested for a dangerous crime; or

2. Arraignment, if the defendant is charged at any time subsequent to his or her arrest with a dangerous crime, has failed to appear at any court proceeding at which his or her appearance was required, or has violated the conditions of his or her pretrial release for the current offense two or more times.

(d) The state attorney may move for pretrial detention of a defendant who is not charged with a dangerous crime, but for whom the state attorney otherwise believes that pretrial detention is necessary to protect the community from unreasonable danger of harm or to assure the defendant's appearance at court proceedings.

(e)~~(c)~~ The court must ~~may~~ order pretrial detention if it finds a substantial probability, based on a defendant's past and

present patterns of behavior, the criteria in s. 903.046, and any other relevant facts, that no conditions of release or bail will reasonably protect the community from risk of physical harm from the defendant, assure the presence of the defendant at trial, or assure the integrity of the judicial process because any of the following circumstances exist:

1. There is a substantial probability that the defendant committed a dangerous crime;

2. The defendant has previously violated conditions of release and that no further conditions of release are reasonably likely to assure the defendant's appearance at subsequent proceedings;

3.~~2.~~ There is a substantial probability that the defendant, with the intent to obstruct the judicial process, has threatened, intimidated, or injured any victim, potential witness, juror, or judicial officer or has tampered with evidence~~,~~ or, with regard to any such action, has attempted or conspired to do so or has previously been convicted of doing so~~, and that no condition of release will reasonably prevent the obstruction of the judicial process~~;

~~3. The defendant is charged with trafficking in controlled substances as defined by s. 893.135, that there is a substantial probability that the defendant has committed the offense, and that no conditions of release will reasonably assure the defendant's appearance at subsequent criminal proceedings;~~

~~4. The defendant is charged with DUI manslaughter, as defined by s. 316.193, and that there is a substantial probability that the defendant committed the crime and that the defendant poses a threat of harm to the community; conditions~~

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~~that would support a finding by the court pursuant to this subparagraph that the defendant poses a threat of harm to the community include, but are not limited to, any of the following:~~

~~a. The defendant has previously been convicted of any crime under s. 316.193, or of any crime in any other state or territory of the United States that is substantially similar to any crime under s. 316.193;~~

~~b. The defendant was driving with a suspended driver license when the charged crime was committed; or~~

~~c. The defendant has previously been found guilty of, or has had adjudication of guilt withheld for, driving while the defendant's driver license was suspended or revoked in violation of s. 322.34;~~

4.~~5.~~ The defendant poses a ~~the~~ threat of harm to the community, which may include his or her past or current involvement in a criminal gang or in the manufacturing or trafficking of substances in violation of chapter 893~~. The court may so conclude, if it finds that the defendant is presently charged with a dangerous crime, that there is a substantial probability that the defendant committed such crime, that the factual circumstances of the crime indicate a disregard for the safety of the community, and that there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons~~;

5.~~6.~~ The defendant was on probation, parole, or other release pending completion of sentence or on pretrial release for a dangerous crime at the time the current offense was committed;

6.~~7.~~ The defendant has violated one or more conditions of

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pretrial release or bond for the offense currently before the court ~~and the violation, in the discretion of the court, supports a finding that no conditions of release can reasonably protect the community from risk of physical harm to persons or assure the presence of the accused at trial; or~~

7.a.~~8.a.~~ The defendant has ever been sentenced pursuant to s. 775.082(9) or s. 775.084 as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal, or the state attorney would be authorized to file ~~files~~ a notice seeking that the defendant be sentenced pursuant to s. 775.082(9) or s. 775.084, as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal for the offense currently before the court; and

b. There is a substantial probability that the defendant committed the current offense for which he or she was arrested; or ~~and~~

~~c. There are no conditions of release that can reasonably protect the community from risk of physical harm or ensure the presence of the accused at trial.~~

8.a. The defendant has been convicted on more than five occasions of a misdemeanor of the first degree or a felony and at least one of his or her prior convictions was for a dangerous crime, including any attempt or conspiracy to commit a dangerous crime; and

b. There is a substantial probability that the defendant committed the current offense for which he or she was arrested.

(f)~~(d)~~ When a person charged with a crime for which pretrial detention could be ordered is arrested, the arresting

agency shall promptly notify the state attorney of the arrest and shall provide the state attorney with such information as the arresting agency has obtained relative to:

1. The nature and circumstances of the offense charged;

2. The nature of any physical evidence seized and the contents of any statements obtained from the defendant or any witness;

3. The defendant's family ties, residence, employment, financial condition, and mental condition; and

4. The defendant's past conduct and present conduct, including any record of convictions, previous flight to avoid prosecution, or failure to appear at court proceedings.

(g)~~(e)~~ When a person charged with a crime for which pretrial detention could be ordered is arrested, the arresting agency may detain such defendant, before his or her first appearance hearing or before ~~prior to~~ the filing by the state attorney of a motion seeking pretrial detention, for a period not to exceed 24 hours.

(h)~~(f)~~ The pretrial detention hearing must ~~shall~~ be held within 5 days after the defendant's first appearance hearing, after arraignment, or after ~~of the filing by~~ the state attorney files ~~of~~ a motion ~~complaint~~ to seek pretrial detention, whichever is applicable. The defendant may request a continuance. A ~~No~~ continuance may not exceed ~~shall be for longer than~~ 5 days, unless there are extenuating circumstances. The defendant may be detained pending the completion of the hearing. The state attorney is ~~shall be~~ entitled to one continuance for good cause.

(i)~~(g)~~ The state attorney has the burden of showing the

need for pretrial detention by clear and convincing evidence. The state attorney may satisfy his or her burden by proffering the facts and circumstances of the underlying crime and any other relevant criteria specified in s. 903.046. If the court finds that there is a substantial probability that the defendant committed a dangerous crime or that the defendant meets the criteria in subparagraph (e)7. or subparagraph (e)8., it must be presumed, subject to rebuttal by the defendant, that no conditions of release or bail will reasonably protect the community from risk of physical harm to persons and assure the appearance of the defendant at trial.

(j) ~~(h)~~ The defendant is entitled to be represented by counsel and must be afforded an opportunity to testify, to present witnesses, to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise.

(k) The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the pretrial detention hearing~~, to present witnesses and evidence, and to cross-examine witnesses~~. ~~The court may admit relevant evidence without complying with the rules of evidence, but evidence secured in violation of the United States Constitution or the Constitution of the State of Florida shall not be admissible. No~~ Testimony or proffer by or on behalf of the defendant is not ~~shall be~~ admissible to prove guilt at any other judicial proceeding, but such testimony may be admitted in an action for perjury, based upon the defendant's statements made at the pretrial detention hearing, or for impeachment.

(l) A party may move that a pretrial detention order be

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reconsidered at any time before a defendant's trial if the judge finds that information exists that was not known to the party moving for reconsideration at the time of the pretrial detention hearing and that such information has a material bearing on determining whether there are conditions of release or bail that will reasonably assure the required appearance of the defendant and the safety of any other person and the community from harm.

(m) ~~(i)~~ The pretrial detention order of the court must ~~shall~~ be based solely upon facts and circumstances proffered, testimony received, or evidence produced at the hearing and must ~~shall~~ contain findings of fact and conclusions of law to support it. The order must ~~shall~~ be made either in writing or orally on the record. The court shall render its findings within 24 hours after ~~of~~ the pretrial detention hearing.

(n) ~~(j)~~ A defendant convicted at trial following the issuance of a pretrial detention order must ~~shall~~ have credited to his or her sentence, if imprisonment is imposed, the time the defendant was held under the order, pursuant to s. 921.161.

(o) ~~(k)~~ The defendant is ~~shall be~~ entitled to dissolution of the pretrial detention order whenever the court finds that a subsequent event has eliminated the basis for detention.

~~(l) The Legislature finds that a person who manufactures any substances in violation of chapter 893 poses a threat of harm to the community and that the factual circumstances of such a crime indicate a disregard for the safety of the community. The court shall order pretrial detention if the court finds that there is a substantial probability that a defendant charged with manufacturing any substances in violation of chapter 893 committed such a crime and if the court finds that there are no~~

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~~conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons.~~

Section 5. This act shall take effect January 1, 2024.

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The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4.13.23
Meeting Date

Fiscal Policy
Committee

1534
Bill Number or Topic

Amendment Barcode (if applicable)

Name Kara Gross

Phone 786-363-4436

Address 4343 W. Flagler
Street

Email kgross@aclufl.org

Miami | FL | 33134
City | *State* | *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☑ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
ACLU of Florida

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

FISCAL POLICY
Committee

SB 1534
Bill Number or Topic

Amendment Barcode (if applicable)

Name LIBBY GUZZO

Phone 850 245 0155

Address PL-01 CAPITOL
Street

Email LIBBY.GUZZO@MYFLORIDALEGAL.COM

TLH FL 32399
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
OFFICE OF ATTORNEY GENERAL

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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April 13, 2023
Meeting Date

Fiscal Policy
Committee

1534
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 1454 Vieux Carre Drive
Street

Email Barney@BarneyBishop.com

Tallahassee FL 32308
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Fla. Smart Justice

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/CS/SB 1550
INTRODUCER:	Fiscal Policy Committee, Health Policy Committee, and Senator Brodeur, and others.
SUBJECT:	Prescription Drugs
DATE:	April 14, 2023 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Brown	HP	**Fav/CS**
2.	Stovall	Yeatman	FP	**Fav/CS**
3.				

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1550 addresses the transparency of a manufacturer's prescription drug price increases above certain thresholds and the relationships between pharmacy benefit managers, pharmacy benefits plans and programs, and pharmacy providers for delivering pharmacy services to covered persons.

The bill requires prescription drug manufacturers and nonresident prescription drug manufacturers to disclose reportable prescription drug price increases. This information will be published on the Florida Health Finder website. A reportable prescription drug price increase refers to a prescription drug with a wholesale acquisition cost of at least $100 for a course of therapy before the effective date of the increase, and the bill requires the following to be reported:

- Any increase of 15 percent or more of the wholesale acquisition cost during the preceding 12-month period; or
- Any increase of 30 percent or more of the wholesale acquisition cost during the preceding three calendar years.

The bill requires pharmacy benefit managers (PBMs) to obtain a certificate of authority for an administrator under the Florida Insurance Code (FIC) and makes them subject to existing and enhanced requirements as set forth in the bill under the FIC. The bill proscribes and prescribes certain disclosures and actions governing contractual relationships between PBMs and pharmacy benefits plans and programs and also between PBMs and pharmacy providers.

The bill provides a $1 million appropriation to the Office of Insurance Regulation.

The bill provides an effective date of July 1, 2023.

II. Present Situation:

Prescription drugs can dramatically improve a person's quality of life, with some therapies being the only thing separating a person from death – but the price can be steep.[1] In 2021, the U.S. health care system spent $421 billion on retail prescription drugs. As reflected in the chart below, spending growth on drugs was largely due to growth in spending per prescription, and to a lesser extent by increased utilization (i.e., more prescriptions). The following chart depicts prescription drug expenditures (in inflation-adjusted dollars) and the number of retail prescriptions from 2016-2021.[2]

	Retail Expenditures, Billions ($)	Retail Prescriptions, Millions (#)
2016	374	4,816
2017	369	4,923
2018	377	5,118
2019	389	5,243
2020	406	4,970
2021	421	5,089
% Change, 2016-2021	12.5%	5.7%

Source: ASPE analysis of IQVIA National Sales Perspective (NSP) Data

Four locations of sale for retail drug expenditures are reported in the chart above – chain store pharmacy, mail-order pharmacy, independent pharmacy, and food store pharmacy. Three of the four locations experienced an increase in sales between 2016 and 2021. Expenditures increased by 4 percent in chain store pharmacies, 35 percent for mail order pharmacies, and 1 percent for food store pharmacies, but decreased 5 percent for independent pharmacies.[3]

Pharmacy Benefit Managers

PBMs are companies that manage prescription drug benefits on behalf of pharmacy benefit plans or programs (health insurers, Medicare Part D drug plans, large employers, state health plans, and other payers).[4] Key PBM functions may include administration and management of prescription drug benefits; developing and maintaining formularies; negotiating discounts and

[1] *See* NCSL State Policy Options and Pharmacy Benefit Managers (PBMs) updated March 23, 2022, available at: https://www.ncsl.org/health/state-policy-options-and-pharmacy-benefit-managers (last visited Mar. 23, 2023).
[2] Parasrampuria, S. and Murphy, S. Trends in Prescription Drug Spending, 2016-202. Washing, DC: Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services. September 2022, available at: https://aspe.hhs.gov/sites/default/files/documents/88c547c976e915fc31fe2c6903ac0bc9/sdp-trends-prescription-drug-spending.pdf (last visited Mar. 23, 2023).
[3] *Id.*
[4] The Commonwealth Fund, Pharmacy Benefit Managers and Their Role in Drug Spending, (April 22, 2019) available at: https://www.commonwealthfund.org/sites/default/files/2019-04/Explainer_PBMs_1.pdf (last visited Mar. 23, 2023).

rebates between payers and pharmaceutical manufacturers; providing access to a contracted pharmacy network; real-time pharmacy claims processing; and performing utilization management, retroactive claims review, prior authorization, and other medication management programs.[5]

The three largest PBMs control about 80 percent of the total PBM market. In 2021, CVS Caremark led the industry, controlling 34 percent of total adjusted claims, followed by Express Scripts (25%) and Optum Rx (21%). The next group includes Humana's in-house PBM (8%), Prime Therapeutics LLC (6%) and MedImpact (4%). Approximately 60 smaller PBMs also participate in the marketplace.[6]

The Federal Trade Commission (FTC) announced on June 7, 2022, that it would launch an investigation into contracting and other business practices in the PBM industry, requiring CVS Caremark, Express Scripts, Inc., OptumRx, Inc., Humana Inc., Prime Therapeutics LLC, and MedImpact Healthcare Systems, Inc., to provide information and records regarding their business practices.[7] The announcement frames the inquiry as follows:

> The Commission's inquiry will examine PBMs' role at the center of the U.S. pharmaceutical system. PBMs are the middlemen who are hired to negotiate rebates and fees with drug manufacturers, create drug formularies and surrounding policies, and reimburse pharmacies for patients' prescriptions. The largest PBMs are now vertically integrated with the largest health insurance companies and wholly owned mail order and specialty pharmacies.
>
> In these roles, pharmacy benefits managers often have enormous influence on which drugs are prescribed to patients, which pharmacies patients can use, and how much patients ultimately pay at the pharmacy counter. Many of these functions depend on highly complicated, opaque contractual relationships that are difficult or impossible to understand for patients and independent businesses across the prescription drug system.
>
> The inquiry is aimed at shedding light on several practices that have drawn scrutiny in recent years including:
> - Fees and clawbacks charged to unaffiliated pharmacies;
> - Methods to steer patients towards PBM-owned pharmacies;
> - Potentially unfair audits of independent pharmacies;
> - Complicated and opaque methods to determine pharmacy reimbursement;

[5] U.S. Pharmacist, State PBM Regulations Protecting Community Pharmacies, (August 16, 2022) *US Pharm. 2022;47(8):21-25* available at: https://www.uspharmacist.com/article/state-pbm-regulations-protecting-community-pharmacies (last visited Mar. 23, 2023).
[6] Managed Healthcare Executive: Beyond the Big Three PBMs, (December 14, 2022), *MHE December 2022, Vol 32, Issue 12*, available at: https://www.managedhealthcareexecutive.com/view/beyond-the-big-three-pbms (last visited Mar. 23, 2023).
[7] Federal Trade Commission: FTC Launches Inquiry Into Prescription Drug Middlemen Industry, Agency to Scrutinize the Impact of Vertically Integrated Pharmacy Benefit Managers on the Access and Affordability of Medicine (June 7, 2022) available at: https://www.ftc.gov/news-events/news/press-releases/2022/06/ftc-launches-inquiry-prescription-drug-middlemen-industry (last visited Mar. 23, 2023).

- The prevalence of prior authorizations and other administrative restrictions;
- The use of specialty drug lists and surrounding specialty drug policies; and
- The impact of rebates and fees from drug manufacturers on formulary design and costs of prescription drugs to payers and patients.

Minnesota Attorney General Keith Ellison is participating in a bipartisan coalition of at least 35 attorneys general[8] from across the country in an amicus brief to the Tenth Circuit Court of Appeals supporting Oklahoma's laws that regulate abusive behavior of PBMs. In his press release announcing his participation in the coalition, he states: [9]

> … PBMs profit from fees charged to market participants and by reimbursing pharmacies less than the PBM is paid by plans for dispensing medications. PBMs have imposed self-serving protections that reduce competition, limit prescription medication access, and impose various confidentiality requirements. For example, PBMs have tried to force consumers to use PBM-affiliated pharmacies at the expense of independent, often more convenient, pharmacies, by giving consumers preferential rates if they use a PBM-affiliated pharmacy, or by denying coverage at non-affiliated pharmacies altogether.

Regulation and Registration of PBMs in Florida

PBMs that contract to administer prescription drug benefits on behalf of a health insurer or health maintenance organization to residents of Florida have been required to register with the Office of Insurance Regulation (OIR) pursuant to s. 624.490, F.S., since 2019. To initially register, a PBM must submit incorporation of similar documents, identifying information pertaining to officers and directors, and non-refundable fee of $5.00.[10] The statute authorizes a fee not to exceed $500, but it restricts fees from exceeding the cost of administering the registration process.

The registration certificate is valid for two years after its date of issue. Renewal requires submission of organizational documents if any changes have occurred, a completed registration application form, and a renewal fee of $5.00. Similarly, the statute authorizes a renewal fee not to exceed $500, but the same restriction applies to the amount of the renewal fee as it does to the initial fee.

---

[8] The jurisdictions participating include: Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Texas, Utah, Virginia, Washington, and the District of Columbia. *See* Pharmaceutical Care Management Association vs. Glen Mulready et. al., Brief of Amici Curiae; in the US Court of Appeals for the Tenth Circuit (No. 22-6074) available at: https://www.ag.state.mn.us/Office/Communications/2022/docs/PCMA_AmicusBrief.pdf (last visited Mar 22, 2023).

[9] *See* The Office of Minnesota Attorney General Keith Ellison, Attorney General Ellison leads bipartisan coalition to regulate abusive practices of pharmacy benefit manager (October 18, 2022); available at: https://www.ag.state.mn.us/Office/Communications/2022/10/18_PCMA.asp (last visited Mar 22, 2023).

[10] See Florida Office of Insurance Regulation Pharmacy Benefit Managers Registration and Renewal, https://www.floir.com/Sections/AppCoord/is_ac_PBM.aspx (last visited Mar 22, 2023).

A person who fails to register with the office while operating as a PBM is subject to a fine of $10,000 for each violation. The OIR does not have explicit authority to conduct examinations of a PBM, suspend or revoke a PBM's registration, or impose a fine or civil penalty if a registered PBM violates Florida Statutes.[11]

Currently, there are 71 PBMs registered in Florida.[12]

Other States' PBM Laws

All 50 states have enacted some form of licensure, registration, and regulation pertaining to PBMs.[13] Common themes, some or all of which may be in included in a state's law are:

- Prohibiting spread pricing. Spread pricing is typically demonstrated by a PBM reimbursing a pharmacy a lower amount than the amount the pharmacy benefits plan or program (plan or program) paid the PBM, with the PBM retaining the difference.
- Ensuring adequate pharmacy networks that are based on reasonably available retail pharmacies for patients without basing adequacy on mail-order pharmacies.
- Prohibiting PBMs from implementing arbitrary or excessive accreditation or credentialing requirements.
- Prohibiting patient steering. Patient steering can include, but is not limited to, requiring or incentivizing a patient to use a pharmacy, specialty pharmacy, or mail-order pharmacy that is affiliated (through some form of ownership interest) with the PBM or by using certain advertising practices.
- Requiring PBMs that negotiate rebates from manufacturers on behalf of the plan or program to pass all or most of the rebate amount to the plan or program to reduce premiums or to be used to reduce the cost-sharing amount the patient pays for the drug at the pharmacy.
- Banning gag clauses that restrict or penalize pharmacists for disclosing certain information to patients such as lower cost options or other alternatives, or for disclosing information to regulatory authorities.
- Prohibiting retroactive claim adjustments, such as certain clawbacks or other recoupments that reduce the amount paid by the PBM to the pharmacy but are not based on error or similar conditions.
- Requiring fair auditing procedures and appeal opportunities.
- Requiring reasonable reimbursement rates and appeal opportunities to reimbursements.
- Limiting the fees a PBM charges to a pharmacy for such things as network participation or claim adjudication.
- Providing regulatory enforcement authority for state agencies.

[11] The Office of Insurance Regulation 2023 Agency Legislative Bill Analysis for SB 1550, dated March 23, 2023.
[12] *See* The Senate Health Policy Committee recording for February 6, 2023, presentation by Kevin Jacobs from OIR at or about the 3:38 minute mark, recording available at: https://flsenate.gov/media/videoplayer?EventID=1_ky7xx6qg-202302061530&Redirect=true.
[13] *See:* National Conference of State Legislatures: State Policy Options and Pharmacy Benefit Managers, (updated March 23, 2022) available at: State Policy Options and Pharmacy Benefit Managers (ncsl.org) (last visited Mar 22, 2023) and National Community Pharmacists Association's Excel spreadsheet entitled PBM laws by state with cites available at: https://ncpa.org/how-states-protect-pharmacy-and-patients-pbm-abuses (last visited Mar 22, 2023).

Several states have enacted comprehensive laws regulating pharmacy benefit plans or programs and PBMs. Two such states are Arkansas and Oklahoma. A summary of their laws are presented below.

Arkansas

Arkansas' law[14] became effective September 1, 2018. It requires PBMs to be licensed by the Insurance Commissioner (commissioner) who has enforcement authority for a PBM's compliance with the law. Among other provisions, it addresses:

- Network adequacy. PBMs must provide a reasonably adequate and accessible network and a mail-order pharmacy may not be included in the calculations for determining network adequacy.
- Prohibits a PBM from conducting spread pricing.
- Requires PBMs to report quarterly to the commissioner for each health care payer [plan or program]:
  - The individual and aggregate amount paid by the healthcare payer to the PBM for pharmacist services and the individual and aggregate amount the PBM paid for pharmacist services, both itemized by pharmacy, by product, and by goods and services. The commissioner may review and approve the compensation program of a PBM with a health benefit plan to ensure that the reimbursement for pharmacist services paid to a pharmacist or pharmacy is fair and reasonable to provide an adequate network for a health benefit plan.
  - The aggregate amount of rebates received and distributed to the healthcare payer.
  - The aggregate amount of rebates passed on to the enrollees of the healthcare payer at the point of sale that reduced the enrollees' applicable cost-sharing amount.
  - The information in these quarterly reports, the information in the compensation program review, and the data acquired in an examination are not subject to the Freedom of Information Act under Arkansas law.
- Prohibiting a PBM from:
  - Using any advertisements, promotion, solicitation, representation, proposal, or offer that is untrue, deceptive, or misleading;
  - Charging a pharmacist or pharmacy a fee related to adjudication of a claim or participation in a network, unless reviewed and approved by the commissioner;
  - Requiring pharmacy accreditation standards or certification requirements inconsistent with, more stringent than, or in addition to requirements of the State Board of Pharmacy (board), unless approved by the commission and board;
  - Reimbursing a pharmacy or pharmacist less than the amount reimbursed to an affiliate of the PBM for the same pharmacist services;
  - Reimbursing for the ingredient drug product component of pharmacist services less than the national average drug acquisition cost, or if that information is unavailable, the wholesale acquisition cost, with certain exceptions;
  - Reducing the payment for pharmacist services under a reconciliation process to an effective rate of reimbursement, including generic effective rates, brand effective rates, direct and indirect remuneration fees, or any other reduction or aggregate reduction of payment; retroactively denying or reducing after adjudication of a claim or aggregate of

[14] Arkansas Pharmacy Benefits Manager Licensure Act, A.C.A. Title 23, Subtitle 3, Chapter 92.

claims unless the claim was submitted fraudulently, the claim was a duplicate claim already reimbursed, or the pharmacist services were not properly rendered; and
- Failing to pay a pharmacy or pharmacist that is terminated from the network any payment due for pharmacist services properly rendered.
- Imposing gag clauses such as: (1) prohibiting, restricting, or penalizing a pharmacy or pharmacist from disclosing to any covered person any healthcare information that the participating provider deems appropriate regarding the nature of treatment, risks, or alternatives thereto; the availability of alternate therapies, consultations, or tests; the decision of utilization reviewers or similar persons to authorize or deny services; the process that is used to authorize or deny healthcare services or benefits, or information on financial incentives and structures used by the insurer; (2) restricting a pharmacy or pharmacist from providing to an insured information regarding the insured's total cost for pharmacist services for a prescription drug or from selling a more affordable alternative to the insured if one is available; and (3) prohibiting, restricting, or limiting disclosure of information to the commissioner, law enforcement, or state and federal governmental officials investigating or examining a complaint or conducting a review of a PBM's compliance with the law.

Oklahoma

Oklahoma's Patient's Right to Pharmacy Choice Act, (Act) was enacted and effective in 2019.[15] The stated purpose of the Act is to establish minimum and uniform access to a provider and standards and prohibitions on restrictions of a patient's right to choose a pharmacy provider.[16] Under the Act, a PBM may not, among other things:
- Use mail-order pharmacies to meet access standards for retail pharmacy networks.
- Require patients to use affiliated pharmacies.
- Include the name of any pharmacy unless it specifically lists all pharmacies participating in the network, in advertising or other materials, or provide information that is untrue, deceptive, or misleading.
- Charge a pharmacy or pharmacist a fee for claim submission, adjudications, or for participation in a network.
- Reimburse a pharmacy or pharmacist less than the amount the PBM reimburses to an affiliated pharmacy.
- Deny a pharmacy the opportunity to participate in a network at preferred participation status if the pharmacy is willing to accept the terms and conditions for such providers.
- Retroactively deny or reduce reimbursement for a covered service claim previously paid, with certain exceptions.
- Fail to make a payment due for a properly rendered covered service upon termination of the pharmacy from the network.
- Use spread pricing.
- Restrict a pharmacy from informing a person about lower cost alternatives, such as paying a cash price without using the plan or program's coverage.

[15] *See* H.B. 2632, Enrolled; Laws 2019, c. 426, effective November 1, 2019, available at: http://www.oklegislature.gov/BillInfo.aspx?Bill=hb2632&Session=1900 (last visited Mar. 22, 2023).
[16] Codified at s. 36-6959

- Restrict a pharmacy from informing governmental officials or law enforcement about the PBM's compliance with the Act.
- Fail to maintain an electronic claim inquiry processing system in accordance with national standards.

Additional provisions relate to imposing responsibility on the health insurer for ensuring that requirements of the Act are met, including but not limited to ensuring an individual may choose any in-network provider which may include a retail pharmacy or a mail-order pharmacy without incentivizing through discounts that choice.

The Oklahoma Insurance Commissioner is responsible for enforcing the Act and as a part of that function must establish an Advisory Committee to assist with this responsibility. The Commissioner must provide for the receiving and processing of individual complaints alleging violations of the Act. The Advisory Committee is responsible for reviewing the individual complaints, holding hearings and taking disciplinary action for any violations, as appropriate. If the Commissioner determines, based on an investigation of complaints, that a PBM has engaged in violations of the Act with such frequency that it indicates a general business practice that warrants closer supervision, the Commissioner may impose more stringent oversight of the PBM.

Legal Discussion

Over the past ten years, states have been more active in regulating PBMs. Several challenges to certain provisions in these laws have been brought by the Pharmaceutical Care Management Association (PCMA). PCMA is the national association representing America's PBMs.[17] Typically two theories support the challenges: the provisions are preempted by one or both federal laws relating to ERISA and Medicare Part D.

ERISA Preemption

The Employee Retirement Income Security Act of 1974 (ERISA) is a federal law designed to govern how employers provide benefit plans to employees. It regulates all employer-sponsored benefit plans, including group health plans. In enacting ERISA in 1974, Congress sought to provide national standards for employee benefit plans, including reporting, disclosures, fiduciary responsibilities, claims/appeals and remedies for noncompliance with the goal of making the benefits promised by an employer more secure.

To minimize the administrative and financial burden of complying with the potential patchwork effect of each state enacting their own laws regulating employee benefits, Congress included a preemption of state laws that would interfere with the uniform administration of ERISA plans. That preemption states, ERISA "supersede[s] any and all State laws insofar as they may now or hereafter relate to any employee benefit plan" covered by ERISA.[18] Determining whether ERISA preempts a particular state law has not always been straightforward and until recently federal

[17] PCMA, About PCMA available at: https://www.pcmanet.org/about/ (last visited Mar. 23, 2023).
[18] 29 U.S.C. s. 1144(a).

court decisions considering whether state laws regulating pharmacy benefits were preempted by ERISA were inconsistent.[19]

In 2020, the U.S. Supreme Court took up a challenge by the Pharmaceutical Care Management Association (PCMA) to the Arkansas statute regulating PBMs' reimbursement to pharmacies on grounds that the statute was preempted by ERISA. The court in *Rutledge v. Pharmaceutical Care Management Association*,[20] opined that the statute in dispute was not preempted by ERISA and provided a roadmap for determining whether a state law would be preempted by ERISA.

In *Rutledge*, the court considered whether the state law had an "impermissible connection" with an ERISA plan by requiring providers to structure benefit plans in particular ways, such as by requiring payment of specific benefits or by binding plan administrators to specific rules for determining beneficiary status.[21] The court ruled that the statute at issue did not "relate to" an ERISA plan because the requirement that PBMs reimburse pharmacies at a rate equal to or higher than the pharmacy's acquisition cost was merely a form of cost regulation which did not dictate plan choices or design. The court stated that ERISA preempts laws that require providers to structure benefit plans in particular ways, such as requiring the payment of specific benefits or by binding plan administrators to specific rules for determining beneficiary status. The court further opined that the statute did not "refer to" ERISA, as the state did not act immediately and exclusively upon ERISA plans and the existence of such plans was not essential to the law's operation, since it regulated PBMs whether or not the plans they service fell within ERISA's coverage.[22] The Arkansas law defined a plan or program as "any plan or program that pays for, reimburses, covers the cost of, or otherwise provides for pharmacist services to individuals who reside in or are employed in [Arkansas]."

Medicare Part D Preemption

Medicare Part D is an optional coverage for prescription drugs under the federal Medicare program. The preemption under Medicare Part D incorporates the express preemption provision contained in Medicare Part C.[23] Applying the Medicare Part C exemption to Medicare Part D, the preemption provides: "The standards established under this part shall supersede any State law or regulation (other than state licensing laws or state laws relating to plan solvency) with respect to prescription drug plans.[24] The Supreme Court has not ruled on this preemption as it relates to state regulation of PBMs and similar to the ERISA preemption challenges, lower courts have approached the analysis differently with differing outcomes.

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[19] *See* for example, *Pharmaceutical Care Management Association v. Gerhart*, 852 F 3d 722 (8th Cir. 2017), concluding the Iowa statute was pre-empted due to an "implicit reference" to ERISA and it was impermissibly connected with an ERISA plan because the law limited a plan administrator's ability to control the calculation of drug benefits; *Pharmaceutical Care Management Association v. Rowe*, 429 F.3d 294 (1st Cir. 2005), concluding Maine's Unfair Prescription Drug Practices Act was not pre-empted by ERISA; and *Pharmaceutical Care Management Association v. District of Columbia*, 613 F.3d 179 (D.C. Cir. 2010), holding the Access Rx Act, referred to at 186 as a substantially identical law to Maine's provisions addressed in *Rowe*, was pre-empted by ERISA.

[20] *Rutledge v. Pharmaceutical Care Management Association* 141 S. Ct. 474 (2020).

[21] *Rutledge*, at 480, citing *Shaw v. Delta Air Lines, Inc.*, 463 U.S. 85 (1983) and *Engelhoff v. Engelhoff*, 532 U.S. 141 (2001).

[22] *Rutledge*, at 481.

[23] Medicare Part C is Medicare Advantage.

[24] *See* 42 U.S.C. c. 1395w-26(b)(3), which contains Medicare Part C's preemption and 42 U.S.C. s. 1395w-112(g) (Medicare Part D's adoption of Medicare Part C's preemption.

Currently a case challenging Oklahoma's Act is in the United States Court of Appeals for the Tenth Circuit, *Pharmaceutical Care Management Association v. Mulready*.[25] As discussed previously in this analysis, at least 35 attorneys general[26] from across the country have joined in an amicus brief to the Tenth Circuit Court supporting Oklahoma's laws that regulate PBMs. Other stakeholders have also submitted briefs as amici curiae to the court. Both ERISA and Medicare Part D preemption are part of this challenge. Oral arguments before the Court are scheduled for mid-May of 2023.[27]

Insurance Administrators in Florida

An insurance administrator is any person who directly or indirectly solicits or effects coverage of, collects charges or premiums from, or adjusts or settles claims on residents of this state in connection with an insurance policy… or provides billing and collection services to health insurers and health maintenance organizations on behalf of health care providers.[28]

A person must obtain a certificate of authority to act as an administrator from the Office of Insurance Regulation (OIR).[29] The certificate of authority remains valid, unless suspended or revoked by the OIR, so long as the certificate holder continues in business in the state.[30] The failure to hold this certificate while acting as an administrator subjects the person to a fine ranging from $5,000 to $10,000 for each violation.[31]

An application for a certificate of authority for an insurance administrator requires submitting:[32]

- Basic organizational documents;
- By-laws;
- The names, addresses, official positions, and professional qualifications of the individuals employed by or retained by the administrator who are responsible for the conduct of the affairs of the administrator, including all members of the board of directors, board of trustees, executive committee or other governing bodies, and the principal officers or partners;
- A complete list of officers, directors, and shareholders (holding 10% or more of voting shares) having direct or indirect control of the organization, along with a biographical affidavit, background investigative report, and fingerprint card for each person listed;
- Audited annual financial statements for the two most recent fiscal years or other specified documents if the applicant has been in existence for less than two years;

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[25] The appeal is to *Pharmaceutical Care Management Association v. Mulready*, 598 F. Supp. 3d 1200(2022), the United States District Court, W.D. Oklahoma.

[26] The jurisdictions participating include: Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Texas, Utah, Virginia, Washington, and the District of Columbia. *See* Pharmaceutical Care Management Association vs. Glen Mulready et. al., Brief of Amici Curiae; in the US Court of Appeals for the Tenth Circuit (No. 22-6074) available at: https://www.ag.state.mn.us/Office/Communications/2022/docs/PCMA_AmicusBrief.pdf (last visited Mar. 23, 2023).

[27] *Pharmaceutical Care v. Mulready* et. al., Court Docket updated 3/17/2023.

[28] *See* s. 626.88, F.S. Numerous exceptions of are provided in the Statute.

[29] *See* s. 626.8805, F.S.

[30] *See* s. 626.8805(5), F.S.

[31] *See* s. 626.8805(1), F.S.

[32] *See* ss. 626.8805(2), 624.34, and 624.501, F.S., and the Application for Certificate of Authority Insurance administrator available at https://www.floir.com/siteDocuments/Applications/TPA.pdf (last visited Mar. 23, 2023).

- A statement describing the business plan;
- Evidence of the sources of funds to demonstrate financial viability if the applicant is not currently acting as an administrator; and
- A $100 filing fee.

On an ongoing basis, an administrator must:
- Maintain a fidelity bond.[33]
- Have a written agreement between itself and each insurer for which it performs administrative functions that addresses the services to be provided and maintain books and records related thereto. These documents must be made available to the OIR for inspection and retained for 5 years after the contract ends.[34]
- Disclose any ownership interest or affiliation of any kind with any insurance company responsible for providing benefits directly or through reinsurance to any plan for which the administrator provides administrative services.[35]
- Immediately notify the OIR of any material change in its ownership.
- File an annual financial statement with the OIR containing the administrator's financial condition, transactions, and affairs as well as submit an audited financial statement and a filing fee.[36]

With respect to insurance administrators, the term "affiliate" or "affiliated" means an entity or person who directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with a specified entity or person.[37] The term "control," including the terms "controlling," "controlled by," and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership or voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing 10 percent or more of the voting securities of any other person.[38]

An insurer who uses an insurance administrator that administers more than 100 certificate-holders of that insurer must conduct, at least semiannually, a review of the administrator's operations[39]

The OIR may suspend or revoke the certificate of administration for an administrator. Conditions are set forth in statute for mandatory and discretionary revocation or suspension, as well as discretionary suspension, without notice.[40] In lieu of discretionary suspension or revocation, the OIR may impose administrative fines on administrators. Non-willful violations arising from the

[33] See s. 626.8809, F.S.
[34] See ss. 626.8805(3), 626.882, and 626.884, F.S.
[35] See s. 626.8814, F.S.
[36] See s. 626.89, F.S.
[37] Section 626.88(2), F.S.
[38] Section 626.88(3), F.S.
[39] See s. 626.8817, F.S.
[40] *See generally* ss. 626.891 – 626.893, F.S.

same action are subject to: up to $1,000 fine per violation, but not to exceed an aggregate fine of $5,000. Willful violations arising from the same action are subject to: up to $5,000 per violation but not to exceed an aggregate fine of $25,000.[41]

The OIR has authority under s. 624.307, F.S., to conduct investigations of insurance matters that it deems necessary to determine whether a person has violated the insurance code. With regard to administrators specifically, the OIR, under s. 624.317, F.S., has authority to investigate accounts, records, documents, and transactions pertaining to the insurance affairs of any administrator. The decision whether to investigate an administrator is at the discretion of the OIR. The OIR may examine, audit, and inspect the books and records of an administrator, which must be maintained for at least five years after the duration of its written agreement with an insurer.[42] Insurers are subject to heavier examination oversight than administrators.[43]

Pharmacies and Pharmacy Audits

Pharmacies and pharmacists are regulated under the Florida Pharmacy Act (act) in ch. 465, F.S. The Board of Pharmacy (board), created under the Department of Health (DOH), adopts rules to implement provisions of the act and takes other actions according to duties conferred on it by the act.[44] Each pharmacy is subject to inspection by the DOH and disciplined for violations of applicable laws relating to a pharmacy.[45]

Section 624.491, F.S., establishes procedures that must be followed when a pharmacy licensed in Florida is audited by a managed care plan, insurer, third-party payer, PBM, or an entity that represents companies or groups that provides pharmacy benefits. The person or entity conducting the audit must:

- Provide at least seven days prior notice of each initial on-site audit, except for a pharmacy located within a designated Health Care Fraud Prevention and Enforcement Act Team (HEAT) Task Force area that has been a member of a credentialed provider network for less than 12 months;
- Schedule the on-site audit after the first three days of the month, unless the pharmacist consents otherwise;
- Limit the audit period to 24 months after the date a claim is submitted to or adjudicated by the entity;
- Have a pharmacist conduct the audit or conduct it in consultation with a pharmacist if the audit requires clinical or professional judgment;
- Allow the pharmacy to use the written and verifiable records of a hospital, physician, or other authorized practitioner to validate the pharmacy records in accordance with state and federal law;
- Reimburse the pharmacy for a claim that was retroactively denied for a clerical, typographical, scrivener's, or computer error, if the prescription was properly dispensed,

[41] *See* s. 626.894, F.S.
[42] *See generally* ss. 624.307(3), 624.317, and 626.884, F.S.
[43] *See* s. 624.316 and 624.3161, F.S.
[44] Sections 465.005 and 465.022, F.S.
[45] Sections 465.015 and 465.016, F.S.

unless the pharmacy has a pattern of such errors, fraudulent billing is alleged, or the error results in actual financial loss to the entity;
- Provide the pharmacy with the preliminary audit report within 120 days after the audit is concluded and the final audit report within 6 months after receiving the preliminary report;
- Allow the pharmacy 10 business days after the preliminary audit report is delivered to produce documentation to address a discrepancy or audit finding; and
- Calculate any recoupment or penalties based on actual overpayments, not extrapolation.

These required procedures do not apply to audits that are based on a suspected fraud or other willful misrepresentation evidenced by reviews or other investigative methods; audits of claims paid for by federally-funded programs; or concurrent reviews or desk audits that occur within three business days after transmission where no chargeback or recoupment is demanded.

A pharmacy may appeal the findings of the final audit report as to whether a claim payment is due and the amount of a claim payment in accordance with s. 408.7057, F.S. This law establishes a claim dispute resolution program using an independent resolution organization under contract with the Agency for Health Care Administration (AHCA). A health insurer or health maintenance organization that uses a PBM for paying pharmacies for pharmacy benefit claims for covered persons remain responsible for compliance with the pharmacy audit procedures set forth above.

Prescription Drug Manufacturers

The Department of Business and Professional Regulation (DBPR) is responsible for licensing and regulating prescription drug manufacturers under the Florida Drug and Cosmetic Act (FDCA), ch. 499, F.S.

A prescription drug manufacturer permit is required for any person that is a manufacturer of a prescription drug and that manufacturers or distributes those prescription drugs in this state.[46] A nonresident prescription drug manufacturer permit is required for any person that is a manufacturer of prescription drugs located outside of this state or outside the United States and that engages in the distribution in this state of such prescription drugs.[47] Prescription drug manufacturers and nonresident prescription drug manufacturers are required to comply with all provisions required of such permit holder under part I of the FDCA.

The failure to comply with requirements under part I of the FDCA include the imposition of an administrative fine of up to $5,000 per violation per day and each day a violation continues constitutes a separate violation. Additional enforcement authority exists under the FDCA, including but not limited to denial, suspension, or revocation of a permit.

[46] Section 499.01(2)(a), F.S.
[47] Section 499.01(2)(c), F.S. An exemption exists from holding a permit as a nonresident prescription drug manufacturer for a person that is permitted as a third party logistics provider under s. 499.01(2)(q), F.S. A third party logistics provider does not take title to prescription drugs or have responsibility to direct the sale or distribution of the prescription drug, but merely warehouses and distributes a manufacturer's prescription drug into the state.

III. Effect of Proposed Changes:

This part of the document is presented by topic and may not follow the section order of the bill.

Section 1 provide that the act may be cited as the "Prescription Drug Reform Act."

Drug Price Increase Transparency

The bill requires manufacturers of prescription drugs to report to the state certain drug price increases as defined in the bill. Most of this information will be made publicly available on the Florida Health Finder website.[48]

Section 2 amends s. 499.005, F.S., to create a new prohibited act for a Florida permitted prescription drug manufacturer or nonresident prescription drug manufacturer to fail to submit required drug price increase forms and reports as required under Section 4 of the bill.

Section 3 amends s. 499.012, F.S., which requires, among other things, a permit for a prescription drug manufacturer located in Florida and a nonresident prescription drug manufacturer permit for a drug manufacturer that is not located in Florida but distributes its prescription drugs into the state. The bill establishes requirements for a prescription drug manufacturer or a nonresident prescription drug manufacturer permitted in Florida to notify the DBPR of reportable drug price increases as required in s. 499.026, F.S.

Section 4 creates s. 499.026, F.S., to establish transparency parameters for Florida permitted manufacturers of prescription drugs intended for human use to submit information to the state regarding certain prescription drug price increases that will be publicly disclosed on a website maintained by the AHCA. Certain information provided may be designated as trade secret which will be compiled by the AHCA only for submission to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill defines:

- "Course of therapy" to mean, the recommended daily dose units of a prescription drug pursuant to its prescribing label for 30 days or the recommended daily dose units pursuant to its prescribing label for a normal course of treatment that is less than 30 days.
- "Manufacturer" to mean, a person holding a prescription drug manufacturer permit or a nonresident prescription drug manufacturer permit under s. 499.01, F.S.
- "Prescription drug" to have the same meaning as in s. 499.003, F.S.,[49] and includes biological products but is limited to those prescription drugs and biological products intended for human use.

[48] Available at: https://ahca.myflorida.com/medicaid/quality_mc/health_finder.shtml.

[49] Section 499.003, F.S., defines a prescription drug to mean a prescription, medicinal, or legend drug, including, but not limited to, finished dosage forms or active pharmaceutical ingredients subject to, defined by, or described by s. 503(b) of the federal act or s. 465.003, s. 499.007(13), subsection (31), or subsection (47), except that an active pharmaceutical ingredient is a prescription drug only if substantially all finished dosage forms in which it may be lawfully dispensed or administered in this state are also prescription drugs.

- "Reportable drug price increase" to mean, for a prescription drug with a wholesale acquisition cost of at least $100 for a course of therapy before the effective date of an increase:
  - Any increase of 15 percent or more of the wholesale acquisition cost during the preceding 12-month period; or
  - Any cumulative increase of 30 percent or more of the wholesale acquisition cost during the preceding three calendar years.
- "Wholesale acquisition cost" to mean, with respect to a prescription drug or biological product, the manufacturer's list price for the prescription drug or biological product to wholesalers or direct purchasers in the United States, not including prompt pay or other discounts, rebates, or reduction in price, for the most recent month for which the information is available, as reported in wholesale price guides or other publications of drug or biological product pricing data.

Under the bill, Florida-licensed manufacturers of prescription drugs must submit two sets of information to the DBPR, portions of which may be claimed as trade secret under s. 119.0715, F.S., and therefore exempt from the public records provisions of ch. 119, F.S. The bill protects DBPR employees from release of the information in the forms and reports. The submissions are as follows:

- On the effective date of a reportable drug price increase, the manufacturer must submit on a form adopted by the DBPR all of the following information for each reportable drug price increase:[50]
  - The proprietary and nonproprietary names of the prescription drug, as applicable.
  - The wholesale acquisition cost before the reportable drug price increase.
  - The dollar amount of the reportable drug price increase.
  - The percentage amount of the reportable drug increase from the wholesale acquisition cost before the reportable drug price increase.
  - Whether a change or improvement in the prescription drug necessitates the reportable drug price increase.
  - A description of the change or improvement that necessitated the increase as reported above. The manufacturer may designate this information as trade secret, if applicable.
  - The intended uses of the prescription drug.
- By April 1 of each year, the manufacturer must submit a report to the DBPR. The report is not deemed submitted until it is approved by the department. The report must include all of the following:
  - A list of all prescription drugs identified by proprietary and nonproprietary names, as applicable, affected by a reportable drug price increase during the previous calendar year, along with the dollar amount and the percentage increase of each reportable drug price increase relative to the previous wholesale acquisition cost.
  - If more than one form was filed for reportable drug price increases for a prescription drug, the percentage increase of the prescription drug from the earliest form filed to the most recent form filed.
  - The intended uses of each prescription drug listed and whether the manufacturer benefits from market exclusivity for the prescription drug.

[50] The bill provides that this disclosure requirement to the DBPR does not prohibit a manufacturer from notifying other parties before the effective date of the increase.

- The length of time the prescription drug has been available for purchase.
- A listing of the factors contributing to each reportable drug price increase, along with an estimated percentage of the influence of each listed factor which must total 100 percent. The factors include any of the following: research and development; manufacturing costs; advertising and marketing; whether the drug has more competitive value; an increased rate of inflation or other economic dynamics; changes in market dynamics; supporting regulatory and safety commitments; operating patient assistance and educational programs; rebate increases, including any rebate increase requested by a PBM; Medicaid, Medicare, or 340B Drug Pricing Program offsets; profit; or other factors.
- A description of the justification for each factor referenced above, provided with such specificity as to explain the need or justification for each reportable drug price increase. The DBPR may request additional information from a manufacturer relating to the need or justification for any reportable drug price increase before it accepts and approves the manufacturer's report. The manufacturer may designate this information as trade secret, if applicable.
- Any action that the manufacturer has filed to extend a patent report after the first extension has been granted. The manufacturer may designate this information as trade secret, if applicable.

The DBPR is responsible for submitting all forms and reports to the AHCA for posting on the MyFloridaRX website maintained pursuant to s. 408.062, F.S. The AHCA must compile all information on the forms and reports submitted by manufacturers and make it available upon request to the Governor, The President of the Senate, and the Speaker of the House of Representatives.

The DBPR, in consultation with the AHCA, must adopt rules to implement these provisions. The DBPR is tasked with adopting an emergency rule initially. The bill provides a statutory process to follow if the initial emergency rule is held to be unconstitutional or an invalid exercise of delegated legislative authority and becomes void. In that case, the DBPR may adopt another emergency rule to replace the first one that became void. If the second emergency rule is also held to be unconstitutional or an invalid exercise of delegated legislative authority and becomes void, the DBPR must then proceed with nonemergency rulemaking under the Administrative Procedure Act (APA). If an emergency rule is challenged, within seven days after the Division of Administrative Hearings receives a sufficient petition challenging the validity of the emergency rule, an administrative law judge must be assigned who shall conduct a hearing within 14 days, unless the petition is withdrawn.

The bill exempts the emergency rulemaking from finding that an immediate danger to the public health, safety, or welfare requires emergency rulemaking under s. 120.54(4)(a), F.S., and preparing a statement of estimated regulatory costs under s. 120.54(3)(b), and s. 120.541, F.S. The bill also exempts the emergency rule from the 90-day timeframes that an emergency rule may the effective in s. 120.54(4)(c), F.S., and allows a valid emergency rule to remain in effect until replaced by rules adopted under the nonemergency rulemaking procedures of the APA.

PBMs as Administrators

Section 6 amends s. 624.490, F.S., retaining the registration requirement for PBMs and conforming the definition of a PBM to the new definition in s. 626.88, F.S.

Section 8 amends s. 626.88, F.S., to include PBMs in the definition of an administrator under the Florida Insurance Code and to define a PBM. Under the bill, a "PBM" means a person or entity doing business in this state which contracts to administer prescription drug benefits on behalf of a plan or program, as defined in s. 626.8825, F.S. The term includes, but is not limited to, a person or entity that performs one or more of the following services on behalf of a plan or program:

- Pharmacy claims processing.
- Administration or management of a pharmacy discount card program and performance of any other service listed here.
- Managing pharmacy networks or pharmacy reimbursement.
- Paying or managing claims for pharmacist services provided to covered persons.
- Developing or managing a clinical formulary, including utilization management or quality assurance programs.
- Pharmacy rebate administration.
- Managing patient compliance, therapeutic intervention, or generic substitution programs.
- Administration or management of a mail-order pharmacy program.

Section 9 amends s. 626.8805, F.S., to establish the process for PBMs to obtain a certificate of authority to act as an administrator.

In order to allow time for PBMs that are currently operating in Florida to obtain a certificate of authority to act as an administrator, the bill authorizes a PBM that is registered under s. 624.490, F.S., as of June 30, 2023, to continue to operate as a PBM under that authority until January 1, 2024. By that date, a PBM must have obtained a certificate of authority to act as an administrator. A person who, on or after January 1, 2024, does not hold a certificate of authority to act as an administrator while operating as a PBM, is subject to a fine of $10,000 per violation, per day. The bill requires the OIR to report by January 15, 2024 to the Governor, the President, and the Speaker detailing whether each PBM operating in this state on January 1, 2024 obtained a certificate as an administrator.

The bill requires a PBM applying for a certificate of authority to act as an administrator to submit an application that includes:

- Basic organizational documents;
- By-laws;
- The names, addresses, official positions, and professional qualifications of the individuals employed by or retained by the administrator who are responsible for the conduct of the affairs of the administrator, including all members of the board of directors, board of trustees, executive committee or other governing bodies, and the principal officers or partners;
- A complete list of officers, directors, and shareholders (holding 10% or more of voting shares) having direct or indirect control of the organization, along with a biographical

statement, independent background report, and fingerprints in accordance with FDLE and FBI requirements for each person listed;
- Audited annual financial statements for the two most recent fiscal years or other specified documents if the applicant has been in existence for less than two years;
- A statement describing the business plan;
- Evidence of the sources of funds to demonstrate financial viability if the applicant is not currently acting as an administrator; and
- A self-disclosure of any administrative, civil, or criminal complaints, settlements or discipline of the applicant or any of the applicant's affiliates, which relate to a violation of the insurance laws, including PBM laws, in any state.
- A statement attesting to compliance with the network requirements in s. 626.8825, F.S., beginning January 1, 2024.

A PBM applicant is required by the bill to make available for inspection by the OIR copies of all contract templates with any pharmacy and copies of all subcontracts to support its operations.

A PBM is exempt under the bill from fees associated with the initial application and the annual filing fees.

Section 14 amends s. 626.89, F.S., to require PBMs annually to submit:
- A statement of financial condition.
- Audited financial statement prepared by an independent certified public accountant.
- A statement attesting to its compliance with the network requirements of s. 626.8825, F.S.

PBMs must also notify the OIR immediately of any material change in its ownership and within 30 days after any administrative, civil, or criminal complaints, settlements, or discipline of the PBM or any of its affiliates which relate to a violation of the insurance laws, including pharmacy benefit laws in any state.

Section 10 amends s. 626.8814, F.S., to require PBMs to disclose to the OIR:
- Any ownership interest or affiliation with any insurance company responsible for providing benefits for which the PBM acts as an administrator; and
- Any ownership affiliation of any kind with any pharmacy that:
  - Has an investment or ownership interest in a PBM in Florida;
  - Shares common ownership with a PBM in Florida; or
  - Has an investor or a holder of an ownership interest which is a PBM in Florida.

Any change in this information must be reported in writing to the OIR within 60 days after the change occurs.

PBM Transparency and Accountability

Section 11 creates s. 626.8825, F.S., to provide definitions, and regulate contractual agreements between PBMs and pharmacy benefits plans and programs and between PBMs and pharmacies.

Definitions

The follow definitions apply to s. 626.8825, F.S.:

- "Adjudication transaction fee" means a fee charged by the PBM to the pharmacy for electronic claim submissions.
- "Affiliated pharmacy" means a pharmacy that, either directly or indirectly through one or more intermediaries:
  - Has an investment or ownership interest in a PBM holding a certificate of authority issued under this part;
  - Shares common ownership with a PBM holding a certificate of authority issued under this part; or
  - Has an investor or a holder of an ownership interest which is a PBM holding a certificate of authority issued under this part.
- "Brand name or generic effective rate" means the contractual rate set forth by a PBM for the reimbursement of covered brand name or generic drugs, calculated using the total payments in the aggregate, by drug type, during the performance period. The effective rates are typically calculated as a discount from industry benchmarks, such as average wholesale price or wholesale acquisition cost.
- "Covered person" means a person covered by, participating in, or receiving the benefit of a plan or program.
- "Direct and indirect remuneration fees" means price concessions that are paid to the PBM by the pharmacy retrospectively and that cannot be calculated at the point of sale. The term may also include discounts, chargebacks or rebates, cash discounts, free goods contingent on a purchase agreement, upfront payments, coupons, goods in kind, free or reduced-price services, grants, or other price concessions or similar benefits from manufacturers, pharmacies, or similar entities.
- "Dispensing fee" means a fee intended to cover reasonable costs associated with providing the drug to a covered person. This cost includes the pharmacist's services and the overhead associated with maintaining the facility and equipment necessary to operate the pharmacy.
- "Effective rate guarantee" means the minimum ingredient cost reimbursement a PBM guarantees it will pay for pharmacist services during the applicable measurement period.
- "Erroneous claims" means pharmacy claims submitted in error, including, but not limited to, unintended, incorrect, fraudulent, or test claims.
- "Group purchasing organization" means an entity affiliated with a pharmacy benefit manager or a pharmacy benefits plan or program which uses purchasing volume aggregates as leverage to negotiate discounts and rebates for covered prescription drugs with pharmaceutical manufacturers, distributors, and wholesale vendors.
- "Incentive payment" means a retrospective monetary payment made as a reward or recognition by the plan or program or PBM to a pharmacy for meeting or exceeding predefined pharmacy performance metrics as related to quality measure, such as Healthcare Effectiveness Data and Information Set measures.
- "Maximum allowable cost appeal pricing adjustment" means a retrospective positive payment adjustment made to a pharmacy by the plan or program or by the PBM pursuant to an approved maximum allowable cost appeal request submitted by the same pharmacy to dispute the amount reimbursed for a drug based on the PBM's listed maximum allowable cost price.

- "Monetary recoupments" means rescinded or recouped payments from a pharmacy or provider by the plan or program or by the PBM.
- "Network" means a group of pharmacies that agree to provide pharmacist services to covered persons on behalf of a plan or program or a group of pharmacy benefits plans or programs in exchange for payment for such services. The term includes a pharmacy that generally dispenses outpatient prescription drugs to covered persons.
- "Network reconciliation offsets" means a process during annual payment reconciliation between a PBM and a pharmacy which allows the PBM to offset an amount for over-performance or under-performance of contractual guarantees across guaranteed line items, channels, networks, or payers, as applicable.
- "Participation contract" means any agreement between a PBM and pharmacy for the provision and reimbursement of pharmacist services and any exhibits, attachments, amendments, or addendums to such agreement.
- "Pass-through pricing model" means a payment model used by a PBM in which the payments made by the plan or program to the PBM for the covered outpatient drugs are:
    - Equivalent to the payments the PBM makes to a dispensing pharmacy or provider for such drugs, including any contracted professional dispensing fee between the PBM and its network of pharmacies. Such dispensing fee would be paid if the plan or program was making the payments directly.
    - Passed through in their entirety by the plan or program or by the PBM to the pharmacy or provider that dispenses the drugs, and the payments are made in a manner that is not offset by any reconciliation.
- "Pharmacist" means a pharmacist as defined in s. 465.003, F.S.
- "Pharmacist services" means products, goods, and services or any combination of products, goods, and services provided as part of the practice of the profession of pharmacy as defined in s. 465.003, F.S., or otherwise covered by a plan or program.
- "Pharmacy benefit manager" has the same meaning as in s. 626.88, F.S.
- "Pharmacy benefits plan or program" means a plan or program that pays for, reimburses, covers the cost of, or provides access to discounts on pharmacist services provided by one or more pharmacies to covered persons who reside in, are employed by, or receive pharmacist services from this state. The term includes, but is not limited to, health maintenance organizations, health insurers, self-insured employer health plans, discount card programs, and government-funded health plans, including the Statewide Medicaid Managed Care program established pursuant to part IV, ch. 409, F.S., and the state group insurance program pursuant to part I, ch. 110, F.S.
- "Rebate" means all payments that accrue to a PBM or its plan or program client or an affiliated group purchasing organization, directly or indirectly, from a pharmaceutical manufacturer, including, but not limited to, discounts, administration fees, credits, incentives, or penalties associated directly or indirectly in any way with claims administered on behalf of a plan or program client.
- "Spread pricing" is the practice in which a PBM charges a plan or program a different amount for pharmacist services than the amount the PBM reimburses a pharmacy for such pharmacist services.
- "Usual and customary price" means the amount charged to cash customers for a pharmacist service exclusive of sales tax or other amounts claimed.

Contracts between a PBM and pharmacy benefits plan or program – Subsection (2)

The following provisions apply to all contractual arrangements executed, amended, adjusted, or renewed on or after July 1, 2023, which are applicable to pharmacy benefits covered on or after January 1, 2024, between a PBM and a plan or program. These requirements are in addition to any other requirements in the FIC. The contract must:

- Use a pass-through pricing model, consistent with the next requirement.
- Excludes terms that allow for the direct or indirect practice of spread pricing unless the PBM passes along the entire amount of any difference to the plan or program.
- Ensure that funds received in relation to providing services for a plan or program or a pharmacy are received by the PBM in trust for the plan or program or pharmacy, as applicable and are used or distributed only in accordance with the PBM's contract with the plan or program or pharmacy or as otherwise required by law.
- Require the PBM to pass 100 percent of all manufacturer rebates received to the plan or program, if the contractual arrangement delegates the negotiation of rebates to the PBM, for the sole purpose of offsetting defined cost sharing and reducing premiums of covered persons. If any excess rebate revenue remains, it must be used for the sole purpose of offsetting copayments and deductibles of covered persons. Medicaid managed care plans are excluded from this rebate provision.
- Include network adequacy requirements that meet or exceed the Medicare Part D program standards for convenient access to network pharmacies and that:
    - Do not limit a network to solely include affiliated pharmacies.
    - Require the PBM to offer a provider network contract to a pharmacy physically located onsite with essential providers as determined by the AHCA that are located within the plan's geographic service area solely for the administration or dispensing of covered prescription drugs, including biologics, that are administered through infusions, intravenously injected, inhaled during a surgical procedures, or a covered parenteral drug, as part of onsite outpatient care.
    - Require the PBM to offer a provider network contract to a pharmacy physically located onsite with Designated Cancer Centers of Excellence, organ transplant hospitals, specialty children's hospitals, or regional perinatal intensive care centers, regardless of the plan's geographic service area solely for the administration or dispensing of covered prescription drugs, including biologics, that are administered through infusions, intravenously injected, inhaled during a surgical procedures, or a covered parenteral drug, as part of onsite outpatient care.
    - Do not require a covered person to receive a prescription drug by mail, or some type of delivery service unless the prescription drug cannot be acquired at any retail pharmacy in the PBM's network for the covered person's plan or program. However, this provision does not prohibit a PBM from operating mail-order or delivery programs on an opt-in basis at the sole discretion of a covered person.
    - Do not require a covered person, through network development; incentives, which does not include a reduced cost-sharing amount or enhanced quantity limit allowed under the benefit design for a covered drug; marketing; or otherwise, to receive pharmacist services from an affiliated pharmacy or affiliated health care provider for the inpatient administration of covered prescription drugs. Subject to the preceding sentence, a PBM may include an affiliated pharmacy in communications to covered persons regarding network pharmacies and prices, provided that information, such as links to all

nonaffiliated network pharmacies, is included in the communications. The information for all network pharmacies must be accurate and of equal prominence. This provision does not prohibit a PBM from entering into an agreement with an affiliated pharmacy to provide pharmacist services to covered persons.

- Prohibit the ability of a PBM to condition participation in one pharmacy network on participation in any other pharmacy network or penalize a pharmacy for exercising its prerogative not to participate in a specific pharmacy network.
- Prohibit a PBM from instituting a network that requires a pharmacy to meet accreditation standards that are inconsistent with or exceed state pharmacy licensure requirements. However, a pharmacy benefit manager may specify additional specialty networks that require enhanced standards related to the safety and competency necessary to meet the United States Food and Drug Administration's limited distribution requirements for dispensing any covered drug, on a drug-by-drug basis, that requires extraordinary special handling, provider coordination, clinical care or monitoring, or patient education when such extraordinary requirements cannot be met by a network pharmacy. For purposes of this paragraph, drugs requiring extraordinary special handling include, but are not limited to, drugs that are subject to a risk evaluation and mitigation strategy approved by the United States Food and Drug Administration; require special certification of a health care provider to prescribe, receive, dispense, or administer; require special handling due to the molecular complexity or cytotoxic properties of the biologic or biosimilar product or drug; require cold chain storage and shipping or specialized equipment to dispense; or require other conditions of a similar gravity.
- Require the PBM or plan or program to provide a 60-day continuity-of-care period when a formulary change occurs during a plan year to allow the patient to continue to pay the same cost for the drug for the 60-day period. This requirement does not apply if the covered prescription drug has been approved by the FDA as an over-the-counter drug and has entered the commercial market as such; has been withdrawn from the commercial market by the manufacturer; or is subject to a recall issued by state or federal authorities and is no longer available on the commercial market. Plans or programs must annually attest to compliance with this requirement.

Contracts between a PBM and a participating pharmacy – Subsection (3)

In addition to any other requirements in the FIC, all participation contracts between a PBM and one or more pharmacies or pharmacists that are executed, amended, adjusted, or renewed on or after July 1, 2023, and which are applicable to pharmacist services on or after January 1, 2024, must include, in substantial form, terms that ensure compliance with all the following requirements and which, except to the extent not allowed by law, shall superseded any contractual terms in the participation contract to the contrary:

- At the time of adjudication or reimbursement of claims, the PBM must provide the pharmacy with detailed information in accordance with national standards that is sufficient for the pharmacy to identify and validate the payment. The OIR is required to adopt rules to implement this requirement.
- The PBM must ensure that reimbursement information relating to reconciliation transactions are accurate and reliable and are communicated to the pharmacy in accordance with national standards.

- A prohibition of financial clawbacks, reconciliation offsets, retroactive recoupments, imposing charges, or withholding fees with limited exceptions related to performance measures; erroneous claims, fraud, waste, or abuse; claims adjudicated in error, adjustments made as part of a pharmacy audit, or recoupments returned to the state for certain programs.
- A PBM may not unilaterally change the terms of a participation contract.
- A PBM may not prevent a pharmacy or pharmacist from offering and providing mail or delivery services on an opt-in basis at the sole discretion of the covered person or charging a shipping or handling fee to the covered person if the pharmacy or pharmacist disclosed before the service the amount of the fee that will be charged and that the fee may not be reimbursable by the covered person's plan or program.
- If a pharmacy requests, a PBM must provide a list of plans or programs in which that pharmacy is a part of the network, with applicable updates. The pharmacy may disclose this information to the public.
- A PBM must ensure that the electronic remittance advice contains claim level payment adjustments in accordance with national standards with the appropriate level of detail to reconcile debits and credits.
- A PBM must provide a reasonable administrative appeal procedure for a pharmacy to challenge the maxim allowable cost (MAC) reimbursement or price update. Timeframes of 30 business days are provided for the pharmacy to appeal the MAC rate and for the PBM to respond after receipt of the appeal. If the appeal is upheld, the PBM must update the MAC information, allow the pharmacy to rebill the claim, provide the pharmacy with information on which the increase or change is based, and make the change effective for each similarly situated pharmacy that is subject to the applicable MAC pricing information. If the appeal is denied, the PBM must provide the pharmacy with the national drug code (NDC) and the name of a national or regional wholesaler operating in Florida with that drug in stock at a price below the MAC pricing information. PBMs are required to report to the OIR every 90 days the total number of appeals received and denied and an explanation or reason for each denial in the preceding 90-day period for each specific drug for which an appeal was submitted.

Section 12 creates s. 626.8827, F.S., to specify prohibited practices of PBMs. In addition to other prohibitions related to practices of administrators, a PBM may not:

- Prohibit, restrict, or penalize a pharmacy or pharmacist from:
  - Disclosing to any person information that the pharmacy or pharmacist deems appropriate, including, but not limited to:
    - The nature of treatment, risks, or alternatives thereto.
    - The availability of alternate treatment, consultations, or tests.
    - The decision of utilization reviewers to authorize or deny pharmacist services.
    - The process used to authorize or deny pharmacist services or benefits.
    - Information on financial incentives and structures used by the plan or program.
    - Information that may reduce the costs of pharmacist services.
    - Whether the cost-sharing obligation exceeds the retail price for a covered prescription drug and the availability of a more affordable alternative drug.
  - Disclosing information to the OIR, the AHCA, the Department of Management Services, law enforcement, or state and federal government officials provided the recipient represents it has the authority to maintain proprietary information as confidential and the

pharmacy or pharmacist marks documents with such proprietary information as confidential or requests confidential treatment for any oral communication of the information.

- Communicate at the point-of-sale, or otherwise require, a cost-sharing obligation for a covered person in an amount that exceeds the lesser of the cost-sharing amount under the applicable plan or program or the usual and customary price of the pharmacist services.
- Transfer or share patient-identifiable or prescriber-identifiable prescription data to an affiliated pharmacy for any commercial purpose other than the limited purposes of the PBM's responsibilities of the applicable plan or program.
- Fail to pay a pharmacy for an adjudicated claim with a date of service before any termination of the pharmacy in the network, unless payment is withheld due to actual fraud on the pharmacy's part or as otherwise required by law.
- Terminate the contract of, penalize, or disadvantage a pharmacist or pharmacy that:
  - Discloses information about the PBM's practices in accordance with the act.
  - Exercises any of its prerogatives under the sections of law relating to administrators.
  - Shares any portion of the PBM contract with the OIR pursuant to a complaint or query regarding whether the contract is in compliance with the act.
- Fail to comply with the requirements in s. 626.8825, F.S., which contains the contracting provisions created in this bill or s. 624.491, F.S., relating to pharmacy audit requirements.

Investigations and Examinations of PBMs

Section 5 amends s. 624.307, F.S., to require the Division of Consumer Services (Division) within the Department of Financial Services to designate an employee as the primary contact for consumers and pharmacies on issues relating to PBMs. All complaints that allege conduct that may constitute a violation of part VII, ch. 626. F.S., relating to Insurance administrators, or if a PBM does not respond to a written request for documents and information pertaining to a consumer complaint, must be referred to the Office of Insurance Regulation for further action.

Section 13 creates s. 626.8828, F.S., to provide specific parameters for conducting investigations and examinations of PBMs, paying the expenses associated with these investigations and examinations, and assessing penalties, as appropriate.

The bill confers upon the OIR the authority to investigate administrators who are PBMs and an applicant for authorization to act as an administrator who is a PBM. The OIR is required to:

- Review referrals from the Division relating to PBMs and investigate any referral that the Commissioner of Insurance Regulation, or designee, has determined reasonably indicates a possible violation of the statutes regulating administrators.
- Examine the business and affairs of each PBM at least every two years, beginning January 1, 2025. This biennial examination must be a systematic review to determine the PBM's compliance with the laws and rules applicable to PBMs, and include a detailed review of the PBM's compliance with ss. 626.8825 and 626.8827, F.S.
- Deliver a report by January 15, 2026 and each January 15 thereafter, to the Governor, President of the Senate, and Speaker of the House of Representatives summarizing the results of the prior year's examinations, including a detailed description of any violations committed by each PBM and detailed actions taken by the OIR related to the violations.

- Document in the report the office's compliance with the examination timeframe requirements beginning with the 2027 report.
- Begin an examination of a PBM or include findings within an ongoing examination if a referral is made from the Division pursuant to s. 624.307, F.S., which reasonably indicates a pattern or practice of violations by a PBM.

Based on the findings of an examination that a PBM or applicant for authorization has exhibited a pattern or practice of knowing and willful violations of s. 626.8825, F.S., or s. 626.8827, F.S., the office may, pursuant to ch. 120, F.S., order a PBM to file all contracts between the PBM and pharmacies or the PBM and plans or programs to which s. 626.8825, F.S., applies, and any policies, guidelines, rules, protocols, standard operating procedures, instructions, or directives that govern or guide the manner in which the PBM or applicant conducts business related to such knowing and willful violations for review and inspection for the following 36-month period. These documents are public records and are not trade secrets or otherwise exempt from s. 119.07(1), F.S. "Knowing and willful" means any act or commission or omission which is committed intentionally, as opposed to accidentally, and which is committed with knowledge of the act's unlawfulness or with reckless disregard as to the unlawfulness of the act.

The OIR also may conduct additional examinations of PBMs and applicants for authorization as often as it deems advisable or necessary to ascertain compliance with the laws and rules applicable to PBMs.

The bill cross-references other sections of the FIC that are also applicable to the investigations and examinations of PBMs relating to: the conduct of examinations; examination and investigation report; witnesses and evidence; compelled testimony; hearings; and any other provision of ch. 624, F.S., applicable to the investigation or examination of an administrator.

The bill requires PBMs to maintain an accurate record of all contracts and records with all pharmacies and plans or programs for five years after the contract ends. These contracts must be made available and kept in a form accessible to the OIR. In addition, the PBM must produce any records, book, files, contracts, advertising and solicitation materials, or other information to the OIR. The OIR may take statements under oath to determine whether the PBM or applicant is in violation of the law or is acting contrary to the public interest.

Examinations may be conducted by an independent professional examiner under contract with the OIR. In this case, the PBM must pay the contracted examiner directly in accordance with the rates and terms agreed to by the OIR and the examiner. Otherwise, the PBM or applicant for authorization must pay to the OIR the expenses of the examination or investigation in accordance with the detailed statement submitted by the examiner. The bill provides that all moneys collected from the PBMs relating to the expenses of examinations or investigations must be deposited into the Insurance Regulatory Trust Fund. The bill requires the Commission to adopt rules for the qualifications of the examiners, that rates charged to the PBM are consistent and comparable with rates charged by other firms in a similar profession for comparable examinations, and that a firm selected to perform the examination must have no conflicts of interest that might affect its ability to independently perform its responsibilities for the examination.

The bill requires the OIR to impose an administrative fine of $5,000 for each violation of s. 626.8825, F.S., or s. 626.8827, F.S. Each instance of a PBM's violation of these sections against each individual pharmacy or plan or program is a separate violation and there is no limitation on aggregate fines assessed under this statute. These fines are in addition to any other enforcement authority available to the OIR. A PBM that fails to pay expenses incurred for investigations and examinations or imposed administrative fines may have its certificate of authority denied, suspended, or revoked.

Other Provisions

Section 7 amends s. 624.491, F.S., to extend the pharmacy audit requirements in this section to pharmacy benefits plans or programs. The exemptions pertaining to claims paid for by federally funded programs currently in that section remains unchanged.

Section 15 and Section 18 amend ss. 627.42393, F.S., and s. 641.31, F.S., respectively, relating to step-therapy protocols to extend the application of these provisions to PBMs acting on behalf of a health insurer or health maintenance organization (HMO). These sections currently forbid an insurer or HMO from requiring an insured to complete a step therapy protocol for a covered prescription drug if the insured recently completed a step therapy protocol under a previous health coverage plan and otherwise meets the criteria set forth in the statute. These statutes also set forth a process for requesting a protocol exception and appealing a denial of the protocol exception.

Section 16, Section 17, and Section 19 amend ss. 627.64741**,** 627.6572, and 641.314, F.S., relating to PBM contracts with individual health plans, group health plans, and HMOs, respectively, to specify these plans must also comply with the contractual requirements between PBMs and plans and programs in Part VII, ch. 626, F.S. Additional provisions that are in these statutory sections have been moved into s. 626.8825, F.S., created in this bill.

Section 19 conforms the cross-reference for the definition of a PBM in s. 624.491, F.S., relating to pharmacy audits to the definition of a PBM as an administrator.

Section 20 creates a non-statutory section of the Laws of Florida addressing three subjects:

- Expresses Legislative intent that the act establishes requirements for PBMs acting for or otherwise on behalf of a plan or program, as defined in s. 626.8825, Florida Statutes, which includes providing coverage for, including but not limited to, governmental programs. The specific governmental programs enumerated include Titles XVIII, XIX, or XXI of the Social Security Act, 42 U.S.C. ss. 1395 et. seq., 1396 et seq., and 1397aa et seq., known as Medicare, Medicaid, or any other similar coverage under a state or Federal government funded health plan, including the Statewide Medicaid Managed Care program established pursuant to part IV, ch. 409, F.S., and the state group insurance program pursuant to part I, ch. 110, F.S. This provision is not intended to be a limiting statement of applicability.
- The act is not intended, nor may it be construed, to conflict with existing, relevant federal law.
- A severability clause: If any provision of this act or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of

this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 21 creates a non-statutory section of the Laws of Florida providing a $1,127,525-appropriation ($980,705 recurring and $146,820 nonrecurring) from the Insurance Regulatory Trust Fund to the Office of Insurance Regulation, along with salary rate for 10 full-time equivalent positions to implement the bill.

The bill provides an effective date of July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

A separate bill, CS/SB 1552, addresses extending the current exemptions from s. 119.07(1), F.S., the public record law and s. 24(a), Art. I of the State Constitution that are applicable to Administrators under the FIC to PBMs, which are a new class of Administrator. Section 119.0715, F.S., provides that a trade secret held by an agency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Similar legislation in other states has been challenged on the grounds that certain provisions are preempted by ERISA or Medicare Part D.

In 2020, the U.S. Supreme Court took up a challenge by the Pharmaceutical Care Management Association (PCMA) to an Arkansas statute regulating PBMs' reimbursement to pharmacies on grounds that the statute was preempted by ERISA. The court in *Rutledge v. Pharmaceutical Care Management Association*,[51] opined that the statute in dispute was not preempted by ERISA and provided a roadmap for determining whether a state law would be preempted by ERISA.

In *Rutledge*, the court considered whether the state law had an "impermissible connection" with an ERISA plan by requiring providers to structure benefit plans in

[51] *Supra 20. Rutledge*.

particular ways, such as by requiring payment of specific benefits or by binding plan administrators to specific rules for determining beneficiary status.[52] The court ruled that the statute at issue did not "relate to" an ERISA plan because the requirement that PBMs reimburse pharmacies at a rate equal to or higher than the pharmacy's acquisition cost was merely a form of cost regulation which did not dictate plan choices or design. The court stated that ERISA preempts laws that require providers to structure benefit plans in particular ways, such as requiring the payment of specific benefits or by binding plan administrators to specific rules for determining beneficiary status. The court further opined that the statute did not "refer to" ERISA, as the state did not act immediately and exclusively upon ERISA plans and the existence of such plans was not essential to the law's operation, since it regulated PBMs whether or not the plans they service fell within ERISA's coverage.[53]

The preemption under Medicare Part D incorporates the express preemption provision contained in Medicare Part C. Applying the Medicare Part C exemption to Medicare Part D, the preemption provides: "The standards established under this part shall supersede any State law or regulation (other than state licensing laws or state laws relating to plan solvency) with respect to prescription drug plans.[54] The Supreme Court has not ruled on this preemption as it relates to state regulation of PBMs and lowers courts have approached the analysis differently. Currently a case challenging Oklahoma's Act is in the United States Court of Appeals for the Tenth Circuit, *Pharmaceutical Care Management Association v. Mulready*.[55] Although this decision would not be dispositive of the provisions in CS/CS/SB 1550, or similar legislation, if enacted, it is of interest to the majority of states that have taken an active role in enacting laws to regulate PBMs.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Violation of the provisions in the bill might result in significant fines and penalties to PBMs. The actual fiscal impact is indeterminate.

Some of the bill's provisions may prohibit PBMs from employing mechanisms designed to reduce costs of prescription drugs for insurers, HMOs, and other pharmacy benefits plans and programs, which could have the effect of increasing premiums and/or other costs for such payers or for persons with individual coverage. The extent of such effect is indeterminate.

[52] *Supra 21.*
[53] *Supra 22.*
[54] *Supra 24.*
[55] *Supra 25.*

Retail pharmacies may be able to negotiate with PBMs on a more even status under the bill; however, the fiscal impact is indeterminate.

C. Government Sector Impact:

The Department of Financial Services (DMS) Division of Consumer Services, will need to designate an employee as the primary contact to receive complaints on issues relating to PBMs and to process preliminary reviews of the complaints.

The State Group Health Insurance program utilizes a PBM to manage its pharmacy benefit. The DMS which operates state group health insurance, has submitted an analysis estimating a recurring cost to general revenue of approximately $2.2 million, attributed to the bill's requirement that state group health insurance must discontinue its use of an exclusive specialty pharmacy arrangement with its PBM and the inability to utilize a cost accumulator program under the bill.

The OIR will require additional staff to regulate PBMs as administrators. The OIR indicates additional staff in the Life and Health Market Regulation Unit and the Life and Health Financial Oversight Unit will be needed to process applications, respond to and investigate complaints, and conduct examinations and investigations. In addition, legal resources to pursue enforcement or administrative discipline as applicable will be needed. The OIR estimates salary and benefits at $1,127,525.

The DBPR indicates a position and information technology resources will be needed to process manufacturer reportable drug price increase submissions but indicates this may be accomplished within existing resources.

The AHCA will incur costs to receive and publish on its website manufacturer reportable drug price increase information.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 499.005, 499.012, 624.307, 624.490, 624.491, 626.88, 626.8805, 626.8814, 626.89, 627.42393, 627.64741, 627.6572, 641.31, and 641.314.

This bill creates the following sections of the Florida Statutes: 499.026, 626.8825, 626.8827, and 626.8828.

This bill creates two non-statutory sections of the Laws of Florida.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Fiscal Policy on April 13, 2023:
The substance changes in the CS compared to the underlying bill include:

- Providing a more specific cross-reference to the statute where the reportable drug price increase provisions are found and includes "documents" as a reporting format.
- With respect to a prescription drug manufacturer's reportable drug price increases:
  - Reducing one of the reporting thresholds from 40% to 30% increase in the wholesale acquisition cost during the preceding 3 calendar years, and provides guidance on the method to calculate the increase.
  - Splitting a reporting requirement for the submission on the effective date of a reportable drug price increase to a Yes/No to indicate whether a change or improvement in the prescription drug necessitates the increase. This response will be made publicly available and, if it did, to provide a description of the change or improvement, which may be designated as trade secret.
  - Requiring submission of a list of specified factors that contributed to each reportable drug price increase, along with an estimated percentage of the influence of each factor which must equal 100%. These responses will be made publicly available. A separate description of the justification of each factor referenced is required, which may be designated as trade secret.
- Redefining "pharmacy benefit manager" for purposes of becoming an Administrator under the FIC to clarify that an entity that *only* administers or manages a pharmacy discount care program is not an Administrator; however if the entity performs any other additional service, then the entity is subject to regulation as a PBM/Administrator under the FIC.
- Requiring the OIR to submit a report by January 15, 2024, to the Governor, the President of the Senate, and the Speaker of the House of Representatives, addressing whether each PBM operating in Florida obtained a certificate of authority as an administrator by January 1, 2024.
- Providing clarifying language regarding the background and fingerprinting requirements to comply with FDLE and FBI procedures.
- Defining a "group purchasing organization" and amending the definition of "rebate" to include payments that accrue to a group purchasing organization from a pharmaceutical manufacturer on behalf of a plan or program client are a rebate.
- With respect to contracts between a PBM and a plan or program:
  - Providing an exception to the prohibition that a PBM may not require a covered person to receive a prescription drug by mail or other delivery. A PBM may require delivery when the prescription drug cannot be acquired at any retail pharmacy in the PBM's network for that covered person's plan.
  - Clarifying that authorized incentives include a reduced cost-sharing amount or enhanced quantity limits.
  - Authorizing a PBM to establish specialty networks with enhanced safety and competency standards for drugs meeting specified criteria that demonstrate the

necessity for enhanced standards that cannot be met in a network (retail) pharmacy.
    - Requiring a PBM or plan or program to provide a 60-day continuity-of-care period upon a formulary revision during a plan year, unless the revision was based on a specified exception. During this period, the drug must be provided at the same cost for the patient. Plans or programs must submit to the OIR a statement attesting to compliance with this requirement annually.
- With respect to contracts between a PBM and a participating pharmacy:
    - Prohibiting a PBM from charging or withholding fees.
    - Requiring a PBM to provide an explanation or reason for each denial in the quarterly report submitted to the OIR relating to MAC appeals.
- Revising the timeframes related to PBM biennial examinations:
    - The first 2-year cycle begins January 1, 2025.
    - The first report is due by January 15, 2026, and annually thereafter.
    - Beginning with the 2027 report, and every 2 years thereafter, the report must document the office's compliance with the examination timeframe requirements.
- Including a technical correction to remove a cross-reference to fingerprinting requirements within the provisions relating to OIR examinations.

CS by Health Policy on March 27, 2023:
The substantive changes in the CS compared to the underlying bill include:
- Allowing manufacturers to claim certain information as trade secret in the submissions of reportable drug price increases.
- Providing a designated point of contact for pharmacies to complain about PBM practices.
- Extending the pharmacy audit requirements in s. 624.491 to pharmacy benefits plans or programs, while retaining the exemptions pertaining to claims paid for by federally funded programs currently in that section and including the failure to comply with these requirements as a prohibited act in s. 626.6627.
- Revising definitions of PBM and network.
- Requiring PBMs to pass 100 percent of all rebates received to the plan or program, if the contractual arrangement delegates the negotiation of rebates to the PBM, for the sole purpose of offsetting defined cost sharing and reducing premiums of covered persons. If any excess remains, the rebate revenue must be used for the sole purpose of offsetting copayments and deductibles of covered persons. The Medicaid managed care plans are exempted from this requirement.
- Expanding the pharmacies to which a PBM must offer a network contract to those co-located in designated Cancer Centers of Excellence, organ transplant hospitals, specialty children's hospitals, and Regional Perinatal Intensive Care Centers.
- Clarifying that a reduced copay or premium of a covered drug is not a prohibited promotional item or an incentive.
- Prohibiting PBMs from preventing pharmacies from providing mail-order or delivery services.
- Streamlining the MAC appeal process when an appeal has been denied to providing a pharmacy with an NDC (national drug code) and identification of wholesalers that

have the drug in stock at a price below the MAC pricing information, and authorizing appeals to be submitted by a pharmacy's agent.
- Authorizing the Commission to adopt rules for the qualifications of professional examiners and the requirement for comparable rates and independence with no conflicts of interest.
- Extending a 15-day reporting timeframe to 30 days for notifying OIR of administrative, civil, or criminal events.
- Providing a more detailed appropriation.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
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The Committee on Fiscal Policy (Brodeur) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. This act may be cited as the "Prescription Drug Reform Act."

Section 2. Subsection (29) is added to section 499.005, Florida Statutes, to read:

499.005 Prohibited acts.—It is unlawful for a person to perform or cause the performance of any of the following acts in



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this state:

(29) Failure to accurately complete and timely submit reportable drug price increase forms, reports, and documents as required by s. 499.026 and rules adopted thereunder.

Section 3. Subsection (16) is added to section 499.012, Florida Statutes, to read:

499.012 Permit application requirements.—

(16) A permit for a prescription drug manufacturer or a nonresident prescription drug manufacturer is subject to the requirements of s. 499.026.

Section 4. Section 499.026, Florida Statutes, is created to read:

499.026 Notification of manufacturer prescription drug price increases.—

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

(a) "Course of therapy" means the recommended daily dose units of a prescription drug pursuant to its prescribing label for 30 days or the recommended daily dose units of a prescription drug pursuant to its prescribing label for a normal course of treatment which is less than 30 days.

(b) "Manufacturer" means a person holding a prescription drug manufacturer permit or a nonresident prescription drug manufacturer permit under s. 499.01.

(c) "Prescription drug" has the same meaning as in s. 499.003 and includes biological products but is limited to those prescription drugs and biological products intended for human use.

(d) "Reportable drug price increase" means, for a prescription drug with a wholesale acquisition cost of at least



$100 for a course of therapy before the effective date of an increase:

1. Any increase of 15 percent or more of the wholesale acquisition cost during the preceding 12-month period; or

2. Any cumulative increase of 30 percent or more of the wholesale acquisition cost during the preceding 3 calendar years. In calculating the 30 percent threshold, the manufacturer must base the calculation on the wholesale acquisition cost in effect at the end of the 3-year period as compared to the wholesale acquisition cost in effect at the beginning of the same 3-year period.

(e) "Wholesale acquisition cost" means, with respect to a prescription drug or biological product, the manufacturer's list price for the prescription drug or biological product to wholesalers or direct purchasers in the United States, not including prompt pay or other discounts, rebates, or reductions in price, for the most recent month for which the information is available, as reported in wholesale price guides or other publications of drug or biological product pricing data.

(2) On the effective date of a manufacturer's reportable drug price increase, the manufacturer must provide notification of each reportable drug price increase to the department on a form prescribed by the department. The form must require the manufacturer to specify all of the following:

(a) The proprietary and nonproprietary names of the prescription drug, as applicable.

(b) The wholesale acquisition cost before the reportable drug price increase.

(c) The dollar amount of the reportable drug price



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increase.

(d) The percentage amount of the reportable drug price increase from the wholesale acquisition cost before the reportable drug price increase.

(e) Whether a change or an improvement in the prescription drug necessitates the reportable drug price increase.

(f) If a change or an improvement in the prescription drug necessitates the reportable drug price increase as reported in paragraph (e), the manufacturer must describe the change or improvement.

(g) The intended uses of the prescription drug.

This subsection does not prohibit a manufacturer from notifying other parties, such as pharmacy benefit managers, of a drug price increase before the effective date of the drug price increase.

(3) By April 1 of each year, each manufacturer shall submit a report to the department on a form prescribed by the department. A report is not deemed to be submitted until approved by the department. The report must include all of the following:

(a) A list of all prescription drugs affected by a reportable drug price increase during the previous calendar year and both the dollar amount of each reportable drug price increase and the percentage increase of each reportable drug price increase relative to the previous wholesale acquisition cost of the prescription drug. The prescription drugs must be identified using their proprietary names and nonproprietary names, as applicable.


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(b) If more than one form has been filed under this section for previous reportable drug price increases, the percentage increase of the prescription drug from the earliest form filed to the most recent form filed.

(c) The intended uses of each prescription drug listed in the report and whether the prescription drug manufacturer benefits from market exclusivity for such drug.

(d) The length of time the prescription drug has been available for purchase.

(e) A listing of the factors contributing to each reportable drug price increase. As used in this section, the term "factors" means any of the following: research and development; manufacturing costs; advertising and marketing; whether the drug has more competitive value; an increased rate of inflation or other economic dynamics; changes in market dynamics; supporting regulatory and safety commitments; operating patient assistance and educational programs; rebate increases, including any rebate increase requested by a pharmacy benefit manager; Medicaid, Medicare, or 340B Drug Pricing Program offsets; profit; or other factors. An estimated percentage of the influence of each listed factor must be provided to equal 100 percent.

(f) A description of the justification for each factor referenced in paragraph (e) must be provided with such specificity as to explain the need or justification for each reportable drug price increase. The department may request additional information from a manufacturer relating to the need or justification for any reportable drug price increase before approving the manufacturer's report.



(g) Any action that the manufacturer has filed to extend a patent report after the first extension has been granted.

(4)(a) The department shall submit all forms and reports submitted by manufacturers to the Agency for Health Care Administration, to be posted on the agency's website pursuant to s. 408.062. The agency may not post on its website any of the information provided pursuant to paragraph (2)(f), paragraph (3)(f), or paragraph (3)(g) which is marked as a trade secret. The agency shall compile all information from the forms and reports submitted by manufacturers and make it available upon request to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(b) Except for information provided pursuant to paragraph (2)(f), paragraph (3)(f), or paragraph (3)(g), a manufacturer may not claim a public records exemption for a trade secret under s. 119.0715 for any information required by the department under this section. Department employees remain protected from liability for release of forms and reports pursuant to s. 119.0715(4).

(5) The department, in consultation with the Agency for Health Care Administration, shall adopt rules to implement this section.

(a) The department shall adopt necessary emergency rules pursuant to s. 120.54(4) to implement this section. If an emergency rule adopted under this section is held to be unconstitutional or an invalid exercise of delegated legislative authority and becomes void, the department may adopt an emergency rule pursuant to this section to replace the rule that has become void. If the emergency rule adopted to replace the

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void emergency rule is also held to be unconstitutional or an invalid exercise of delegated legislative authority and becomes void, the department must follow the nonemergency rulemaking procedures of the Administrative Procedure Act to replace the rule that has become void.

(b) For emergency rules adopted under this section, the department need not make the findings required under s. 120.54(4)(a). Emergency rules adopted under this section are also exempt from:

1. Sections 120.54(3)(b) and 120.541. Challenges to emergency rules adopted under this section are subject to the time schedules provided in s. 120.56(5).

2. Section 120.54(4)(c) and remain in effect until replaced by rules adopted under the nonemergency rulemaking procedures of the Administrative Procedure Act.

Section 5. Paragraph (a) of subsection (10) of section 624.307, Florida Statutes, is amended, and paragraph (b) of that subsection is republished, to read:

624.307 General powers; duties.—

(10)(a) The Division of Consumer Services shall perform the following functions concerning products or services regulated by the department or office:

1. Receive inquiries and complaints from consumers.

2. Prepare and disseminate information that the department deems appropriate to inform or assist consumers.

3. Provide direct assistance to and advocacy for consumers who request such assistance or advocacy.

4. With respect to apparent or potential violations of law or applicable rules committed by a person or an entity licensed



by the department or office, report apparent or potential violations to the office or to the appropriate division of the department, which may take any additional action it deems appropriate.

5. Designate an employee of the division as the primary contact for consumers on issues relating to sinkholes.

6. Designate an employee of the division as the primary contact for consumers and pharmacies on issues relating to pharmacy benefit managers. The division must refer to the office any consumer complaint that alleges conduct that may constitute a violation of part VII of chapter 626 or for which a pharmacy benefit manager does not respond in accordance with paragraph (b).

(b) Any person licensed or issued a certificate of authority by the department or the office shall respond, in writing, to the division within 20 days after receipt of a written request for documents and information from the division concerning a consumer complaint. The response must address the issues and allegations raised in the complaint and include any requested documents concerning the consumer complaint not subject to attorney-client or work-product privilege. The division may impose an administrative penalty for failure to comply with this paragraph of up to $2,500 per violation upon any entity licensed by the department or the office and $250 for the first violation, $500 for the second violation, and up to $1,000 for the third or subsequent violation upon any individual licensed by the department or the office.

Section 6. Subsection (1) of section 624.490, Florida Statutes, is amended to read:



624.490 Registration of pharmacy benefit managers.—

(1) As used in this section, the term "pharmacy benefit manager" has the same meaning as in s. 626.88 ~~means a person or entity doing business in this state which contracts to administer prescription drug benefits on behalf of a health insurer or a health maintenance organization to residents of this state~~.

Section 7. Subsections (1) and (5) of section 624.491, Florida Statutes, are amended to read:

624.491 Pharmacy audits.—

(1) A pharmacy benefits plan or program as defined in s. 626.8825 ~~health insurer or health maintenance organization~~ providing pharmacy benefits ~~through a major medical individual or group health insurance policy or a health maintenance contract, respectively,~~ must comply with the requirements of this section when the pharmacy benefits plan or program ~~health insurer or health maintenance organization~~ or any person or entity acting on behalf of the pharmacy benefits plan or program ~~health insurer or health maintenance organization~~, including, but not limited to, a pharmacy benefit manager as defined in s. 626.88 ~~s. 624.490(1)~~, audits the records of a pharmacy licensed under chapter 465. The person or entity conducting such audit must:

(a) Except as provided in subsection (3), notify the pharmacy at least 7 calendar days before the initial onsite audit for each audit cycle.

(b) Not schedule an onsite audit during the first 3 calendar days of a month unless the pharmacist consents otherwise.



(c) Limit the duration of the audit period to 24 months after the date a claim is submitted to or adjudicated by the entity.

(d) In the case of an audit that requires clinical or professional judgment, conduct the audit in consultation with, or allow the audit to be conducted by, a pharmacist.

(e) Allow the pharmacy to use the written and verifiable records of a hospital, physician, or other authorized practitioner, which are transmitted by any means of communication, to validate the pharmacy records in accordance with state and federal law.

(f) Reimburse the pharmacy for a claim that was retroactively denied for a clerical error, typographical error, scrivener's error, or computer error if the prescription was properly and correctly dispensed, unless a pattern of such errors exists, fraudulent billing is alleged, or the error results in actual financial loss to the entity.

(g) Provide the pharmacy with a copy of the preliminary audit report within 120 days after the conclusion of the audit.

(h) Allow the pharmacy to produce documentation to address a discrepancy or audit finding within 10 business days after the preliminary audit report is delivered to the pharmacy.

(i) Provide the pharmacy with a copy of the final audit report within 6 months after the pharmacy's receipt of the preliminary audit report.

(j) Calculate any recoupment or penalties based on actual overpayments and not according to the accounting practice of extrapolation.

(5) A pharmacy benefits plan or program ~~health insurer or~~



~~health maintenance organization~~ that, under terms of a contract, transfers to a pharmacy benefit manager the obligation to pay a pharmacy licensed under chapter 465 for any pharmacy benefit claims arising from services provided to or for the benefit of an insured or subscriber remains responsible for a violation of this section.

Section 8. Subsection (1) of section 626.88, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

626.88 Definitions.—For the purposes of this part, the term:

(1) "Administrator" means ~~is~~ any person who directly or indirectly solicits or effects coverage of, collects charges or premiums from, or adjusts or settles claims on residents of this state in connection with authorized commercial self-insurance funds or with insured or self-insured programs which provide life or health insurance coverage or coverage of any other expenses described in s. 624.33(1); ~~or~~ any person who, through a health care risk contract as defined in s. 641.234 with an insurer or health maintenance organization, provides billing and collection services to health insurers and health maintenance organizations on behalf of health care providers; or a pharmacy benefit manager. The term does not include~~, other than~~ any of the following ~~persons~~:

(a) An employer or wholly owned direct or indirect subsidiary of an employer, on behalf of such employer's employees or the employees of one or more subsidiary or affiliated corporations of such employer.

(b) A union on behalf of its members.



(c) An insurance company which is either authorized to transact insurance in this state or is acting as an insurer with respect to a policy lawfully issued and delivered by such company in and pursuant to the laws of a state in which the insurer was authorized to transact an insurance business.

(d) A health care services plan, health maintenance organization, professional service plan corporation, or person in the business of providing continuing care, possessing a valid certificate of authority issued by the office, and the sales representatives thereof, if the activities of such entity are limited to the activities permitted under the certificate of authority.

(e) An entity that is affiliated with an insurer and that only performs the contractual duties, between the administrator and the insurer, of an administrator for the direct and assumed insurance business of the affiliated insurer. The insurer is responsible for the acts of the administrator and is responsible for providing all of the administrator's books and records to the insurance commissioner, upon a request from the insurance commissioner. For purposes of this paragraph, the term "insurer" means a licensed insurance company, health maintenance organization, prepaid limited health service organization, or prepaid health clinic.

(f) A nonresident entity licensed in its state of domicile as an administrator if its duties in this state are limited to the administration of a group policy or plan of insurance and no more than a total of 100 lives for all plans reside in this state.

(g) An insurance agent licensed in this state whose



activities are limited exclusively to the sale of insurance.

(h) A person appointed as a managing general agent in this state, whose activities are limited exclusively to the scope of activities conveyed under such appointment.

(i) An adjuster licensed in this state whose activities are limited to the adjustment of claims.

(j) A creditor on behalf of such creditor’s debtors with respect to insurance covering a debt between the creditor and its debtors.

(k) A trust and its trustees, agents, and employees acting pursuant to such trust established in conformity with 29 U.S.C. s. 186.

(l) A trust exempt from taxation under s. 501(a) of the Internal Revenue Code, a trust satisfying the requirements of ss. 624.438 and 624.439, or any governmental trust as defined in s. 624.33(3), and the trustees and employees acting pursuant to such trust, or a custodian and its agents and employees, including individuals representing the trustees in overseeing the activities of a service company or administrator, acting pursuant to a custodial account which meets the requirements of s. 401(f) of the Internal Revenue Code.

(m) A financial institution which is subject to supervision or examination by federal or state authorities or a mortgage lender licensed under chapter 494 who collects and remits premiums to licensed insurance agents or authorized insurers concurrently or in connection with mortgage loan payments.

(n) A credit card issuing company which advances for and collects premiums or charges from its credit card holders who have authorized such collection if such company does not adjust



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or settle claims.

(o) A person who adjusts or settles claims in the normal course of such person's practice or employment as an attorney at law and who does not collect charges or premiums in connection with life or health insurance coverage.

(p) A person approved by the department who administers only self-insured workers' compensation plans.

(q) A service company or service agent and its employees, authorized in accordance with ss. 626.895-626.899, serving only a single employer plan, multiple-employer welfare arrangements, or a combination thereof.

(r) Any provider or group practice, as defined in s. 456.053, providing services under the scope of the license of the provider or the member of the group practice.

(s) Any hospital providing billing, claims, and collection services solely on its own and its physicians' behalf and providing services under the scope of its license.

(t) A corporation not for profit whose membership consists entirely of local governmental units authorized to enter into risk management consortiums under s. 112.08.

A person who provides billing and collection services to health insurers and health maintenance organizations on behalf of health care providers shall comply with the provisions of ss. 627.6131, 641.3155, and 641.51(4).

(6) "Pharmacy benefit manager" means a person or an entity doing business in this state which contracts to administer prescription drug benefits on behalf of a pharmacy benefits plan or program as defined in s. 626.8825. The term includes, but is



not limited to, a person or an entity that performs one or more of the following services on behalf of such plan or program:

(a) Pharmacy claims processing.

(b) Administration or management of a pharmacy discount card program and performance of any other service listed in this subsection.

(c) Managing pharmacy networks or pharmacy reimbursement.

(d) Paying or managing claims for pharmacist services provided to covered persons.

(e) Developing or managing a clinical formulary, including utilization management or quality assurance programs.

(f) Pharmacy rebate administration.

(g) Managing patient compliance, therapeutic intervention, or generic substitution programs.

(h) Administration or management of a mail-order pharmacy program.

Section 9. Present subsections (3) through (6) of section 626.8805, Florida Statutes, are redesignated as subsections (4) through (7), respectively, a new subsection (3) and subsection (8) are added to that section, and subsection (1) and present subsection (3) of that section are amended, to read:

626.8805 Certificate of authority to act as administrator.—

(1) It is unlawful for any person to act as or hold himself or herself out to be an administrator in this state without a valid certificate of authority issued by the office pursuant to ss. 626.88-626.894. A pharmacy benefit manager that is registered with the office under s. 624.490 as of June 30, 2023, may continue to operate until January 1, 2024, as an administrator without a certificate of authority and is not in



violation of the requirement to possess a valid certificate of authority as an administrator during that timeframe. To qualify for and hold authority to act as an administrator in this state, an administrator must otherwise be in compliance with this code and with its organizational agreement. The failure of any person, excluding a pharmacy benefit manager, to hold such a certificate while acting as an administrator shall subject such person to a fine of not less than $5,000 or more than $10,000 for each violation. A person who, on or after January 1, 2024, does not hold a certificate of authority to act as an administrator while operating as a pharmacy benefit manager is subject to a fine of $10,000 per violation per day. By January 15, 2024, the office shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report detailing whether each pharmacy benefit manager operating in this state on January 1, 2024, obtained a certificate of authority on or before that date as required by this section.

(3) An applicant that is a pharmacy benefit manager must also submit all of the following:

(a) A complete biographical statement on forms prescribed by the commission.

(b) An independent background report as prescribed by the commission.

(c) A full set of fingerprints of all of the individuals referenced in paragraph (2)(c) to the office or to a vendor, entity, or agency authorized by s. 943.053(13). The office, vendor, entity, or agency, as applicable, shall forward the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward



the fingerprints to the Federal Bureau of Investigation for national processing in accordance with s. 943.053 and 28 C.F.R. s. 20.

(d) A self-disclosure of any administrative, civil, or criminal complaints, settlements, or discipline of the applicant, or any of the applicant's affiliates, which relate to a violation of the insurance laws, including pharmacy benefit manager laws, in any state.

(e) A statement attesting to compliance with the network requirements in s. 626.8825 beginning January 1, 2024.

(4)(a) ~~(3)~~ The applicant shall make available for inspection by the office copies of all contracts relating to services provided by the administrator to insurers or other persons using the services of the administrator.

(b) An applicant that is a pharmacy benefit manager shall also make available for inspection by the office:

1. Copies of all contract templates with any pharmacy as defined in s. 465.003; and

2. Copies of all subcontracts to support its operations.

(8) A pharmacy benefit manager is exempt from fees associated with the initial application and the annual filing fees in s. 626.89.

Section 10. Section 626.8814, Florida Statutes, is amended to read:

626.8814 Disclosure of ownership or affiliation.—

(1) Each administrator shall identify to the office any ownership interest or affiliation of any kind with any insurance company responsible for providing benefits directly or through reinsurance to any plan for which the administrator provides



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administrative services.

(2) Pharmacy benefit managers shall also identify to the office any ownership affiliation of any kind with any pharmacy which, either directly or indirectly, through one or more intermediaries:

(a) Has an investment or ownership interest in a pharmacy benefit manager holding a certificate of authority issued under this part;

(b) Shares common ownership with a pharmacy benefit manager holding a certificate of authority issued under this part; or

(c) Has an investor or a holder of an ownership interest which is a pharmacy benefit manager holding a certificate of authority issued under this part.

(3) A pharmacy benefit manager shall report any change in information required by subsection (2) to the office in writing within 60 days after the change occurs.

Section 11. Section 626.8825, Florida Statutes, is created to read:

626.8825 Pharmacy benefit manager transparency and accountability.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Adjudication transaction fee" means a fee charged by the pharmacy benefit manager to the pharmacy for electronic claim submissions.

(b) "Affiliated pharmacy" means a pharmacy that, either directly or indirectly through one or more intermediaries:

1. Has an investment or ownership interest in a pharmacy benefit manager holding a certificate of authority issued under this part;


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2. Shares common ownership with a pharmacy benefit manager holding a certificate of authority issued under this part; or

3. Has an investor or a holder of an ownership interest which is a pharmacy benefit manager holding a certificate of authority issued under this part.

(c) "Brand name or generic effective rate" means the contractual rate set forth by a pharmacy benefit manager for the reimbursement of covered brand name or generic drugs, calculated using the total payments in the aggregate, by drug type, during the performance period. The effective rates are typically calculated as a discount from industry benchmarks, such as average wholesale price or wholesale acquisition cost.

(d) "Covered person" means a person covered by, participating in, or receiving the benefit of a pharmacy benefits plan or program.

(e) "Direct and indirect remuneration fees" means price concessions that are paid to the pharmacy benefit manager by the pharmacy retrospectively and that cannot be calculated at the point of sale. The term may also include discounts, chargebacks or rebates, cash discounts, free goods contingent on a purchase agreement, upfront payments, coupons, goods in kind, free or reduced-price services, grants, or other price concessions or similar benefits from manufacturers, pharmacies, or similar entities.

(f) "Dispensing fee" means a fee intended to cover reasonable costs associated with providing the drug to a covered person. This cost includes the pharmacist's services and the overhead associated with maintaining the facility and equipment necessary to operate the pharmacy.


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(g) "Effective rate guarantee" means the minimum ingredient cost reimbursement a pharmacy benefit manager guarantees it will pay for pharmacist services during the applicable measurement period.

(h) "Erroneous claims" means pharmacy claims submitted in error, including, but not limited to, unintended, incorrect, fraudulent, or test claims.

(i) "Group purchasing organization" means an entity affiliated with a pharmacy benefit manager or a pharmacy benefits plan or program which uses purchasing volume aggregates as leverage to negotiate discounts and rebates for covered prescription drugs with pharmaceutical manufacturers, distributors, and wholesale vendors.

(j) "Incentive payment" means a retrospective monetary payment made as a reward or recognition by the pharmacy benefits plan or program or pharmacy benefit manager to a pharmacy for meeting or exceeding predefined pharmacy performance metrics as related to quality measures, such as Healthcare Effectiveness Data and Information Set measures.

(k) "Maximum allowable cost appeal pricing adjustment" means a retrospective positive payment adjustment made to a pharmacy by the pharmacy benefits plan or program or by the pharmacy benefit manager pursuant to an approved maximum allowable cost appeal request submitted by the same pharmacy to dispute the amount reimbursed for a drug based on the pharmacy benefit manager's listed maximum allowable cost price.

(l) "Monetary recoupments" means rescinded or recouped payments from a pharmacy or provider by the pharmacy benefits plan or program or by the pharmacy benefit manager.



(m) "Network" means a group of pharmacies that agree to provide pharmacist services to covered persons on behalf of a pharmacy benefits plan or program or a group of pharmacy benefits plans or programs in exchange for payment for such services. The term includes a pharmacy that generally dispenses outpatient prescription drugs to covered persons.

(n) "Network reconciliation offsets" means a process during annual payment reconciliation between a pharmacy benefit manager and a pharmacy which allows the pharmacy benefit manager to offset an amount for overperformance or underperformance of contractual guarantees across guaranteed line items, channels, networks, or payors, as applicable.

(o) "Participation contract" means any agreement between a pharmacy benefit manager and pharmacy for the provision and reimbursement of pharmacist services and any exhibits, attachments, amendments, or addendums to such agreement.

(p) "Pass-through pricing model" means a payment model used by a pharmacy benefit manager in which the payments made by the pharmacy benefits plan or program to the pharmacy benefit manager for the covered outpatient drugs are:

1. Equivalent to the payments the pharmacy benefit manager makes to a dispensing pharmacy or provider for such drugs, including any contracted professional dispensing fee between the pharmacy benefit manager and its network of pharmacies. Such dispensing fee would be paid if the pharmacy benefits plan or program was making the payments directly.

2. Passed through in their entirety by the pharmacy benefits plan or program or by the pharmacy benefit manager to the pharmacy or provider that dispenses the drugs, and the



payments are made in a manner that is not offset by any reconciliation.

(q) "Pharmacist" has the same meaning as in s. 465.003.

(r) "Pharmacist services" means products, goods, and services or any combination of products, goods, and services provided as part of the practice of the profession of pharmacy as defined in s. 465.003 or otherwise covered by a pharmacy benefits plan or program.

(s) "Pharmacy" has the same meaning as in s. 465.003.

(t) "Pharmacy benefit manager" has the same meaning as in s. 626.88.

(u) "Pharmacy benefits plan or program" means a plan or program that pays for, reimburses, covers the cost of, or provides access to discounts on pharmacist services provided by one or more pharmacies to covered persons who reside in, are employed by, or receive pharmacist services from this state. The term includes, but is not limited to, health maintenance organizations, health insurers, self-insured employer health plans, discount card programs, and government-funded health plans, including the Statewide Medicaid Managed Care program established pursuant to part IV of chapter 409 and the state group insurance program pursuant to part I of chapter 110.

(v) "Rebate" means all payments that accrue to a pharmacy benefit manager or its pharmacy benefits plan or program client or an affiliated group purchasing organization, directly or indirectly, from a pharmaceutical manufacturer, including, but not limited to, discounts, administration fees, credits, incentives, or penalties associated directly or indirectly in any way with claims administered on behalf of a pharmacy



benefits plan or program client.

(w) "Spread pricing" is the practice in which a pharmacy benefit manager charges a pharmacy benefits plan or program a different amount for pharmacist services than the amount the pharmacy benefit manager reimburses a pharmacy for such pharmacist services.

(x) "Usual and customary price" means the amount charged to cash customers for a pharmacist service exclusive of sales tax or other amounts claimed.

(2) CONTRACTS BETWEEN A PHARMACY BENEFIT MANAGER AND A PHARMACY BENEFITS PLAN OR PROGRAM.—In addition to any other requirements in the Florida Insurance Code, all contractual arrangements executed, amended, adjusted, or renewed on or after July 1, 2023, which are applicable to pharmacy benefits covered on or after January 1, 2024, between a pharmacy benefit manager and a pharmacy benefits plan or program must:

(a) Use a pass-through pricing model, remaining consistent with the prohibition in paragraph (3)(c).

(b) Exclude terms that allow for the direct or indirect engagement in the practice of spread pricing unless the pharmacy benefit manager passes along the entire amount of such difference to the pharmacy benefits plan or program as allowable under paragraph (a).

(c) Ensure that funds received in relation to providing services for a pharmacy benefits plan or program or a pharmacy are received by the pharmacy benefit manager in trust for the pharmacy benefits plan or program or pharmacy, as applicable, and are used or distributed only pursuant to the pharmacy benefit manager's contract with the pharmacy benefits plan or

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program or with the pharmacy or as otherwise required by applicable law.

(d) Require the pharmacy benefit manager to pass 100 percent of all prescription drug manufacturer rebates, including nonresident manufacturer rebates, received to the pharmacy benefits plan or program, if the contractual arrangement delegates the negotiation of rebates to the pharmacy benefit manager, for the sole purpose of offsetting defined cost sharing and reducing premiums of covered persons. Any excess rebate revenue after the pharmacy benefit manager and the pharmacy benefits plan or program have taken all actions required under this paragraph must be used for the sole purpose of offsetting copayments and deductibles of covered persons. This paragraph does not apply to contracts involving Medicaid managed care plans.

(e) Include network adequacy requirements that meet or exceed the Medicare Part D program standards for convenient access to network pharmacies set forth in 42 C.F.R. s. 423.120, and that:

1. Do not limit a network to solely include affiliated pharmacies;

2. Require a pharmacy benefit manager to offer a provider contract to licensed pharmacies physically located on the physical site of providers that are:

a. Within the pharmacy benefits plan’s or program’s geographic service area and that have been specifically designated as essential providers by the Agency for Health Care Administration pursuant to s. 409.975(1)(a);

b. Designated as a Cancer Center of Excellence under s.



381.925, regardless of the pharmacy benefits plan's or program's geographic service area;

c. Organ transplant hospitals, regardless of the pharmacy benefits plan's or program's geographic service area;

d. Hospitals licensed as specialty children's hospitals as defined in s. 395.002; or

e. Regional perinatal intensive care centers as defined in s. 383.16(2), regardless of the pharmacy benefits plan's or program's geographic service area.

Such provider contracts must be solely for the administration or dispensing of covered prescription drugs, including biological products, that are administered through infusions, intravenously injected, inhaled during a surgical procedure, or a covered parenteral drug, as part of onsite outpatient care;

3. Do not require a covered person to receive a prescription drug by United States mail, common carrier, local courier, third-party company or delivery service, or pharmacy direct delivery; unless the prescription drug cannot be acquired at any retail pharmacy in the pharmacy benefit manager's network for the covered person's pharmacy benefits plan or program. This subparagraph does not prohibit a pharmacy benefit manager from operating mail order or delivery programs on an opt-in basis at the sole discretion of a covered person;

4. Prohibit a requirement for a covered person to receive pharmacist services from an affiliated pharmacy or an affiliated health care provider for the in-person administration of covered prescription drugs; offering or implementing pharmacy networks that require or provide a promotional item or an incentive,

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defined as anything other than a reduced cost-sharing amount or enhanced quantity limit allowed under the benefit design for a covered drug, to a covered person to use an affiliated pharmacy or an affiliated health care provider for the in-person administration of covered prescription drugs; or advertising, marketing, or promoting an affiliated pharmacy to covered persons. Subject to the foregoing, a pharmacy benefit manager may include an affiliated pharmacy in communications to covered persons regarding network pharmacies and prices, provided that the pharmacy benefit manager includes information, such as links to all nonaffiliated network pharmacies, in such communications and that the information provided is accurate and of equal prominence. This paragraph may not be construed to prohibit a pharmacy benefit manager from entering into an agreement with an affiliated pharmacy to provide pharmacist services to covered persons.

(f) Prohibit the ability of a pharmacy benefit manager to condition participation in one pharmacy network on participation in any other pharmacy network or penalize a pharmacy for exercising its prerogative not to participate in a specific pharmacy network.

(g) Prohibit a pharmacy benefit manager from instituting a network that requires a pharmacy to meet accreditation standards inconsistent with or more stringent than applicable federal and state requirements for licensure and operation as a pharmacy in this state. However, a pharmacy benefit manager may specify additional specialty networks that require enhanced standards related to the safety and competency necessary to meet the United States Food and Drug Administration’s limited



distribution requirements for dispensing any covered drug, on a drug-by-drug basis, that requires extraordinary special handling, provider coordination, clinical care or monitoring, or patient education when such extraordinary requirements cannot be met by a network pharmacy. For purposes of this paragraph, drugs requiring extraordinary special handling include, but are not limited to, drugs that are subject to a risk evaluation and mitigation strategy approved by the United States Food and Drug Administration; require special certification of a health care provider to prescribe, receive, dispense, or administer; require special handling due to the molecular complexity or cytotoxic properties of the biologic or biosimilar product or drug; require cold chain storage and shipping or specialized equipment to dispense; or require other conditions of a similar gravity.

(h)1. At a minimum, require the pharmacy benefit manager or pharmacy benefits plan or program to, upon revising its formulary of covered prescription drugs during a plan year, provide a 60-day continuity-of-care period in which the covered prescription drug that is being revised from the formulary continues to be provided at the same cost for the patient for a period of 60 days. The 60-day continuity-of-care period commences upon notification to the patient. This requirement does not apply if the covered prescription drug:

a. Has been approved and made available over the counter by the United States Food and Drug Administration and has entered the commercial market as such;

b. Has been removed or withdrawn from the commercial market by the manufacturer; or

c. Is subject to an involuntary recall by state or federal


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authorities and is no longer available on the commercial market.

2. Beginning January 1, 2024, and annually thereafter, the pharmacy benefits plan or program shall submit to the office, under the penalty of perjury, a statement attesting to its compliance with the requirements of this subsection.

(3) CONTRACTS BETWEEN A PHARMACY BENEFIT MANAGER AND A PARTICIPATING PHARMACY.—In addition to other requirements in the Florida Insurance Code, a participation contract executed, amended, adjusted, or renewed on or after July 1, 2023, that applies to pharmacist services on or after January 1, 2024, between a pharmacy benefit manager and one or more pharmacies or pharmacists, must include, in substantial form, terms that ensure compliance with all of the following requirements, and that, except to the extent not allowed by law, shall supersede any contractual terms in the participation contract to the contrary:

(a) At the time of adjudication for electronic claims or the time of reimbursement for nonelectronic claims, the pharmacy benefit manager shall provide the pharmacy with a remittance, including such detailed information as is necessary for the pharmacy or pharmacist to identify the reimbursement schedule for the specific network applicable to the claim and which is the basis used by the pharmacy benefit manager to calculate the amount of reimbursement paid. This information must include, but is not limited to, the applicable network reimbursement ID or plan ID as defined in the most current version of the National Council for Prescription Drug Programs (NCPDP) Telecommunication Standard Implementation Guide, or its nationally recognized successor industry guide. The commission shall adopt rules to



implement this paragraph.

(b) The pharmacy benefit manager must ensure that any basis of reimbursement information is communicated to a pharmacy in accordance with the NCPDP Telecommunication Standard Implementation Guide, or its nationally recognized successor industry guide, when performing reconciliation for any effective rate guarantee, and that such basis of reimbursement information communicated is accurate, corresponds with the applicable network rate, and may be relied upon by the pharmacy.

(c) A prohibition of financial clawbacks, reconciliation offsets, or offsets to adjudicated claims. A pharmacy benefit manager may not charge, withhold, or recoup direct or indirect remuneration fees, dispensing fees, brand name or generic effective rate adjustments through reconciliation, or any other monetary charge, withholding, or recoupments as related to discounts, multiple network reconciliation offsets, adjudication transaction fees, and any other instance when a fee may be recouped from a pharmacy. This prohibition does not apply to:

1. Any incentive payments provided by the pharmacy benefit manager to a network pharmacy for meeting or exceeding predefined quality measures, such as Healthcare Effectiveness Data and Information Set measures; recoupment due to an erroneous claim, fraud, waste, or abuse; a claim adjudicated in error; a maximum allowable cost appeal pricing adjustment; or an adjustment made as part of a pharmacy audit pursuant to s. 624.491.

2. Any recoupment that is returned to the state for programs in chapter 409 or the state group insurance program in s. 110.123.



(d) A pharmacy benefit manager may not unilaterally change the terms of any participation contract.

(e) Unless otherwise prohibited by law, a pharmacy benefit manager may not prohibit a pharmacy or pharmacist from:

1. Offering mail or delivery services on an opt-in basis at the sole discretion of the covered person.

2. Mailing or delivering a prescription drug to a covered person upon his or her request.

3. Charging a shipping or handling fee to a covered person requesting a prescription drug be mailed or delivered if the pharmacy or pharmacist discloses to the covered person before the mailing or delivery the amount of the fee that will be charged and that the fee may not be reimbursable by the covered person's pharmacy benefits plan or program.

(f) The pharmacy benefit manager must provide a pharmacy, upon its request, a list of pharmacy benefits plans or programs in which the pharmacy is a part of the network. Updates to the list must be communicated to the pharmacy within 7 days. The pharmacy benefit manager may not restrict the pharmacy or pharmacist from disclosing this information to the public.

(g) The pharmacy benefit manager must ensure that the Electronic Remittance Advice contains claim level payment adjustments in accordance with the American National Standards Institute Accredited Standards Committee, X12 format, and includes or is accompanied by the appropriate level of detail for the pharmacy to reconcile any debits or credits, including, but not limited to, pharmacy NCPDP or NPI identifier, date of service, prescription number, refill number, adjustment code, if applicable, and transaction amount.


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(h) The pharmacy benefit manager shall provide a reasonable administrative appeal procedure to allow a pharmacy or pharmacist to challenge the maximum allowable cost pricing information and the reimbursement made under the maximum allowable cost as defined in s. 627.64741 for a specific drug as being below the acquisition cost available to the challenging pharmacy or pharmacist.

1. The administrative appeal procedure must include a telephone number and e-mail address, or a website, for the purpose of submitting the administrative appeal. The appeal may be submitted by the pharmacy or an agent of the pharmacy directly to the pharmacy benefit manager or through a pharmacy service administration organization. The pharmacy or pharmacist must be given at least 30 business days after a maximum allowable cost update or after an adjudication for an electronic claim or reimbursement for a nonelectronic claim to file the administrative appeal.

2. The pharmacy benefit manager must respond to the administrative appeal within 30 business days after receipt of the appeal.

3. If the appeal is upheld, the pharmacy benefit manager must:

a. Update the maximum allowable cost pricing information to at least the acquisition cost available to the pharmacy;

b. Permit the pharmacy or pharmacist to reverse and rebill the claim in question;

c. Provide to the pharmacy or pharmacist the national drug code on which the increase or change is based; and

d. Make the increase or change effective for each similarly



situated pharmacy or pharmacist who is subject to the applicable maximum allowable cost pricing information.

4. If the appeal is denied, the pharmacy benefit manager must provide to the pharmacy or pharmacist the national drug code and the name of the national or regional pharmaceutical wholesalers operating in this state which have the drug currently in stock at a price below the maximum allowable cost pricing information.

5. Every 90 days, a pharmacy benefit manager shall report to the office the total number of appeals received and denied in the preceding 90-day period, with an explanation or reason for each denial, for each specific drug for which an appeal was submitted pursuant to this paragraph.

Section 12. Section 626.8827, Florida Statutes, is created to read:

626.8827 Pharmacy benefit manager prohibited practices.—In addition to other prohibitions in this part, a pharmacy benefit manager may not do any of the following:

(1) Prohibit, restrict, or penalize in any way a pharmacy or pharmacist from disclosing to any person any information that the pharmacy or pharmacist deems appropriate, including, but not limited to, information regarding any of the following:

(a) The nature of treatment, risks, or alternatives thereto.

(b) The availability of alternate treatment, consultations, or tests.

(c) The decision of utilization reviewers or similar persons to authorize or deny pharmacist services.

(d) The process used to authorize or deny pharmacist



services or benefits.

(e) Information on financial incentives and structures used by the pharmacy benefits plan or program.

(f) Information that may reduce the costs of pharmacist services.

(g) Whether the cost-sharing obligation exceeds the retail price for a covered prescription drug and the availability of a more affordable alternative drug, pursuant to s. 465.0244.

(2) Prohibit, restrict, or penalize in any way a pharmacy or pharmacist from disclosing information to the office, the Agency for Health Care Administration, Department of Management Services, law enforcement, or state and federal governmental officials, provided that the recipient of the information represents it has the authority, to the extent provided by state or federal law, to maintain proprietary information as confidential; and before disclosure of information designated as confidential, the pharmacist or pharmacy marks as confidential any document in which the information appears or requests confidential treatment for any oral communication of the information.

(3) Communicate at the point-of-sale, or otherwise require, a cost-sharing obligation for the covered person in an amount that exceeds the lesser of:

(a) The applicable cost-sharing amount under the applicable pharmacy benefits plan or program; or

(b) The usual and customary price, as defined in s. 626.8825, of the pharmacist services.

(4) Transfer or share records relative to prescription information containing patient-identifiable or prescriber-



identifiable data to an affiliated pharmacy for any commercial purpose other than the limited purposes of facilitating pharmacy reimbursement, formulary compliance, or utilization review on behalf of the applicable pharmacy benefits plan or program.

(5) Fail to make any payment due to a pharmacy for an adjudicated claim with a date of service before the effective date of a pharmacy's termination from a pharmacy benefit network unless payments are withheld because of actual fraud on the part of the pharmacy or except as otherwise required by law.

(6) Terminate the contract of, penalize, or disadvantage a pharmacist or pharmacy due to a pharmacist or pharmacy:

(a) Disclosing information about pharmacy benefit manager practices in accordance with this act;

(b) Exercising any of its prerogatives under this part; or

(c) Sharing any portion, or all, of the pharmacy benefit manager contract with the office pursuant to a complaint or a query regarding whether the contract is in compliance with this act.

(7) Fail to comply with the requirements in s. 626.8825 or s. 624.491.

Section 13. Section 626.8828, Florida Statutes, is created to read:

626.8828 Investigations and examinations of pharmacy benefit managers; expenses; penalties.—

(1) The office may investigate administrators who are pharmacy benefit managers and applicants for authorization as provided in ss. 624.307 and 624.317. The office shall review any referral made pursuant to s. 624.307(10) and shall investigate any referral that, as determined by the Commissioner of



Insurance Regulation or his or her designee, reasonably indicates a possible violation of this part.

(2)(a) The office shall examine the business and affairs of each pharmacy benefit manager at least biennially. The biennial examination of each pharmacy benefit manager must be a systematic review for the purpose of determining the pharmacy benefit manager's compliance with all provisions of this part and all other laws or rules applicable to pharmacy benefit managers and must include a detailed review of the pharmacy benefit manager's compliance with ss. 626.8825 and 626.8827. The first 2-year cycle for conducting biennial reviews begins January 1, 2025. By January 15, 2026, and each January 15 thereafter, the office shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report summarizing the results of the prior year's examinations which includes detailed descriptions of any violations committed by each pharmacy benefit manager and detailed reporting of actions taken by the office against each pharmacy benefit manager for such violations. Beginning with the 2027 report, and every 2 years thereafter, the report must document the office's compliance with the examination timeframe requirements as provided in this paragraph. The office must specify the number and percentage of all examination completed within the timeframe.

(b) The office also may conduct additional examinations as often as it deems advisable or necessary for the purpose of ascertaining compliance with this part and any other laws or rules applicable to pharmacy benefit managers or applicants for authorization.


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(c) If a referral made pursuant to s. 624.307(10) reasonably indicates a pattern or practice of violations of this part by a pharmacy benefit manager, the office must begin an examination of the pharmacy benefit manager or include findings related to such referral within an ongoing examination.

(d) Based on the findings of an examination that a pharmacy benefit manager or an applicant for authorization has exhibited a pattern or practice of knowing and willful violations of s. 626.8825 or s. 626.8827, the office may, pursuant to chapter 120, order a pharmacy benefit manager to file all contracts between the pharmacy benefit manager and pharmacies or pharmacy benefits plans or programs and any policies, guidelines, rules, protocols, standard operating procedures, instructions, or directives that govern or guide the manner in which the pharmacy benefit manager or applicant conducts business related to such knowing and willful violations for review and inspection for the following 36-month period. Such documents are public records and are not trade secrets or otherwise exempt from s. 119.07(1). As used in this section, the term:

1. "Contracts" means any contract to which s. 626.8825 is applicable.

2. "Knowing and willful" means any act of commission or omission which is committed intentionally, as opposed to accidentally, and which is committed with knowledge of the act's unlawfulness or with reckless disregard as to the unlawfulness of the act.

(e) Examinations may be conducted by an independent professional examiner under contract to the office, in which case payment must be made directly to the contracted examiner by


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the pharmacy benefit manager examined in accordance with the rates and terms agreed to by the office and the examiner. The commission shall adopt rules providing for the types of independent professional examiners who may conduct examinations under this section, which types must include, but need not be limited to, independent certified public accountants, actuaries, investment specialists, information technology specialists, or others meeting criteria specified by commission rule. The rules must also require that:

1. The rates charged to the pharmacy benefit manager being examined are consistent with rates charged by other firms in a similar profession and are comparable with the rates charged for comparable examinations.

2. The firm selected by the office to perform the examination has no conflicts of interest which might affect its ability to independently perform its responsibilities for the examination.

(3) In making investigations and examinations of pharmacy benefit managers and applicants for authorization, the office and such pharmacy benefit manager are subject to all of the following provisions:

(a) Section 624.318, as to the conduct of examinations.

(b) Section 624.319, as to examination and investigation reports.

(c) Section 624.321, as to witnesses and evidence.

(d) Section 624.322, as to compelled testimony.

(e) Section 624.324, as to hearings.

(f) Any other provision of chapter 624 applicable to the investigation or examination of a licensee under this part.


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(4)(a) A pharmacy benefit manager must maintain an accurate record of all contracts and records with all pharmacies and pharmacy benefits plans or programs for the duration of the contract, and for 5 years thereafter. Such contracts must be made available to the office and kept in a form accessible to the office.

(b) The office may order any pharmacy benefit manager or applicant to produce any records, books, files, contracts, advertising and solicitation materials, or other information and may take statements under oath to determine whether the pharmacy benefit manager or applicant is in violation of the law or is acting contrary to the public interest.

(5)(a) Notwithstanding s. 624.307(3), each pharmacy benefit manager and applicant for authorization must pay to the office the expenses of the examination or investigation. Such expenses include actual travel expenses, a reasonable living expense allowance, compensation of the examiner, investigator, or other person making the examination or investigation, and necessary costs of the office directly related to the examination or investigation. Such travel expenses and living expense allowances are limited to those expenses necessarily incurred on account of the examination or investigation and shall be paid by the examined pharmacy benefit manager or applicant together with compensation upon presentation by the office to such pharmacy benefit manager or applicant of such charges and expenses after a detailed statement has been filed by the examiner and approved by the office.

(b) All moneys collected from pharmacy benefit managers and applicants for authorization pursuant to this subsection shall

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be deposited into the Insurance Regulatory Trust Fund, and the office may make deposits from time to time into such fund from moneys appropriated for the operation of the office.

(c) Notwithstanding s. 112.061, the office may pay to the examiner, investigator, or person making such examination or investigation out of such trust fund the actual travel expenses, reasonable living expense allowance, and compensation in accordance with the statement filed with the office by the examiner, investigator, or other person, as provided in paragraph (a).

(6) In addition to any other enforcement authority available to the office, the office shall impose an administrative fine of $5,000 for each violation of s. 626.8825 or s. 626.8827. Each instance of a violation of such sections by a pharmacy benefit manager against each individual pharmacy or prescription benefits plan or program constitutes a separate violation. Notwithstanding any other provision of law, there is no limitation on aggregate fines issued pursuant to this section. The proceeds from any administrative fine shall be deposited into the General Revenue Fund.

(7) Failure by a pharmacy benefit manager to pay expenses incurred or administrative fines imposed under this section is grounds for the denial, suspension, or revocation of its certificate of authority.

Section 14. Section 626.89, Florida Statutes, is amended to read:

626.89 Annual financial statement and filing fee; notice of change of ownership; pharmacy benefit manager filings.—

(1) Each authorized administrator shall annually file with

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the office a full and true statement of its financial condition, transactions, and affairs within 3 months after the end of the administrator's fiscal year or within such extension of time as the office for good cause may have granted. The statement must be for the preceding fiscal year and must be in such form and contain such matters as the commission prescribes and must be verified by at least two officers of the administrator.

(2) Each authorized administrator shall also file an audited financial statement performed by an independent certified public accountant. The audited financial statement must ~~shall~~ be filed with the office within 5 months after the end of the administrator's fiscal year and be for the preceding fiscal year. An audited financial statement prepared on a consolidated basis must include a columnar consolidating or combining worksheet that must be filed with the statement and must comply with the following:

(a) Amounts shown on the consolidated audited financial statement must be shown on the worksheet;

(b) Amounts for each entity must be stated separately; and

(c) Explanations of consolidating and eliminating entries must be included.

(3) At the time of filing its annual statement, the administrator shall pay a filing fee in the amount specified in s. 624.501 for the filing of an annual statement by an insurer.

(4) In addition, the administrator shall immediately notify the office of any material change in its ownership.

(5) A pharmacy benefit manager shall also notify the office within 30 days after any administrative, civil, or criminal complaints, settlements, or discipline of the pharmacy benefit

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manager or any of its affiliates which relate to a violation of the insurance laws, including pharmacy benefit laws in any state.

(6) A pharmacy benefit manager shall also annually submit to the office a statement attesting to its compliance with the network requirements of s. 626.8825.

(7) The commission may by rule require all or part of the statements or filings required under this section to be submitted by electronic means in a computer-readable form compatible with the electronic data format specified by the commission.

Section 15. Subsection (5) is added to section 627.42393, Florida Statutes, to read:

627.42393 Step-therapy protocol.—

(5) This section applies to a pharmacy benefit manager acting on behalf of a health insurer.

Section 16. Subsections (2), (3), and (4) of section 627.64741, Florida Statutes, are amended to read:

627.64741 Pharmacy benefit manager contracts.—

(2) In addition to the requirements of part VII of chapter 626, a contract between a health insurer and a pharmacy benefit manager must require that the pharmacy benefit manager:

(a) Update maximum allowable cost pricing information at least every 7 calendar days.

(b) Maintain a process that will, in a timely manner, eliminate drugs from maximum allowable cost lists or modify drug prices to remain consistent with changes in pricing data used in formulating maximum allowable cost prices and product availability.

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~~(3) A contract between a health insurer and a pharmacy benefit manager must prohibit the pharmacy benefit manager from limiting a pharmacist's ability to disclose whether the cost-sharing obligation exceeds the retail price for a covered prescription drug, and the availability of a more affordable alternative drug, pursuant to s. 465.0244.~~

~~(4) A contract between a health insurer and a pharmacy benefit manager must prohibit the pharmacy benefit manager from requiring an insured to make a payment for a prescription drug at the point of sale in an amount that exceeds the lesser of:~~

~~(a) The applicable cost-sharing amount; or~~

~~(b) The retail price of the drug in the absence of prescription drug coverage.~~

Section 17. Subsections (2), (3), and (4) of section 627.6572, Florida Statutes, are amended to read:

627.6572 Pharmacy benefit manager contracts.—

(2) In addition to the requirements of part VII of chapter 626, a contract between a health insurer and a pharmacy benefit manager must require that the pharmacy benefit manager:

(a) Update maximum allowable cost pricing information at least every 7 calendar days.

(b) Maintain a process that will, in a timely manner, eliminate drugs from maximum allowable cost lists or modify drug prices to remain consistent with changes in pricing data used in formulating maximum allowable cost prices and product availability.

~~(3) A contract between a health insurer and a pharmacy benefit manager must prohibit the pharmacy benefit manager from limiting a pharmacist's ability to disclose whether the cost-~~


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~~sharing obligation exceeds the retail price for a covered prescription drug, and the availability of a more affordable alternative drug, pursuant to s. 465.0244.~~

~~(4) A contract between a health insurer and a pharmacy benefit manager must prohibit the pharmacy benefit manager from requiring an insured to make a payment for a prescription drug at the point of sale in an amount that exceeds the lesser of:~~

~~(a) The applicable cost-sharing amount; or~~

~~(b) The retail price of the drug in the absence of prescription drug coverage.~~

Section 18. Paragraph (e) is added to subsection (46) of section 641.31, Florida Statutes, to read:

641.31 Health maintenance contracts.—

(46)

(e) This subsection applies to a pharmacy benefit manager acting on behalf of a health maintenance organization.

Section 19. Subsections (2), (3), and (4) of section 641.314, Florida Statutes, are amended to read:

641.314 Pharmacy benefit manager contracts.—

(2) In addition to the requirements of part VII of chapter 626, a contract between a health maintenance organization and a pharmacy benefit manager must require that the pharmacy benefit manager:

(a) Update maximum allowable cost pricing information at least every 7 calendar days.

(b) Maintain a process that will, in a timely manner, eliminate drugs from maximum allowable cost lists or modify drug prices to remain consistent with changes in pricing data used in formulating maximum allowable cost prices and product



availability.

~~(3) A contract between a health maintenance organization and a pharmacy benefit manager must prohibit the pharmacy benefit manager from limiting a pharmacist's ability to disclose whether the cost-sharing obligation exceeds the retail price for a covered prescription drug, and the availability of a more affordable alternative drug, pursuant to s. 465.0244.~~

~~(4) A contract between a health maintenance organization and a pharmacy benefit manager must prohibit the pharmacy benefit manager from requiring a subscriber to make a payment for a prescription drug at the point of sale in an amount that exceeds the lesser of:~~

~~(a) The applicable cost-sharing amount; or~~

~~(b) The retail price of the drug in the absence of prescription drug coverage.~~

Section 20. (1) This act establishes requirements for pharmacy benefit managers as defined in s. 626.88, Florida Statutes, including, without limitation, pharmacy benefit managers in their performance of services for or otherwise on behalf of a pharmacy benefits plan or program as defined in s. 626.8825, Florida Statutes, which includes coverage pursuant to Titles XVIII, XIX, or XXI of the Social Security Act, 42 U.S.C. ss. 1395 et seq., 1396 et seq., and 1397aa et seq., known as Medicare, Medicaid, or any other similar coverage under a state or Federal Government funded health plan, including the Statewide Medicaid Managed Care program established pursuant to part IV of chapter 409, Florida Statutes, and the state group insurance program pursuant to part I of chapter 110, Florida Statutes.

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(2) This act is not intended, nor may it be construed, to conflict with existing, relevant federal law.

(3) If any provision of this act or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 21. For the 2023-2024 fiscal year, the sum of $980,705 in recurring funds and $146,820 in nonrecurring funds from the Insurance Regulatory Trust Fund are appropriated to the Office of Insurance Regulation, and 10 full-time equivalent positions with associated salary rate of 644,877 are authorized, for the purpose of implementing this act.

Section 22. This act shall take effect July 1, 2023.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to prescription drugs; providing a short title; amending s. 499.005, F.S.; specifying additional prohibited acts related to the Florida Drug and Cosmetic Act; amending s. 499.012, F.S.; providing that prescription drug manufacturer and nonresident prescription drug manufacturer permitholders are subject to specified requirements; creating s. 499.026, F.S.; defining terms; requiring certain drug manufacturers to notify the Department of Business and


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Professional Regulation of reportable drug price increases on a specified form on the effective date of such increase; providing requirements for the form; providing construction; requiring such manufacturers to submit certain reports to the department by a specified date each year; providing requirements for the reports; authorizing the department to request certain additional information from the manufacturer before approving the report; requiring the department to submit the forms and reports to the Agency for Health Care Administration to be posted on the agency's website; prohibiting the agency from posting on its website certain submitted information that is marked as a trade secret; requiring the agency to compile all information from the submitted forms and reports and make it available to the Governor and the Legislature upon request; prohibiting manufacturers from claiming a public records exemption for trade secrets for certain information provided in such forms or reports; providing that department employees remain protected from liability for releasing the forms and reports as public records; authorizing the department, in consultation with the agency, to adopt rules; providing for emergency rulemaking; amending s. 624.307, F.S.; requiring the Division of Consumer Services of the Department of Financial Services to designate an employee as the primary contact for consumer complaints involving pharmacy benefit managers; requiring the division to refer certain


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complaints to the Office of Insurance Regulation; amending s. 624.490, F.S.; revising the definition of the term "pharmacy benefit manager"; amending s. 624.491, F.S.; revising provisions related to pharmacy audits; amending s. 626.88, F.S.; revising the definition of the term "administrator"; defining the term "pharmacy benefit manager"; amending s. 626.8805, F.S.; providing a grandfathering provision for certain pharmacy benefit managers operating as administrators; providing a penalty for certain persons who do not hold a certificate of authority to act as an administrator on or after a specified date; requiring the office to submit a report detailing specified information to the Governor and the Legislature by a specified date; providing additional requirements for pharmacy benefit managers applying for a certificate of authority to act as an administrator; exempting pharmacy benefit managers from certain fees; amending s. 626.8814, F.S.; requiring pharmacy benefit managers to identify certain ownership affiliations to the office; requiring pharmacy benefit managers to report any change in such information to the office within a specified timeframe; creating s. 626.8825, F.S.; defining terms; providing requirements for certain contracts between a pharmacy benefit manager and a pharmacy benefits plan or program; requiring pharmacy benefits plans and programs, beginning on a specified date, to annually submit a certain attestation to the office; providing requirements for certain contracts


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between a pharmacy benefit manager and a participating pharmacy; specifying requirements for certain administrative appeal procedures that such contracts with participating pharmacies must include; requiring pharmacy benefit managers to submit reports on submitted appeals to the office every 90 days; creating s. 626.8827, F.S.; specifying prohibited practices for pharmacy benefit managers; creating s. 626.8828, F.S.; authorizing the office to investigate administrators that are pharmacy benefit managers and certain applicants; requiring the office to review certain referrals and investigate them under certain circumstances; providing for biennial reviews of pharmacy benefit managers; requiring the office to submit an annual report of its examinations to the Governor and the Legislature by a specified date; providing requirements for the report, including specified additional requirements for the biennial reports; authorizing the office to conduct additional examinations; requiring the office to conduct an examination under certain circumstances; providing procedures and requirements for such examinations; defining the terms “contracts” and “knowing and willful”; providing that independent professional examiners under contract with the office may conduct examinations of pharmacy benefit managers; requiring the Financial Services Commission to adopt specified rules; specifying provisions that apply to such investigations and examinations; providing


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recordkeeping requirements for pharmacy benefit managers; authorizing the office to order the production of such records and other specified information; authorizing the office to take statements under oath; requiring pharmacy benefit managers and applicants subjected to an investigation or examination to pay the associated expenses; specifying covered expenses; providing for collection of such expenses; providing for the deposit of certain moneys into the Insurance Regulatory Trust Fund; authorizing the office to pay examiners, investigators, and other persons from such fund; providing administrative penalties; providing grounds for administrative action against a certificate of authority; amending s. 626.89, F.S.; requiring pharmacy benefit managers to notify the office of specified complaints, settlements, or discipline within a specified timeframe; requiring pharmacy benefit managers to annually submit a certain attestation statement to the office; amending s. 627.42393, F.S.; providing that certain step-therapy protocol requirements apply to a pharmacy benefit manager acting on behalf of a health insurer; amending ss. 627.64741 and 627.6572, F.S.; conforming provisions to changes made by the act; amending s. 641.31, F.S.; providing that certain step-therapy protocol requirements apply to a pharmacy benefit manager acting on behalf of a health maintenance organization; amending s. 641.314, F.S.; conforming a provision to changes made by the act;


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providing legislative intent, construction, and severability; providing appropriations and authorizing positions; providing an effective date.

By the Committee on Health Policy; and Senators Brodeur, Rodriguez, Wright, and Perry

588-03161-23 20231550c1

A bill to be entitled

An act relating to prescription drugs; providing a short title; amending s. 499.005, F.S.; specifying additional prohibited acts related to the Florida Drug and Cosmetic Act; amending s. 499.012, F.S.; providing that prescription drug manufacturer and nonresident prescription drug manufacturer permitholders are subject to specified requirements; creating s. 499.026, F.S.; defining terms; requiring certain drug manufacturers to notify the Department of Business and Professional Regulation of reportable drug price increases on a specified form on the effective date of such increase; providing requirements for the form; providing construction; requiring such manufacturers to submit certain reports to the department by a specified date each year; providing requirements for the reports; authorizing the department to request certain additional information from the manufacturer before approving the report; requiring the department to submit the forms and reports to the Agency for Health Care Administration to be posted on the agency's website; prohibiting the agency from posting on its website certain submitted information that is marked as a trade secret; requiring the agency to compile all information from the submitted forms and reports and make it available to the Governor and the Legislature upon request; prohibiting manufacturers from claiming a public records exemption for trade secrets for certain information provided in such forms

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or reports; providing that department employees remain protected from liability for releasing the forms and reports as public records; authorizing the department, in consultation with the agency, to adopt rules; providing for emergency rulemaking; amending s. 624.307, F.S.; requiring the Division of Consumer Services of the Department of Financial Services to designate an employee as the primary contact for consumer complaints involving pharmacy benefit managers; requiring the division to refer certain complaints to the Office of Insurance Regulation; amending s. 624.490, F.S.; revising the definition of the term "pharmacy benefit manager"; amending s. 624.491, F.S.; revising provisions related to pharmacy audits; amending s. 626.88, F.S.; revising the definition of the term "administrator"; defining the term "pharmacy benefit manager"; amending s. 626.8805, F.S.; providing a grandfathering provision for certain pharmacy benefit managers operating as administrators; providing a penalty for certain persons who do not hold a certificate of authority to act as an administrator on or after a specified date; providing additional requirements for pharmacy benefit managers applying for a certificate of authority to act as an administrator; exempting pharmacy benefit managers from certain fees; amending s. 626.8814, F.S.; requiring pharmacy benefit managers to identify certain ownership affiliations to the office; requiring pharmacy benefit managers to report any

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change in such information to the office within a specified timeframe; creating s. 626.8825, F.S.; defining terms; providing requirements for certain contracts between a pharmacy benefit manager and a pharmacy benefits plan or program or a participating pharmacy; specifying requirements for certain administrative appeal procedures that such contracts with participating pharmacies must include; requiring pharmacy benefit managers to submit reports on submitted appeals to the office every 90 days; creating s. 626.8827, F.S.; specifying prohibited practices for pharmacy benefit managers; creating s. 626.8828, F.S.; authorizing the office to investigate administrators that are pharmacy benefit managers and certain applicants; requiring the office to review certain referrals and investigate them under certain circumstances; providing for biennial reviews of pharmacy benefit managers; authorizing the office to conduct additional examinations; requiring the office to conduct an examination under certain circumstances; providing procedures and requirements for such examinations; defining the terms "contracts" and "knowing and willful"; providing that independent professional examiners under contract with the office may conduct examinations of pharmacy benefit managers; requiring the Financial Services Commission to adopt specified rules; specifying provisions that apply to such investigations and examinations; providing recordkeeping requirements for pharmacy benefit

managers; authorizing the office to order the production of such records and other specified information; authorizing the office to take statements under oath; requiring pharmacy benefit managers and applicants subjected to an investigation or examination to pay the associated expenses; specifying covered expenses; providing for collection of such expenses; providing for the deposit of certain moneys into the Insurance Regulatory Trust Fund; authorizing the office to pay examiners, investigators, and other persons from such fund; providing administrative penalties; providing grounds for administrative action against a certificate of authority; amending s. 626.89, F.S.; requiring pharmacy benefit managers to notify the office of specified complaints, settlements, or discipline within a specified timeframe; requiring pharmacy benefit managers to annually submit a certain attestation statement to the office; amending s. 627.42393, F.S.; providing that certain step-therapy protocol requirements apply to a pharmacy benefit manager acting on behalf of a health insurer; amending ss. 627.64741 and 627.6572, F.S.; conforming provisions to changes made by the act; amending s. 641.31, F.S.; providing that certain step-therapy protocol requirements apply to a pharmacy benefit manager acting on behalf of a health maintenance organization; amending s. 641.314, F.S.; conforming a provision to changes made by the act; providing legislative intent, construction, and

severability; providing appropriations and authorizing positions; providing an effective date.

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

Section 1. This act may be cited as the "Prescription Drug Reform Act."

Section 2. Subsection (29) is added to section 499.005, Florida Statutes, to read:

499.005 Prohibited acts.—It is unlawful for a person to perform or cause the performance of any of the following acts in this state:

(29) Failure to accurately complete and timely submit reportable drug price increase forms and reports as required under this part and rules adopted thereunder.

Section 3. Subsection (16) is added to section 499.012, Florida Statutes, to read:

499.012 Permit application requirements.—

(16) A permit for a prescription drug manufacturer or a nonresident prescription drug manufacturer is subject to the requirements of s. 499.026.

Section 4. Section 499.026, Florida Statutes, is created to read:

499.026 Notification of manufacturer prescription drug price increases.—

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

(a) "Course of therapy" means the recommended daily dose units of a prescription drug pursuant to its prescribing label for 30 days or the recommended daily dose units of a

prescription drug pursuant to its prescribing label for a normal course of treatment which is less than 30 days.

(b) "Manufacturer" means a person holding a prescription drug manufacturer permit or a nonresident prescription drug manufacturer permit under s. 499.01.

(c) "Prescription drug" has the same meaning as in s. 499.003 and includes biological products but is limited to those prescription drugs and biological products intended for human use.

(d) "Reportable drug price increase" means, for a prescription drug with a wholesale acquisition cost of at least $100 for a course of therapy before the effective date of an increase:

1. Any increase of 15 percent or more of the wholesale acquisition cost during the preceding 12-month period; or

2. Any increase of 40 percent or more of the wholesale acquisition cost during the preceding 3 calendar years.

(e) "Wholesale acquisition cost" means, with respect to a prescription drug or biological product, the manufacturer's list price for the prescription drug or biological product to wholesalers or direct purchasers in the United States, not including prompt pay or other discounts, rebates, or reductions in price, for the most recent month for which the information is available, as reported in wholesale price guides or other publications of drug or biological product pricing data.

(2) On the effective date of a manufacturer's reportable drug price increase, the manufacturer must provide notification of each reportable drug price increase to the department on a form prescribed by the department. The form must require the

manufacturer to specify all of the following:

(a) The proprietary and nonproprietary names of the prescription drug, as applicable.

(b) The wholesale acquisition cost before the reportable drug price increase.

(c) The dollar amount of the reportable drug price increase.

(d) The percentage amount of the reportable drug price increase from the wholesale acquisition cost before the reportable drug price increase.

(e) A statement regarding whether a change or improvement in the prescription drug necessitates the reportable drug price increase. If so, the manufacturer must describe the change or improvement.

(f) The intended uses of the prescription drug.

This subsection does not prohibit a manufacturer from notifying other parties, such as pharmacy benefit managers, of a drug price increase before the effective date of the drug price increase.

(3) By April 1 of each year, each manufacturer shall submit a report to the department on a form prescribed by the department. A report is not deemed to be submitted until approved by the department. The report must include all of the following:

(a) A list of all prescription drugs affected by a reportable drug price increase during the previous calendar year and both the dollar amount of each reportable drug price increase and the percentage increase of each reportable drug

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price increase relative to the previous wholesale acquisition cost of the prescription drug. The prescription drugs must be identified using their proprietary names and nonproprietary names, as applicable.

(b) If more than one form has been filed under this section for previous reportable drug price increases, the percentage increase of the prescription drug from the earliest form filed to the most recent form filed.

(c) The intended uses of each prescription drug listed in the report and whether the prescription drug manufacturer benefits from market exclusivity for such drug.

(d) The length of time the prescription drug has been available for purchase.

(e) A complete description of the factors contributing to each reportable drug price increase. The factors must be provided with such specificity as to explain the need or justification for each reportable drug price increase. The department may request additional information from a manufacturer relating to the need or justification of any reportable drug price increase before approving the manufacturer's report.

(f) Any action that the manufacturer has filed to extend a patent report after the first extension has been granted.

(4)(a) The department shall submit all forms and reports submitted by manufacturers to the Agency for Health Care Administration, to be posted on the agency's website pursuant to s. 408.062. The agency may not post on its website any of the information provided pursuant to paragraph (2)(e), paragraph (3)(e), or paragraph (3)(f) which is marked as a trade secret.

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The agency shall compile all information on the forms and reports submitted by manufacturers and make it available upon request to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(b) Except for information provided pursuant to paragraph (2)(e), paragraph (3)(e), or paragraph (3)(f), a manufacturer may not claim a public records exemption for a trade secret under s. 119.0715 for any information required by the department under this section. Department employees remain protected from liability for release of forms and reports pursuant to s. 119.0715(4).

(5) The department, in consultation with the Agency for Health Care Administration, shall adopt rules to implement this section.

(a) The department shall adopt necessary emergency rules pursuant to s. 120.54(4) to implement this section. If an emergency rule adopted under this section is held to be unconstitutional or an invalid exercise of delegated legislative authority and becomes void, the department may adopt an emergency rule pursuant to this section to replace the rule that has become void. If the emergency rule adopted to replace the void emergency rule is also held to be unconstitutional or an invalid exercise of delegated legislative authority and becomes void, the department must follow the nonemergency rulemaking procedures of the Administrative Procedure Act to replace the rule that has become void.

(b) For emergency rules adopted under this section, the department need not make the findings required under s. 120.54(4)(a). Emergency rules adopted under this section are

also exempt from:

1. Sections 120.54(3)(b) and 120.541. Challenges to emergency rules adopted under this section are subject to the time schedules provided in s. 120.56(5).

2. Section 120.54(4)(c) and remain in effect until replaced by rules adopted under the nonemergency rulemaking procedures of the Administrative Procedure Act.

Section 5. Paragraph (a) of subsection (10) of section 624.307, Florida Statutes, is amended, and paragraph (b) of that subsection is republished, to read:

624.307 General powers; duties.—

(10)(a) The Division of Consumer Services shall perform the following functions concerning products or services regulated by the department or office:

1. Receive inquiries and complaints from consumers.

2. Prepare and disseminate information that the department deems appropriate to inform or assist consumers.

3. Provide direct assistance to and advocacy for consumers who request such assistance or advocacy.

4. With respect to apparent or potential violations of law or applicable rules committed by a person or entity licensed by the department or office, report apparent or potential violations to the office or to the appropriate division of the department, which may take any additional action it deems appropriate.

5. Designate an employee of the division as the primary contact for consumers on issues relating to sinkholes.

6. Designate an employee of the division as the primary contact for consumers and pharmacies on issues relating to

pharmacy benefit managers. The division must refer to the office any consumer complaint that alleges conduct that may constitute a violation of part VII of chapter 626 or for which a pharmacy benefit manager does not respond in accordance with paragraph (b).

(b) Any person licensed or issued a certificate of authority by the department or the office shall respond, in writing, to the division within 20 days after receipt of a written request for documents and information from the division concerning a consumer complaint. The response must address the issues and allegations raised in the complaint and include any requested documents concerning the consumer complaint not subject to attorney-client or work-product privilege. The division may impose an administrative penalty for failure to comply with this paragraph of up to $2,500 per violation upon any entity licensed by the department or the office and $250 for the first violation, $500 for the second violation, and up to $1,000 for the third or subsequent violation upon any individual licensed by the department or the office.

Section 6. Subsection (1) of section 624.490, Florida Statutes, is amended to read:

624.490 Registration of pharmacy benefit managers.—

(1) As used in this section, the term "pharmacy benefit manager" has the same meaning as in s. 626.88 ~~means a person or entity doing business in this state which contracts to administer prescription drug benefits on behalf of a health insurer or a health maintenance organization to residents of this state~~.

Section 7. Subsections (1) and (5) of section 624.491,

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Florida Statutes, are amended to read:

624.491 Pharmacy audits.—

(1) A pharmacy benefits plan or program as defined in s. 626.8825 ~~health insurer or health maintenance organization~~ providing pharmacy benefits ~~through a major medical individual or group health insurance policy or a health maintenance contract, respectively,~~ must comply with the requirements of this section when the pharmacy benefits plan or program ~~health insurer or health maintenance organization~~ or any person or entity acting on behalf of the pharmacy benefits plan or program ~~health insurer or health maintenance organization~~, including, but not limited to, a pharmacy benefit manager as defined in s. 626.88 ~~s. 624.490(1)~~, audits the records of a pharmacy licensed under chapter 465. The person or entity conducting such audit must:

(a) Except as provided in subsection (3), notify the pharmacy at least 7 calendar days before the initial onsite audit for each audit cycle.

(b) Not schedule an onsite audit during the first 3 calendar days of a month unless the pharmacist consents otherwise.

(c) Limit the duration of the audit period to 24 months after the date a claim is submitted to or adjudicated by the entity.

(d) In the case of an audit that requires clinical or professional judgment, conduct the audit in consultation with, or allow the audit to be conducted by, a pharmacist.

(e) Allow the pharmacy to use the written and verifiable records of a hospital, physician, or other authorized

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practitioner, which are transmitted by any means of communication, to validate the pharmacy records in accordance with state and federal law.

(f) Reimburse the pharmacy for a claim that was retroactively denied for a clerical error, typographical error, scrivener's error, or computer error if the prescription was properly and correctly dispensed, unless a pattern of such errors exists, fraudulent billing is alleged, or the error results in actual financial loss to the entity.

(g) Provide the pharmacy with a copy of the preliminary audit report within 120 days after the conclusion of the audit.

(h) Allow the pharmacy to produce documentation to address a discrepancy or audit finding within 10 business days after the preliminary audit report is delivered to the pharmacy.

(i) Provide the pharmacy with a copy of the final audit report within 6 months after the pharmacy's receipt of the preliminary audit report.

(j) Calculate any recoupment or penalties based on actual overpayments and not according to the accounting practice of extrapolation.

(5) A pharmacy benefits plan or program ~~health insurer or health maintenance organization~~ that, under terms of a contract, transfers to a pharmacy benefit manager the obligation to pay a pharmacy licensed under chapter 465 for any pharmacy benefit claims arising from services provided to or for the benefit of an insured or subscriber remains responsible for a violation of this section.

Section 8. Subsection (1) of section 626.88, Florida Statutes, is amended, and subsection (6) is added to that

section, to read:

626.88 Definitions.—For the purposes of this part, the term:

(1) "Administrator" means ~~is~~ any person who directly or indirectly solicits or effects coverage of, collects charges or premiums from, or adjusts or settles claims on residents of this state in connection with authorized commercial self-insurance funds or with insured or self-insured programs which provide life or health insurance coverage or coverage of any other expenses described in s. 624.33(1); ~~or~~ any person who, through a health care risk contract as defined in s. 641.234 with an insurer or health maintenance organization, provides billing and collection services to health insurers and health maintenance organizations on behalf of health care providers; or a pharmacy benefit manager. The term does not include~~, other than~~ any of the following ~~persons~~:

(a) An employer or wholly owned direct or indirect subsidiary of an employer, on behalf of such employer's employees or the employees of one or more subsidiary or affiliated corporations of such employer.

(b) A union on behalf of its members.

(c) An insurance company which is either authorized to transact insurance in this state or is acting as an insurer with respect to a policy lawfully issued and delivered by such company in and pursuant to the laws of a state in which the insurer was authorized to transact an insurance business.

(d) A health care services plan, health maintenance organization, professional service plan corporation, or person in the business of providing continuing care, possessing a valid

certificate of authority issued by the office, and the sales representatives thereof, if the activities of such entity are limited to the activities permitted under the certificate of authority.

(e) An entity that is affiliated with an insurer and that only performs the contractual duties, between the administrator and the insurer, of an administrator for the direct and assumed insurance business of the affiliated insurer. The insurer is responsible for the acts of the administrator and is responsible for providing all of the administrator's books and records to the insurance commissioner, upon a request from the insurance commissioner. For purposes of this paragraph, the term "insurer" means a licensed insurance company, health maintenance organization, prepaid limited health service organization, or prepaid health clinic.

(f) A nonresident entity licensed in its state of domicile as an administrator if its duties in this state are limited to the administration of a group policy or plan of insurance and no more than a total of 100 lives for all plans reside in this state.

(g) An insurance agent licensed in this state whose activities are limited exclusively to the sale of insurance.

(h) A person appointed as a managing general agent in this state, whose activities are limited exclusively to the scope of activities conveyed under such appointment.

(i) An adjuster licensed in this state whose activities are limited to the adjustment of claims.

(j) A creditor on behalf of such creditor's debtors with respect to insurance covering a debt between the creditor and

its debtors.

(k) A trust and its trustees, agents, and employees acting pursuant to such trust established in conformity with 29 U.S.C. s. 186.

(l) A trust exempt from taxation under s. 501(a) of the Internal Revenue Code, a trust satisfying the requirements of ss. 624.438 and 624.439, or any governmental trust as defined in s. 624.33(3), and the trustees and employees acting pursuant to such trust, or a custodian and its agents and employees, including individuals representing the trustees in overseeing the activities of a service company or administrator, acting pursuant to a custodial account which meets the requirements of s. 401(f) of the Internal Revenue Code.

(m) A financial institution which is subject to supervision or examination by federal or state authorities or a mortgage lender licensed under chapter 494 who collects and remits premiums to licensed insurance agents or authorized insurers concurrently or in connection with mortgage loan payments.

(n) A credit card issuing company which advances for and collects premiums or charges from its credit card holders who have authorized such collection if such company does not adjust or settle claims.

(o) A person who adjusts or settles claims in the normal course of such person's practice or employment as an attorney at law and who does not collect charges or premiums in connection with life or health insurance coverage.

(p) A person approved by the department who administers only self-insured workers' compensation plans.

(q) A service company or service agent and its employees,

authorized in accordance with ss. 626.895-626.899, serving only a single employer plan, multiple-employer welfare arrangements, or a combination thereof.

(r) Any provider or group practice, as defined in s. 456.053, providing services under the scope of the license of the provider or the member of the group practice.

(s) Any hospital providing billing, claims, and collection services solely on its own and its physicians' behalf and providing services under the scope of its license.

(t) A corporation not for profit whose membership consists entirely of local governmental units authorized to enter into risk management consortiums under s. 112.08.

A person who provides billing and collection services to health insurers and health maintenance organizations on behalf of health care providers shall comply with the provisions of ss. 627.6131, 641.3155, and 641.51(4).

(6) "Pharmacy benefit manager" means a person or an entity doing business in this state which contracts to administer prescription drug benefits on behalf of a pharmacy benefits plan or program as defined in s. 626.8825. The term includes, but is not limited to, a person or an entity that performs one or more of the following services:

(a) Pharmacy claims processing.

(b) Administration or management of pharmacy discount card programs.

(c) Managing pharmacy networks or pharmacy reimbursement.

(d) Paying or managing claims for pharmacist services provided to covered persons.

(e) Developing or managing a clinical formulary, including utilization management or quality assurance programs.

(f) Pharmacy rebate administration.

(g) Managing patient compliance, therapeutic intervention, or generic substitution programs.

(h) Administration or management of a mail-order pharmacy program.

Section 9. Present subsections (3) through (6) of section 626.8805, Florida Statutes, are redesignated as subsections (4) through (7), respectively, a new subsection (3) and subsection (8) are added to that section, and subsection (1) and present subsection (3) of that section are amended, to read:

626.8805 Certificate of authority to act as administrator.—

(1) It is unlawful for any person to act as or hold himself or herself out to be an administrator in this state without a valid certificate of authority issued by the office pursuant to ss. 626.88-626.894. A pharmacy benefit manager that is registered with the office under s. 624.490 as of June 30, 2023, may continue to operate until January 1, 2024, as an administrator without a certificate of authority and is not in violation of the requirement to possess a valid certificate of authority as an administrator during that timeframe. To qualify for and hold authority to act as an administrator in this state, an administrator must otherwise be in compliance with this code and with its organizational agreement. The failure of any person, excluding a pharmacy benefit manager, to hold such a certificate while acting as an administrator shall subject such person to a fine of not less than $5,000 or more than $10,000 for each violation. A person who, on or after January 1, 2024,

does not hold a certificate of authority to act as an administrator while operating as a pharmacy benefit manager is subject to a fine of $10,000 per violation per day.

(3) An applicant that is a pharmacy benefit manager must also submit all of the following:

(a) A complete biographical statement on forms prescribed by the commission, an independent investigation report, and fingerprints obtained pursuant to chapter 624 of all of the individuals referred to in paragraph (2)(c).

(b) A self-disclosure of any administrative, civil, or criminal complaints, settlements, or discipline of the applicant, or any of the applicant's affiliates, which relate to a violation of the insurance laws, including pharmacy benefit manager laws, in any state.

(c) A statement attesting to compliance with the network requirements in s. 626.8825 beginning January 1, 2024.

(4)(a) ~~(3)~~ The applicant shall make available for inspection by the office copies of all contracts relating to services provided by the administrator to insurers or other persons using the services of the administrator.

(b) An applicant that is a pharmacy benefit manager shall also make available for inspection by the office:

1. Copies of all contract templates with any pharmacy as defined in s. 465.003; and

2. Copies of all subcontracts to support its operations.

(8) A pharmacy benefit manager is exempt from fees associated with the initial application and the annual filing fees in s. 626.89.

Section 10. Section 626.8814, Florida Statutes, is amended

to read:

626.8814 Disclosure of ownership or affiliation.—

(1) Each administrator shall identify to the office any ownership interest or affiliation of any kind with any insurance company responsible for providing benefits directly or through reinsurance to any plan for which the administrator provides administrative services.

(2) Pharmacy benefit managers shall also identify to the office any ownership affiliation of any kind with any pharmacy which, either directly or indirectly, through one or more intermediaries:

(a) Has an investment or ownership interest in a pharmacy benefit manager holding a certificate of authority issued under this part;

(b) Shares common ownership with a pharmacy benefit manager holding a certificate of authority issued under this part; or

(c) Has an investor or a holder of an ownership interest which is a pharmacy benefit manager holding a certificate of authority issued under this part.

(3) A pharmacy benefit manager shall report any change in information required by subsection (2) to the office in writing within 60 days after the change occurs.

Section 11. Section 626.8825, Florida Statutes, is created to read:

626.8825 Pharmacy benefit manager transparency and accountability.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Adjudication transaction fee" means a fee charged by the pharmacy benefit manager to the pharmacy for electronic

claim submissions.

(b) "Affiliated pharmacy" means a pharmacy that, either directly or indirectly through one or more intermediaries:

1. Has an investment or ownership interest in a pharmacy benefit manager holding a certificate of authority issued under this part;

2. Shares common ownership with a pharmacy benefit manager holding a certificate of authority issued under this part; or

3. Has an investor or a holder of an ownership interest which is a pharmacy benefit manager holding a certificate of authority issued under this part.

(c) "Brand name or generic effective rate" means the contractual rate set forth by a pharmacy benefit manager for the reimbursement of covered brand name or generic drugs, calculated using the total payments in the aggregate, by drug type, during the performance period. The effective rates are typically calculated as a discount from industry benchmarks, such as average wholesale price or wholesale acquisition cost.

(d) "Covered person" means a person covered by, participating in, or receiving the benefit of a pharmacy benefits plan or program.

(e) "Direct and indirect remuneration fees" means price concessions that are paid to the pharmacy benefit manager by the pharmacy retrospectively and that cannot be calculated at the point of sale. The term may also include discounts, chargebacks or rebates, cash discounts, free goods contingent on a purchase agreement, upfront payments, coupons, goods in kind, free or reduced-price services, grants, or other price concessions or similar benefits from manufacturers, pharmacies, or similar

entities.

(f) "Dispensing fee" means a fee intended to cover reasonable costs associated with providing the drug to a covered person. This cost includes the pharmacist's services and the overhead associated with maintaining the facility and equipment necessary to operate the pharmacy.

(g) "Effective rate guarantee" means the minimum ingredient cost reimbursement a pharmacy benefit manager guarantees it will pay for pharmacist services during the applicable measurement period.

(h) "Erroneous claims" means pharmacy claims submitted in error, including, but not limited to, unintended, incorrect, fraudulent, or test claims.

(i) "Incentive payment" means a retrospective monetary payment made as a reward or recognition by the pharmacy benefits plan or program or pharmacy benefit manager to a pharmacy for meeting or exceeding predefined pharmacy performance metrics as related to quality measures, such as Healthcare Effectiveness Data and Information Set measures.

(j) "Maximum allowable cost appeal pricing adjustment" means a retrospective positive payment adjustment made to a pharmacy by the pharmacy benefits plan or program or by the pharmacy benefit manager pursuant to an approved maximum allowable cost appeal request submitted by the same pharmacy to dispute the amount reimbursed for a drug based on the pharmacy benefit manager's listed maximum allowable cost price.

(k) "Monetary recoupments" means rescinded or recouped payments from a pharmacy or provider by the pharmacy benefits plan or program or by the pharmacy benefit manager.

(l) "Network" means a group of pharmacies that agree to provide pharmacist services to covered persons on behalf of a pharmacy benefits plan or program or a group of pharmacy benefits plans or programs in exchange for payment for such services. The term includes a pharmacy that generally dispenses outpatient prescription drugs to covered persons.

(m) "Network reconciliation offsets" means a process during annual payment reconciliation between a pharmacy benefit manager and a pharmacy which allows the pharmacy benefit manager to offset an amount for overperformance or underperformance of contractual guarantees across guaranteed line items, channels, networks, or payors, as applicable.

(n) "Participation contract" means any agreement between a pharmacy benefit manager and pharmacy for the provision and reimbursement of pharmacist services and any exhibits, attachments, amendments, or addendums to such agreement.

(o) "Pass-through pricing model" means a payment model used by a pharmacy benefit manager in which the payments made by the pharmacy benefits plan or program to the pharmacy benefit manager for the covered outpatient drugs are:

1. Equivalent to the payments the pharmacy benefit manager makes to a dispensing pharmacy or provider for such drugs, including any contracted professional dispensing fee between the pharmacy benefit manager and its network of pharmacies. Such dispensing fee would be paid if the pharmacy benefits plan or program was making the payments directly.

2. Passed through in their entirety by the pharmacy benefits plan or program or by the pharmacy benefit manager to the pharmacy or provider that dispenses the drugs, and the

payments are made in a manner that is not offset by any reconciliation.

(p) "Pharmacist" has the same meaning as in s. 465.003.

(q) "Pharmacist services" means products, goods, and services or any combination of products, goods, and services provided as part of the practice of the profession of pharmacy as defined in s. 465.003 or otherwise covered by a pharmacy benefits plan or program.

(r) "Pharmacy" has the same meaning as in s. 465.003.

(s) "Pharmacy benefit manager" has the same meaning as in s. 626.88.

(t) "Pharmacy benefits plan or program" means a plan or program that pays for, reimburses, covers the cost of, or provides access to discounts on pharmacist services provided by one or more pharmacies to covered persons who reside in, are employed by, or receive pharmacist services from this state. The term includes, but is not limited to, health maintenance organizations, health insurers, self-insured employer health plans, discount card programs, and government-funded health plans, including the Statewide Medicaid Managed Care program established pursuant to part IV of chapter 409 and the state group insurance program pursuant to part I of chapter 110.

(u) "Rebate" means all payments that accrue to a pharmacy benefit manager or its pharmacy benefits plan or program client, directly or indirectly, from a pharmaceutical manufacturer, including, but not limited to, discounts, administration fees, credits, incentives, or penalties associated directly or indirectly in any way with claims administered on behalf of a pharmacy benefits plan or program client.

(v) "Spread pricing" is the practice in which a pharmacy benefit manager charges a pharmacy benefits plan or program a different amount for pharmacist services than the amount the pharmacy benefit manager reimburses a pharmacy for such pharmacist services.

(w) "Usual and customary price" means the amount charged to cash customers for a pharmacist service exclusive of sales tax or other amounts claimed.

(2) CONTRACTS BETWEEN A PHARMACY BENEFIT MANAGER AND A PHARMACY BENEFITS PLAN OR PROGRAM.—In addition to any other requirements in the Florida Insurance Code, all contractual arrangements executed, amended, adjusted, or renewed on or after July 1, 2023, which are applicable to pharmacy benefits covered on or after January 1, 2024, between a pharmacy benefit manager and a pharmacy benefits plan or program must:

(a) Use a pass-through pricing model, remaining consistent with the prohibition in paragraph (3)(c).

(b) Exclude terms that allow for the direct or indirect engagement in the practice of spread pricing unless the pharmacy benefit manager passes along the entire amount of such difference to the pharmacy benefits plan or program as allowable under paragraph (a).

(c) Ensure that funds received in relation to providing services for a pharmacy benefits plan or program or a pharmacy are received by the pharmacy benefit manager in trust for the pharmacy benefits plan or program or pharmacy, as applicable, and are used or distributed only pursuant to the pharmacy benefit manager's contract with the pharmacy benefits plan or program or with the pharmacy or as otherwise required by

applicable law.

(d) Require the pharmacy benefit manager to pass 100 percent of all prescription drug manufacturer rebates, including nonresident manufacturer rebates, received to the pharmacy benefits plan or program, if the contractual arrangement delegates the negotiation of rebates to the pharmacy benefit manager, for the sole purpose of offsetting defined cost sharing and reducing premiums of covered persons. Any excess rebate revenue after the pharmacy benefit manager and the pharmacy benefits plan or program have taken all actions required under this paragraph must be used for the sole purpose of offsetting copayments and deductibles of covered persons. This paragraph does not apply to contracts involving Medicaid managed care plans.

(e) Include network adequacy requirements that meet or exceed the Medicare Part D program standards for convenient access to network pharmacies set forth in 42 C.F.R. s. 423.120, and that:

1. Do not limit a network to solely include affiliated pharmacies;

2. Require a pharmacy benefit manager to offer a provider contract to licensed pharmacies physically located on the physical site of providers that are:

a. Within the pharmacy benefits plan's or program's geographic service area and that have been specifically designated as essential providers by the Agency for Health Care Administration pursuant to s. 409.975(1)(a);

b. Designated as a Cancer Center of Excellence under s. 381.925, regardless of the pharmacy benefits plan's or program's

geographic service area;

c. Organ transplant hospitals, regardless of the pharmacy benefits plan's or program's geographic service area;

d. Hospitals licensed as specialty children's hospitals as defined in s. 395.002; or

e. Regional perinatal intensive care centers as defined in s. 383.16(2), regardless of the pharmacy benefits plan's or program's geographic service area.

Such provider contracts must be solely for the administration or dispensing of covered prescription drugs, including biological products, that are administered through infusions, intravenously injected, inhaled during a surgical procedure, or a covered parenteral drug, as part of onsite outpatient care;

3. Do not require a covered person to receive a prescription drug by United States mail, common carrier, local courier, third-party company or delivery service, or pharmacy direct delivery. This subparagraph does not prohibit a pharmacy benefit manager from operating mail order or delivery programs on an opt-in basis at the sole discretion of a covered person;

4. Prohibit a requirement for a covered person to receive pharmacist services from an affiliated pharmacy or an affiliated health care provider for the in-person administration of covered prescription drugs; offering or implementing pharmacy networks that require or provide a promotional item or an incentive, defined as anything other than a reduced copay or premium of a covered drug, to a covered person to use an affiliated pharmacy or an affiliated health care provider for the in-person administration of covered prescription drugs; or advertising,

marketing, or promoting an affiliated pharmacy to covered persons. Subject to the foregoing, a pharmacy benefit manager may include an affiliated pharmacy in communications to covered persons regarding network pharmacies and prices, provided that the pharmacy benefit manager includes information, such as links to all nonaffiliated network pharmacies, in such communications and that the information provided is accurate and of equal prominence. This paragraph may not be construed to prohibit a pharmacy benefit manager from entering into an agreement with an affiliated pharmacy to provide pharmacist services to covered persons.

(f) Prohibit the ability of a pharmacy benefit manager to condition participation in one pharmacy network on participation in any other pharmacy network or penalize a pharmacy for exercising its prerogative not to participate in a specific pharmacy network.

(g) Prohibit a pharmacy benefit manager from instituting a network that requires a pharmacy to meet accreditation standards inconsistent with or more stringent than applicable federal and state requirements for licensure and operation as a pharmacy in this state.

(3) CONTRACTS BETWEEN A PHARMACY BENEFIT MANAGER AND A PARTICIPATING PHARMACY.—In addition to other requirements in the Florida Insurance Code, a participation contract executed, amended, adjusted, or renewed on or after July 1, 2023, that applies to pharmacist services on or after January 1, 2024, between a pharmacy benefit manager and one or more pharmacies or pharmacists, must include, in substantial form, terms that ensure compliance with all of the following requirements, and

that, except to the extent not allowed by law, shall supersede any contractual terms in the participation contract to the contrary:

(a) At the time of adjudication for electronic claims or the time of reimbursement for nonelectronic claims, the pharmacy benefit manager shall provide the pharmacy with a remittance, including such detailed information as is necessary for the pharmacy or pharmacist to identify the reimbursement schedule for the specific network applicable to the claim and which is the basis used by the pharmacy benefit manager to calculate the amount of reimbursement paid. This information must include, but is not limited to, the applicable network reimbursement ID or plan ID as defined in the most current version of the National Council for Prescription Drug Programs (NCPDP) Telecommunication Standard Implementation Guide, or its nationally recognized successor industry guide. The commission shall adopt rules to implement this paragraph.

(b) The pharmacy benefit manager must ensure that any basis of reimbursement information is communicated to a pharmacy in accordance with the NCPDP Telecommunication Standard Implementation Guide, or its nationally recognized successor industry guide, when performing reconciliation for any effective rate guarantee, and that such basis of reimbursement information communicated is accurate, corresponds with the applicable network rate, and may be relied upon by the pharmacy.

(c) A prohibition of financial clawbacks or reconciliation offsets. A pharmacy benefit manager may not recoup direct or indirect remuneration fees, dispensing fees, brand name or generic effective rate adjustments through reconciliation, or

any other monetary recoupments as related to discounts, multiple network reconciliation offsets, adjudication transaction fees, and any other instance when a fee may be recouped from a pharmacy. For purposes of this section, the terms "financial clawbacks" or "reconciliation offsets" do not include:

1. Any incentive payments provided by the pharmacy benefit manager to a network pharmacy for meeting or exceeding predefined quality measures, such as Healthcare Effectiveness Data and Information Set measures; recoupment due to an erroneous claim, fraud, waste, or abuse; a claim adjudicated in error; a maximum allowable cost appeal pricing adjustment; or an adjustment made as part of a pharmacy audit pursuant to s. 624.491.

2. Any recoupment that is returned to the state for programs in chapter 409 or the state group insurance program in s. 110.123.

(d) A pharmacy benefit manager may not unilaterally change the terms of any participation contract.

(e) Unless otherwise prohibited by law, a pharmacy benefit manager may not prohibit a pharmacy or pharmacist from:

1. Offering mail or delivery services on an opt-in basis at the sole discretion of the covered person.

2. Mailing or delivering a prescription drug to a covered person upon his or her request.

3. Charging a shipping or handling fee to a covered person requesting a prescription drug be mailed or delivered if the pharmacy or pharmacist discloses to the covered person before the mailing or delivery the amount of the fee that will be charged and that the fee may not be reimbursable by the covered

person's pharmacy benefits plan or program.

(f) The pharmacy benefit manager must provide a pharmacy, upon its request, a list of pharmacy benefits plans or programs in which the pharmacy is a part of the network. Updates to the list must be communicated to the pharmacy within 7 days. The pharmacy benefit manager may not restrict the pharmacy or pharmacist from disclosing this information to the public.

(g) The pharmacy benefit manager must ensure that the Electronic Remittance Advice contains claim level payment adjustments in accordance with the American National Standards Institute Accredited Standards Committee, X12 format, and includes or is accompanied by the appropriate level of detail for the pharmacy to reconcile any debits or credits, including, but not limited to, pharmacy NCPDP or NPI identifier, date of service, prescription number, refill number, adjustment code, if applicable, and transaction amount.

(h) The pharmacy benefit manager shall provide a reasonable administrative appeal procedure to allow a pharmacy or pharmacist to challenge the maximum allowable cost pricing information and the reimbursement made under the maximum allowable cost as defined in s. 627.64741 for a specific drug as being below the acquisition cost available to the challenging pharmacy or pharmacist.

1. The administrative appeal procedure must include a telephone number and e-mail address, or a website, for the purpose of submitting the administrative appeal. The appeal may be submitted by the pharmacy or an agent of the pharmacy directly to the pharmacy benefit manager or through a pharmacy service administration organization. The pharmacy or pharmacist

must be given at least 30 business days after a maximum allowable cost update or after an adjudication for an electronic claim or reimbursement for a nonelectronic claim to file the administrative appeal.

2. The pharmacy benefit manager must respond to the administrative appeal within 30 business days after receipt of the appeal.

3. If the appeal is upheld, the pharmacy benefit manager must:

a. Update the maximum allowable cost pricing information to at least the acquisition cost available to the pharmacy;

b. Permit the pharmacy or pharmacist to reverse and rebill the claim in question;

c. Provide to the pharmacy or pharmacist the national drug code on which the increase or change is based; and

d. Make the increase or change effective for each similarly situated pharmacy or pharmacist who is subject to the applicable maximum allowable cost pricing information.

4. If the appeal is denied, the pharmacy benefit manager must provide to the pharmacy or pharmacist the national drug code and the name of the national or regional pharmaceutical wholesalers operating in this state which have the drug currently in stock at a price below the maximum allowable cost pricing information.

5. Every 90 days, a pharmacy benefit manager shall report to the office the total number of appeals received and denied in the preceding 90-day period for each specific drug for which an appeal was submitted pursuant to this paragraph.

Section 12. Section 626.8827, Florida Statutes, is created

to read:

626.8827 Pharmacy benefit manager prohibited practices.—In addition to other prohibitions in this part, a pharmacy benefit manager may not do any of the following:

(1) Prohibit, restrict, or penalize in any way a pharmacy or pharmacist from disclosing to any person any information that the pharmacy or pharmacist deems appropriate, including, but not limited to, information regarding any of the following:

(a) The nature of treatment, risks, or alternatives thereto.

(b) The availability of alternate treatment, consultations, or tests.

(c) The decision of utilization reviewers or similar persons to authorize or deny pharmacist services.

(d) The process used to authorize or deny pharmacist services or benefits.

(e) Information on financial incentives and structures used by the pharmacy benefits plan or program.

(f) Information that may reduce the costs of pharmacist services.

(g) Whether the cost-sharing obligation exceeds the retail price for a covered prescription drug and the availability of a more affordable alternative drug, pursuant to s. 465.0244.

(2) Prohibit, restrict, or penalize in any way a pharmacy or pharmacist from disclosing information to the office, the Agency for Health Care Administration, Department of Management Services, law enforcement, or state and federal governmental officials, provided that the recipient of the information represents it has the authority, to the extent provided by state

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or federal law, to maintain proprietary information as confidential; and before disclosure of information designated as confidential, the pharmacist or pharmacy marks as confidential any document in which the information appears or requests confidential treatment for any oral communication of the information.

(3) Communicate at the point-of-sale, or otherwise require, a cost-sharing obligation for the covered person in an amount that exceeds the lesser of:

(a) The applicable cost-sharing amount under the applicable pharmacy benefits plan or program; or

(b) The usual and customary price, as defined in s. 626.8825, of the pharmacist services.

(4) Transfer or share records relative to prescription information containing patient-identifiable or prescriber-identifiable data to an affiliated pharmacy for any commercial purpose other than the limited purposes of facilitating pharmacy reimbursement, formulary compliance, or utilization review on behalf of the applicable pharmacy benefits plan or program.

(5) Fail to make any payment due to a pharmacy for an adjudicated claim with a date of service before the effective date of a pharmacy's termination from a pharmacy benefit network unless payments are withheld because of actual fraud on the part of the pharmacy or except as otherwise required by law.

(6) Terminate the contract of, penalize, or disadvantage a pharmacist or pharmacy due to a pharmacist or pharmacy:

(a) Disclosing information about pharmacy benefit manager practices in accordance with this act;

(b) Exercising any of its prerogatives under this part; or

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(c) Sharing any portion, or all, of the pharmacy benefit manager contract with the office pursuant to a complaint or a query regarding whether the contract is in compliance with this act.

(7) Fail to comply with the requirements in s. 626.8825 or s. 624.491.

Section 13. Section 626.8828, Florida Statutes, is created to read:

626.8828 Investigations and examinations of pharmacy benefit managers; expenses; penalties.—

(1) The office may investigate administrators who are pharmacy benefit managers and applicants for authorization as provided in ss. 624.307 and 624.317. The office shall review any referral made pursuant to s. 624.307(10) and shall investigate any referral that, as determined by the Commissioner of Insurance Regulation or his or her designee, reasonably indicates a possible violation of this part.

(2)(a) The office shall examine the business and affairs of each pharmacy benefit manager at least biennially. The biennial examination of each pharmacy benefit manager must be a systematic review for the purpose of determining the pharmacy benefit manager's compliance with all provisions of this part and all other laws or rules applicable to pharmacy benefit managers and must include a detailed review of the pharmacy benefit manager's compliance with ss. 626.8825 and 626.8827. The first 2-year cycle for conducting biennial reviews begins July 1, 2023. By January 1 of the year following a 2-year cycle, the office must deliver to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report

summarizing the results of the biennial examinations during the most recent 2-year cycle which includes detailed descriptions of any violations committed by each pharmacy benefit manager and detailed reporting of actions taken by the office against each pharmacy benefit manager for such violations.

(b) The office also may conduct additional examinations as often as it deems advisable or necessary for the purpose of ascertaining compliance with this part and any other laws or rules applicable to pharmacy benefit managers or applicants for authorization.

(c) If a referral made pursuant to s. 624.307(10) reasonably indicates a pattern or practice of violations of this part by a pharmacy benefit manager, the office must begin an examination of the pharmacy benefit manager or include findings related to such referral within an ongoing examination.

(d) Based on the findings of an examination that a pharmacy benefit manager or an applicant for authorization has exhibited a pattern or practice of knowing and willful violations of s. 626.8825 or s. 626.8827, the office may, pursuant to chapter 120, order a pharmacy benefit manager to file all contracts between the pharmacy benefit manager and pharmacies or pharmacy benefits plans or programs and any policies, guidelines, rules, protocols, standard operating procedures, instructions, or directives that govern or guide the manner in which the pharmacy benefit manager or applicant conducts business related to such knowing and willful violations for review and inspection for the following 36-month period. Such documents are public records and are not trade secrets or otherwise exempt from s. 119.07(1). As used in this section, the term:

1. "Contracts" means any contract to which s. 626.8825 is applicable.

2. "Knowing and willful" means any act of commission or omission which is committed intentionally, as opposed to accidentally, and which is committed with knowledge of the act's unlawfulness or with reckless disregard as to the unlawfulness of the act.

(e) Examinations may be conducted by an independent professional examiner under contract to the office, in which case payment must be made directly to the contracted examiner by the pharmacy benefit manager examined in accordance with the rates and terms agreed to by the office and the examiner. The commission shall adopt rules providing for the types of independent professional examiners who may conduct examinations under this section, which types must include, but need not be limited to, independent certified public accountants, actuaries, investment specialists, information technology specialists, or others meeting criteria specified by commission rule. The rules must also require that:

1. The rates charged to the pharmacy benefit manager being examined are consistent with rates charged by other firms in a similar profession and are comparable with the rates charged for comparable examinations.

2. The firm selected by the office to perform the examination has no conflicts of interest which might affect its ability to independently perform its responsibilities for the examination.

(3) In making investigations and examinations of pharmacy benefit managers and applicants for authorization, the office

and such pharmacy benefit manager are subject to all of the following provisions:

(a) Section 624.318, as to the conduct of examinations.

(b) Section 624.319, as to examination and investigation reports.

(c) Section 624.321, as to witnesses and evidence.

(d) Section 624.322, as to compelled testimony.

(e) Section 624.324, as to hearings.

(f) Section 624.34, as to fingerprinting.

(g) Any other provision of chapter 624 applicable to the investigation or examination of a licensee under this part.

(4)(a) A pharmacy benefit manager must maintain an accurate record of all contracts and records with all pharmacies and pharmacy benefits plans or programs for the duration of the contract, and for 5 years thereafter. Such contracts must be made available to the office and kept in a form accessible to the office.

(b) The office may order any pharmacy benefit manager or applicant to produce any records, books, files, contracts, advertising and solicitation materials, or other information and may take statements under oath to determine whether the pharmacy benefit manager or applicant is in violation of the law or is acting contrary to the public interest.

(5)(a) Notwithstanding s. 624.307(3), each pharmacy benefit manager and applicant for authorization must pay to the office the expenses of the examination or investigation. Such expenses include actual travel expenses, a reasonable living expense allowance, compensation of the examiner, investigator, or other person making the examination or investigation, and necessary

costs of the office directly related to the examination or investigation. Such travel expenses and living expense allowances are limited to those expenses necessarily incurred on account of the examination or investigation and shall be paid by the examined pharmacy benefit manager or applicant together with compensation upon presentation by the office to such pharmacy benefit manager or applicant of such charges and expenses after a detailed statement has been filed by the examiner and approved by the office.

(b) All moneys collected from pharmacy benefit managers and applicants for authorization pursuant to this subsection shall be deposited into the Insurance Regulatory Trust Fund, and the office may make deposits from time to time into such fund from moneys appropriated for the operation of the office.

(c) Notwithstanding s. 112.061, the office may pay to the examiner, investigator, or person making such examination or investigation out of such trust fund the actual travel expenses, reasonable living expense allowance, and compensation in accordance with the statement filed with the office by the examiner, investigator, or other person, as provided in paragraph (a).

(6) In addition to any other enforcement authority available to the office, the office shall impose an administrative fine of $5,000 for each violation of s. 626.8825 or s. 626.8827. Each instance of a violation of such sections by a pharmacy benefit manager against each individual pharmacy or prescription benefits plan or program constitutes a separate violation. Notwithstanding any other provision of law, there is no limitation on aggregate fines issued pursuant to this

section. The proceeds from any administrative fine shall be deposited into the General Revenue Fund.

(7) Failure by a pharmacy benefit manager to pay expenses incurred or administrative fines imposed under this section is grounds for the denial, suspension, or revocation of its certificate of authority.

Section 14. Section 626.89, Florida Statutes, is amended to read:

626.89 Annual financial statement and filing fee; notice of change of ownership; pharmacy benefit manager filings.—

(1) Each authorized administrator shall annually file with the office a full and true statement of its financial condition, transactions, and affairs within 3 months after the end of the administrator’s fiscal year or within such extension of time as the office for good cause may have granted. The statement must be for the preceding fiscal year and must be in such form and contain such matters as the commission prescribes and must be verified by at least two officers of the administrator.

(2) Each authorized administrator shall also file an audited financial statement performed by an independent certified public accountant. The audited financial statement must ~~shall~~ be filed with the office within 5 months after the end of the administrator’s fiscal year and be for the preceding fiscal year. An audited financial statement prepared on a consolidated basis must include a columnar consolidating or combining worksheet that must be filed with the statement and must comply with the following:

(a) Amounts shown on the consolidated audited financial statement must be shown on the worksheet;

(b) Amounts for each entity must be stated separately; and

(c) Explanations of consolidating and eliminating entries must be included.

(3) At the time of filing its annual statement, the administrator shall pay a filing fee in the amount specified in s. 624.501 for the filing of an annual statement by an insurer.

(4) In addition, the administrator shall immediately notify the office of any material change in its ownership.

(5) A pharmacy benefit manager shall also notify the office within 30 days after any administrative, civil, or criminal complaints, settlements, or discipline of the pharmacy benefit manager or any of its affiliates which relate to a violation of the insurance laws, including pharmacy benefit laws in any state.

(6) A pharmacy benefit manager shall also annually submit to the office a statement attesting to its compliance with the network requirements of s. 626.8825.

(7) The commission may by rule require all or part of the statements or filings required under this section to be submitted by electronic means in a computer-readable form compatible with the electronic data format specified by the commission.

Section 15. Subsection (5) is added to section 627.42393, Florida Statutes, to read:

627.42393 Step-therapy protocol.—

(5) This section applies to a pharmacy benefit manager acting on behalf of a health insurer.

Section 16. Subsections (2), (3), and (4) of section 627.64741, Florida Statutes, are amended to read:

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627.64741 Pharmacy benefit manager contracts.—

(2) In addition to the requirements of part VII of chapter 626, a contract between a health insurer and a pharmacy benefit manager must require that the pharmacy benefit manager:

(a) Update maximum allowable cost pricing information at least every 7 calendar days.

(b) Maintain a process that will, in a timely manner, eliminate drugs from maximum allowable cost lists or modify drug prices to remain consistent with changes in pricing data used in formulating maximum allowable cost prices and product availability.

~~(3) A contract between a health insurer and a pharmacy benefit manager must prohibit the pharmacy benefit manager from limiting a pharmacist's ability to disclose whether the cost-sharing obligation exceeds the retail price for a covered prescription drug, and the availability of a more affordable alternative drug, pursuant to s. 465.0244.~~

~~(4) A contract between a health insurer and a pharmacy benefit manager must prohibit the pharmacy benefit manager from requiring an insured to make a payment for a prescription drug at the point of sale in an amount that exceeds the lesser of:~~

~~(a) The applicable cost-sharing amount; or~~

~~(b) The retail price of the drug in the absence of prescription drug coverage.~~

Section 17. Subsections (2), (3), and (4) of section 627.6572, Florida Statutes, are amended to read:

627.6572 Pharmacy benefit manager contracts.—

(2) In addition to the requirements of part VII of chapter 626, a contract between a health insurer and a pharmacy benefit

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manager must require that the pharmacy benefit manager:

(a) Update maximum allowable cost pricing information at least every 7 calendar days.

(b) Maintain a process that will, in a timely manner, eliminate drugs from maximum allowable cost lists or modify drug prices to remain consistent with changes in pricing data used in formulating maximum allowable cost prices and product availability.

~~(3) A contract between a health insurer and a pharmacy benefit manager must prohibit the pharmacy benefit manager from limiting a pharmacist's ability to disclose whether the cost-sharing obligation exceeds the retail price for a covered prescription drug, and the availability of a more affordable alternative drug, pursuant to s. 465.0244.~~

~~(4) A contract between a health insurer and a pharmacy benefit manager must prohibit the pharmacy benefit manager from requiring an insured to make a payment for a prescription drug at the point of sale in an amount that exceeds the lesser of:~~

~~(a) The applicable cost-sharing amount; or~~

~~(b) The retail price of the drug in the absence of prescription drug coverage.~~

Section 18. Paragraph (e) is added to subsection (46) of section 641.31, Florida Statutes, to read:

641.31 Health maintenance contracts.—

(46)

(e) This subsection applies to a pharmacy benefit manager acting on behalf of a health maintenance organization.

Section 19. Subsections (2), (3), and (4) of section 641.314, Florida Statutes, are amended to read:

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641.314 Pharmacy benefit manager contracts.—

(2) In addition to the requirements of part VII of chapter 626, a contract between a health maintenance organization and a pharmacy benefit manager must require that the pharmacy benefit manager:

(a) Update maximum allowable cost pricing information at least every 7 calendar days.

(b) Maintain a process that will, in a timely manner, eliminate drugs from maximum allowable cost lists or modify drug prices to remain consistent with changes in pricing data used in formulating maximum allowable cost prices and product availability.

~~(3) A contract between a health maintenance organization and a pharmacy benefit manager must prohibit the pharmacy benefit manager from limiting a pharmacist's ability to disclose whether the cost-sharing obligation exceeds the retail price for a covered prescription drug, and the availability of a more affordable alternative drug, pursuant to s. 465.0244.~~

~~(4) A contract between a health maintenance organization and a pharmacy benefit manager must prohibit the pharmacy benefit manager from requiring a subscriber to make a payment for a prescription drug at the point of sale in an amount that exceeds the lesser of:~~

~~(a) The applicable cost-sharing amount; or~~

~~(b) The retail price of the drug in the absence of prescription drug coverage.~~

Section 20. (1) This act establishes requirements for pharmacy benefit managers as defined in s. 626.88, Florida Statutes, including, without limitation, pharmacy benefit

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managers in their performance of services for or otherwise on behalf of a pharmacy benefits plan or program as defined in s. 626.8825, Florida Statutes, which includes coverage pursuant to Titles XVIII, XIX, or XXI of the Social Security Act, 42 U.S.C. ss. 1395 et seq., 1396 et seq., and 1397aa et seq., known as Medicare, Medicaid, or any other similar coverage under a state or Federal Government funded health plan, including the Statewide Medicaid Managed Care program established pursuant to part IV of chapter 409, Florida Statutes, and the state group insurance program pursuant to part I of chapter 110, Florida Statutes.

(2) This act is not intended, nor may it be construed, to conflict with existing, relevant federal law.

(3) If any provision of this act or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 21. For the 2023-2024 fiscal year, the sum of $980,705 in recurring funds and $146,820 in nonrecurring funds from the Insurance Regulatory Trust Fund are appropriated to the Office of Insurance Regulation, and 10 full-time equivalent positions with associated salary rate of 644,877 are authorized, for the purpose of implementing this act.

Section 22. This act shall take effect July 1, 2023.

13
04/[redacted]/23
Meeting Date

Fiscal Policy
Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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SB 1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name Joseph Salzverg ("Saul's-Verg")

Phone 850-577-9090

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Tallahassee FL 32301
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** (Waive) Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Society of Health-System Pharmacists

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so

The Florida Senate

APPEARANCE RECORD

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April 13, 2023
Meeting Date

Fiscal Policy
Committee

1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name Larry Williams

Phone 850-521-1980

Address 216 South Montroe Street, Suite 601
Street

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City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
American Pharmacy Cooperative, Inc.

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so

The Florida Senate

APPEARANCE RECORD

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4/13/23
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Committee

1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name Mike Fischer

Phone 8503296165

Address 201 S. Monroe
Street

Email mike@redfishconsult.com

Tallahassee FL
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** **Waive Speaking:** ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
PPSC

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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Deliver both copies of this form to
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13 Apr 23
Meeting Date

Fiscal Policy
Committee

1550
Bill Number or Topic

281818
Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850.510.9922

Address 1454 Vieux Carre Dr.
Street

Email Barney@BarneyBishop.com

Tall FL 32308
City State Zip

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Small Business Pharmacies

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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April 13, 2023
Meeting Date

Fiscal Policy
Committee

1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 1454 Vieux Carre Drive
Street

Email Barney@BarneyBishop.com

Tallahassee FL 32308
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Small Business Pharmacy

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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Committee

1550
Bill Number or Topic

281818
Amendment Barcode (if applicable)

Name Jared Willis

Phone 284-1996

Address
Street

Email

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

Alliance for Patient Access

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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Committee

SB1550
Bill Number or Topic

281818
Amendment Barcode (if applicable)

Name Connor Rose

Phone 859-797-1820

Address 400 Redding Road
Street

Email

Lexington KY 40517
City *State* *Zip*

Speaking: ☐ For ☑ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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Committee

SB1550
Bill Number or Topic

281818
Amendment Barcode (if applicable)

Name Michael Jackson

Phone (850) 545-9717

Address 6440 Justin Grant Trail
Street

Email jacksonrph76@gmail.com

Tallahassee Florida 32309
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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Committee

SB1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name Michael Jackson

Phone (850) 545-9717

Address 6440 Justin Grant Trail
Street

Email jacksonrph76@gmail.com

Tallahassee Florida 32309
City State Zip

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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Committee

1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jesse Brashear, Brashears Pharmacy Phone 3526372079

Address 206 W. Dampier St
Street

Email jesse@brashearspharmacy.com

Inverness FL 34450
City State Zip

Speaking: [X] For [ ] Against [ ] Information **OR** Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[X] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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Committee

1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jeff Kottkamp

Phone

Address
Street

Email

Tallahassee FL
City State Zip

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Small Business Pharmacies Aligned for Reform (SPAR)

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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Committee

1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jarrod Fowler

Phone 850-224-6496

Address 1430 Piedmont Dr. E
Street

Tallahassee FL 32308
City State Zip

Email jfowler@flmedical.org

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
Florida Medical Association

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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4-13-23	1550
Meeting Date	Bill Number or Topic
Fiscal Policy	
Committee	Amendment Barcode (if applicable)

Name JAKE FARMER - Walgreens. Phone 352-359-6835

Address 605 Wheatley Rd Email Jake.farmer@walgreens.com
Street

Tallahassee FL 32312
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing: Walgreens

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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Fiscal Policy
Committee

CS/SB 1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name Joy Ryan

Phone 850-339-8083

Address 300 S. Duval St., #410
Street

Email joy@meenanlawfirm.com

Tallahassee, FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing: AHIP

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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Fiscal Policy
Committee

SB 1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lindy Kennedy

Phone 8504452740

Address 125 S. Gadsden
Street

Email lindy@sahaf.net

Tallahassee 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Safety Net Hospital Alliance

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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Fiscal Policy
Committee

SB 1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name Audrey Brown

Phone (850) 559-3905

Address
Street

Email audrey@fahp.net

Tallahassee, FL 32309
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
President + CEO of the FL Association of Health Plans

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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4/13/23
Meeting Date

Fiscal Health Policy
Committee

1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name Chris Nuland

Phone 904-233-3051

Address 4427 Herschel St
Street

Email nulandlaw@aol.com

Jacksonville, FL 32210
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Florida Gastroenterologic Society

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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04/13/2023
Meeting Date

Fiscal Policy
Committee

SB 1570
Bill Number or Topic

Amendment Barcode (if applicable)

Name Helen Sairany

Phone 850 544 5309

Address Florida Pharmacy Association
Street

Tallahasee FL 32308
City State Zip

Email

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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The Florida Senate

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FISCAL POLICY
Committee

SB 1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name Bill Mincy, PPSC

Phone 850-322-7740

Address 2648 Bantry Bay Drive
Street

Email bill.mincy@ppsconline.com

Tallahassee, FL 32309
City State Zip

Speaking: ☒ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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Fiscal Policy
Committee

SB1550
Bill Number or Topic

281818 DE
Amendment Barcode (if applicable)

Name Katie Scanlon

Phone (863) 699-1188

Address 3300 Publix Corporate Pkwy
Street

Email katie.scanlon@publix.com

Lakeland FL 33813
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☑ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

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Fiscal Policy
Committee

SB 1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name Benjamin Browning

Phone 850 942 1822

Address 2340 Hansun Lane
Street

Email ben@fachc.org

Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☑ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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S-001 (08/10/2021)

DUPLICATE

The Florida Senate

APPEARANCE RECORD

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April 13, 2023
Meeting Date

Fiscal Policy
Committee

1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name Chris Lyon

Phone 850-222-5702

Address 106 East College Avenue, Suite 1500
Street

Email clyon@llw-law.com

Tallahassee FL 32301
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
Florida Osteopathic Medical Association

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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The Florida Senate

APPEARANCE RECORD

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4/13/2023
Meeting Date

Fiscal Policy
Committee

1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name ellen navarro anderson

Phone

Address
Street

Email

City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
moffitt cancer center

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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Fiscal Policy
Committee

1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name Jared Willis

Phone 284-1996

Address
Street

Email

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

Alliance for Patient Access

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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Committee

1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name Greg Black

Phone 509 8022

Address PO Box 838
Street

Email Greg@WaypointStrat.com

TLH FL 32302
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
NACDS

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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Committee

SB 1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name DAVID MICA, JR

Phone

Address
Street

Email

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
FL Hospital Assn.

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/13/23
Meeting Date

Fiscal Policy
Committee

1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name Toni Large

Phone 850-556-1461

Address 1100 Brookwood Dr
Street

Tallahassee FL 32303
City State Zip

Email tonie largestrategies.com

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Florida Society of Rheumatology

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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S-001 (08/10/2021)

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APPEARANCE RECORD

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4/13/23
Meeting Date

Fiscal Policy
Committee

SB 1550
Bill Number or Topic

Amendment Barcode (if applicable)

Name Tim Nungesser

Phone 850-445-5367

Address 110 East Jefferson Street
Street

Email Tim.nungesser@nfib.org

Tallahassee FL 32301
City *State* *Zip*

Reset Form

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:
NFIB

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/SB 1552
INTRODUCER:	Health Policy Committee and Senator Brodeur
SUBJECT:	Public Records/Pharmacy Benefit Managers
DATE:	April 12, 2023
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Brown	HP	**Fav/CS**
2.	Stovall	Yeatman	FP	**Favorable**
3.				

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1552 extends the current public records exemptions that are applicable to administrators under the Florida Insurance Code (FIC) found in ss. 624.319 and 626.884, F.S., to pharmacy benefit managers (PBMs) which will be a new class of administrators if SB 1550, or similar legislation, is enacted. Additional examination and investigation authority specific to PBMs is provided in SB 1550, and statutory reference to those reports and related work papers is also included in the exemptions provided in CS/SB 1552.

The exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2028, unless reviewed and reenacted by the Legislature.

The bill provides a statement of public necessity as required by the State Constitution.

Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

The bill provides the effective date is the same date that SB 1550, or similar legislation, if adopted, takes effect. The effective date provided in SB 1550 is July 1, 2023.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.[1] The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.[2]

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s.11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.[3] Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.[4] Lastly, ch. 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.[5]

Section 119.011(12), F.S., defines "public records" to include:

> All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to "perpetuate, communicate, or formalize knowledge of some type."[6]

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[1] FLA. CONST. art. I, s. 24(a).
[2] *Id*.
[3] *See* Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2022-2024)
[4] *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).
[5] Section 119.01(1), F.S. Section 119.011(2), F.S., defines "agency" as "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."
[6] *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc*., 379 So. 2d 633, 640 (Fla. 1980).

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person's right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.[7] A violation of the Public Records Act may result in civil or criminal liability.[8]

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.[9] The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.[10]

General exemptions from the public records requirements are contained in the Public Records Act.[11] Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.[12]

When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.[13] Records designated as "confidential and exempt" are not subject to inspection by the public and may only be released under the circumstances defined by statute.[14] Records designated as "exempt" may be released at the discretion of the records custodian under certain circumstances.[15]

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act[16] (the Act), prescribe a legislative review process for newly created or substantially amended[17] public records or open meetings exemptions, with specified exceptions.[18] The Act requires the repeal of

[7] Section 119.07(1)(a), F.S.
[8] Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.
[9] FLA. CONST. art. I, s. 24(c).
[10] *Id*. *See, e.g.*, *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).
[11] *See, e.g.*, s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).
[12] *See, e.g.*, s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).
[13] *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).
[14] *Id*.
[15] *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).
[16] Section 119.15, F.S.
[17] An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.
[18] Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.[19]

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.[20] An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;[21]
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;[22] or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.[23]

The Act also requires specified questions to be considered during the review process.[24] In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

Public Necessity Statement and Two-thirds Vote Requirement

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.[25] If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.[26]

Pharmacy Benefit Managers as Administrators

[19] Section 119.15(3), F.S.
[20] Section 119.15(6)(b), F.S.
[21] Section 119.15(6)(b)1., F.S.
[22] Section 119.15(6)(b)2., F.S.
[23] Section 119.15(6)(b)3., F.S.
[24] Section 119.15(6)(a), F.S. The specified questions are:
- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

[25] *See generally* s. 119.15, F.S.
[26] Section 119.15(7), F.S.

Pharmacy benefit managers (PBMs) are companies that manage prescription drug benefits on behalf of pharmacy benefit plans or programs (health insurers, Medicare Part D drug plans, large employers, state health plans, and other payers).[27] Key PBM functions may include administration and management of prescription drug benefits; developing and maintaining formularies; negotiating discounts and rebates between payers and pharmaceutical manufacturers; providing access to a contracted pharmacy network; real-time pharmacy claims processing; and performing utilization management, retroactive claims review, prior authorization and other medication management programs.[28]

Pharmacy benefit managers that contract to administer prescription drug benefits on behalf of a health insurer or health maintenance organization to residents of Florida have been required to register with the Office of Insurance Regulation (OIR) pursuant to s. 624.490, F.S., since 2019. A $5 fee is paid at the time of registration and no specific regulation of PBM practices is addressed under Florida law.

CS/SB 1550, if enacted, will regulate all PBMs as administrators under the FIC.

III. Effect of Proposed Changes:

CS/SB 1552 provides the same public records exemptions to PBMs that currently exist for administrators under the FIC by amending and reenacting two statutes in which the exemptions are found. SB 1550, or similar legislation, if enacted, will require PBMs to become administrators. In addition, because additional examination and investigation provisions relating to PBMs are created in SB 1550, the bill extends the confidentiality and public records exemptions to these new provisions, unless otherwise provided in statute.[29]

Section 1. The records that are made confidential and exempt in s. 624.319, F.S., are examination reports, until filed; investigation reports, until the investigation is completed or ceases to be active; and the related work papers. Portions of these documents may remain confidential and exempt if disclosure would:

- Jeopardize the integrity of another active examination or investigation;
- Impair the safety or financial soundness of the licensee, affiliated party, or insured;
- Reveal person financial, medical, or health information;
- Reveal the identity of a confidential source;
- Defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual;
- Reveal examination techniques or procedures; or
- Reveal information received from another governmental entity of the National Association of Insurance Commissioners, which is confidential or exempt when held by that entity.

[27]The Commonwealth Fund, Pharmacy Benefit Managers and Their Role in Drug Spending, (April 22, 2019) available at: https://www.commonwealthfund.org/sites/default/files/2019-04/Explainer_PBMs_1.pdf (last visited Mar 21, 2023).
[28] U.S. Pharmacist, State PBM Regulations Protecting Community Pharmacies, (August 16, 2022) *US Pharm. 2022;47(8):21-25* available at: https://www.uspharmacist.com/article/state-pbm-regulations-protecting-community-pharmacies (last visited Mar. 21, 2023).
[29] Section 12 of SB 1550 creates s. 626.8828, Florida Statutes. Section 626.8828(2)(d), provides that documents obtained pursuant to an expanded examination or investigation predicated upon a pattern or practice of knowing and willful violations of s. 626.8825 or s. 626.8827, are public records and are not trade secrets or otherwise exempt from s. 119.07(1), F.S.

Section 2. The records that are made confidential and exempt in s. 626.884, F.S., are books and records of all transactions among the administrator, insurers, and insured persons maintained by an administrator that are made available to the OIR for examination, audit, and inspection. This section of law is reenacted to include PBMs as a new class of administrator.

CS/SB 1552 includes technical updates to the two statutory sections to reference s. 24(a), Art. I of the State Constitution. The provisions making certain information confidential and exempt from the public records law were in the FIC prior to adoption of s. 24(a), Art. I of the State Constitution in 1992. The adopted Constitutional language includes a grandfather provision, "All laws that are in effect on July 1, 1993 that limit public access to records … shall remain in force … until they are repealed."

The bill provides for review and repeal of both ss. 624.319 and 624.884, F.S., which provide the new exemptions, unless saved from repeal through reenactment by the Legislature by October 2, 2028, in accordance with the Open Government Sunset Review Act.

Section 3. The bill contains statements of public necessity explaining why the documents need to be made confidential and exempt.

The first statement provides that as a new class of administrator, PBMs need to be subject to the exemptions that currently exist for administrators, unless otherwise provided in statute, to protect their confidential information and business and professional good name or reputation in a like manner. Also, both the Department of Financial Services and the OIR have responsibility for examining and investigating administrators under the FIC, and the exemptions are needed to ensure that disclosure of certain information relating to examinations and investigations of PBMs would not jeopardize the integrity of investigations or reveal information that is received from another regulatory entity which is confidential or exempt when held by that entity.

The bill also contains a statement of public necessity for making the trade secret information contained in the books and records of PBMs confidential and exempt. This statement provides that the Legislature recognizes that the release of trade secret information of a PBM, as with any administrator, could destroy the value of a business's proprietary information and cause financial loss to the business by giving its competitors an unfair advantage and weakening its position in the marketplace.

Section 4. This bill's effective date is the same date that SB 1550 or similar legislation takes effect, if adopted, and becomes a law. SB 1550 provides an effective date of July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill creates a new public records exemption pertaining to PBMs; therefore, it requires a two-thirds vote.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 3 includes public necessity statements that support the exemptions.

Breadth of Exemption

Article I, s. 24(c), of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect examination and investigation reports, related work papers, and information in books and records applicable to PBMs, which is a new class of Administrator in the same manner as other Administrators under the FIC. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 624.319 and 626.884.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on March 27, 2023:
The CS narrows the public necessity statement in Section 3 of the bill to address the need for confidentiality of the documents "in accordance with s. 624.319, F.S.," rather than permanently. That section protects examination and investigation reports and related documents until the report is filed or the investigation concludes, with some exceptions.

The effective date of the bill is tied to the same date that SB 1550 or similar legislation takes effect, if adopted and becomes law.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committee on Health Policy; and Senator Brodeur

588-03159-23 20231552c1

A bill to be entitled

An act relating to public records; amending s. 624.319, F.S.; providing an exemption from public records requirements for examination and investigation reports and work papers relating to pharmacy benefit managers; providing for future legislative review and repeal of the exemption; reenacting and amending s. 626.884, F.S.; expanding a public records exemption for the books and records of administrators held by the Office of Insurance Regulation for purposes of examination, audit, and inspection to incorporate the inclusion of pharmacy benefit managers as administrators under the Florida Insurance Code; providing for future legislative review and repeal of the exemption; providing statements of public necessity; providing a contingent effective date.

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

Section 1. Section 624.319, Florida Statutes, is amended to read:

624.319 Examination and investigation reports.—

(1) The department or office or its examiner shall make a full and true written report of each examination. The examination report shall contain only information obtained from examination of the records, accounts, files, and documents of or relative to the insurer examined or from testimony of individuals under oath, together with relevant conclusions and recommendations of the examiner based thereon. The department or

588-03159-23 20231552c1

office must ~~shall~~ furnish a copy of the examination report to the insurer examined at least ~~not less than~~ 30 days before ~~prior to~~ filing the examination report in its office. If such insurer so requests in writing within such 30-day period, the department or office must ~~shall~~ grant a hearing with respect to the examination report and may ~~shall~~ not ~~so~~ file the examination report until after the hearing and after such modifications have been made therein as the department or office deems proper.

(2) The examination report so filed is admissible in evidence in any action or proceeding brought by the department or office against the person examined, or against its officers, employees, or agents. In all other proceedings, the admissibility of the examination report is governed by the evidence code. The department or office or its examiners may testify and offer other proper evidence as to information secured or matters discovered during the course of an examination, regardless of whether a written report of the examination has been made, furnished, or filed in the department or office. The production of documents during the course of an examination or investigation does not constitute a waiver of the attorney-client or work-product privilege.

(3)(a)1. Examination reports, until filed, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. Investigation reports are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation is completed or ceases to be active.

3. For purposes of this subsection, an investigation is active while it is being conducted by the department or office

with a reasonable, good faith belief that it could lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department or office is proceeding with reasonable dispatch and has a good faith belief that action could be initiated by the department or office or other administrative or law enforcement agency. After an investigation is completed or ceases to be active, portions of the investigation report relating to the investigation remain confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if disclosure would:

a. Jeopardize the integrity of another active investigation;

b. Impair the safety and financial soundness of the licensee or affiliated party;

c. Reveal personal financial information;

d. Reveal the identity of a confidential source;

e. Defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual; or

f. Reveal investigative techniques or procedures.

(b)1. For purposes of this paragraph, "work papers" means the records of the procedures followed, the tests performed, the information obtained and the conclusions reached in an examination or investigation performed under this section or ss. 624.316, 624.3161, 624.317, ~~and~~ 624.318, and 626.8828. Work papers include planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents, and schedules or commentaries prepared or obtained in the course of such examination or investigation.

2.a. Work papers held by the department or office are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the examination report is filed or until the investigation is completed or ceases to be active.

b. Information received from another governmental entity or the National Association of Insurance Commissioners, which is confidential or exempt when held by that entity, for use by the department or office in the performance of its examination or investigation duties pursuant to this section or ss. 624.316, 624.3161, 624.317, ~~and~~ 624.318, and 626.8828 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. This exemption applies to work papers and such information held by the department or office before, on, or after the effective date of this exemption.

3. Confidential and exempt work papers and information may be disclosed to:

a. Another governmental entity, if disclosure is necessary for the receiving entity to perform its duties and responsibilities; and

b. The National Association of Insurance Commissioners.

4. After an examination report is filed or an investigation is completed or ceases to be active, portions of work papers may remain confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if disclosure would:

a. Jeopardize the integrity of another active examination or investigation;

b. Impair the safety or financial soundness of the licensee, affiliated party, or insured;

c. Reveal personal financial, medical, or health information;

d. Reveal the identity of a confidential source;

e. Defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual;

f. Reveal examination techniques or procedures; or

g. Reveal information that is confidential or exempt under sub-subparagraph 2.b.

(c) Lists of insurers or regulated companies are confidential and exempt from s. 119.07(1) if:

1. The financial solvency, condition, or soundness of such insurers or regulated companies is being monitored by the office;

2. The list is prepared to internally coordinate regulation by the office of the financial solvency, condition, or soundness of the insurers or regulated companies; and

3. The office determines that public inspection of such list could impair the financial solvency, condition, or soundness of such insurers or regulated companies.

(4) After the examination report has been filed pursuant to subsection (1), the department or office may publish the results of any such examination in one or more newspapers published in this state whenever it deems it to be in the public interest.

(5) After the examination report of an insurer has been filed pursuant to subsection (1), an affidavit must ~~shall~~ be filed with the office, within ~~not more than~~ 30 days after the report has been filed, on a form furnished by the office and signed by the officer of the company in charge of the insurer's

business in this state, stating that she or he has read the report and that the recommendations made in the report will be considered within a reasonable time.

(6) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and save from repeal through reenactment by the Legislature.

Section 2. Section 626.884, Florida Statutes, is reenacted and amended to read:

626.884 Maintenance of records by administrator; access; confidentiality.—

(1) Every administrator shall maintain in such administrator's principal administrative office for the duration of the written agreement and for 5 years thereafter adequate books and records of all transactions among such administrator, insurers, and insured persons. Such books and records shall be maintained in accordance with prudent standards of insurance recordkeeping.

(2) The office shall have access to books and records maintained by the administrator for the purpose of examination, audit, and inspection. Information contained in such books and records is confidential and exempt from ~~the provisions of~~ s. 119.07(1) and s. 24(a), Art. I of the State Constitution if the disclosure of such information would reveal a trade secret as defined in s. 688.002. However, the office may use such information in any proceeding instituted against the administrator.

(3) The insurer shall retain the right of continuing access to books and records maintained by the administrator sufficient

to permit the insurer to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement pertaining to the proprietary rights of the parties in such books and records.

(4) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 3. (1) The Legislature finds that it is a public necessity that the information contained in examination and investigation reports and work papers relating to examinations and investigations of pharmacy benefit managers, who are now considered administrators, as defined in s. 626.88, Florida Statutes, for purposes of regulation under the Florida Insurance Code, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution in accordance with s. 624.319, Florida Statutes. Administrators who are pharmacy benefit managers are subject to additional records production, examination, and investigation provisions, and those applicable work papers and examinations and investigation reports are to be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution in accordance with s. 624.319, Florida Statutes. As a new class of administrators, pharmacy benefit managers need to be subject to the exemptions that currently exist for administrators, unless otherwise provided in statute, in order to protect their confidential information and business and professional good name or reputation in a like manner. Additionally, the Department of Financial Services and the

Office of Insurance Regulation, both of which are responsible for examinations and investigations of administrators under the Florida Insurance Code, need to ensure that disclosure of such information would not jeopardize the integrity of another active investigation, reveal the identity of a confidential source, reveal investigative techniques or procedures, or reveal information that is received from another governmental entity or the National Association of Insurance Commissioners which is confidential or exempt when held by that entity. For these reasons, the Legislature finds that it is a public necessity that such information be made confidential and exempt from public records requirements.

(2) The Legislature finds that it is a public necessity that the trade secret information contained in the books and records of pharmacy benefit managers, who are now considered administrators, as defined in s. 626.88, Florida Statutes, for purposes of regulation under the Florida Insurance Code, which are held by the Office of Insurance Regulation in relation to examinations, audits, or inspections of pharmacy benefit managers be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The Legislature recognizes that the release of trade secret information could destroy the value of a business's proprietary information and cause financial loss to the business by giving its competitors an unfair advantage and weakening its position in the marketplace. As a new class of administrators, pharmacy benefit managers need to be subject to the exemptions that currently exist for administrators, unless otherwise provided in statute, in order to protect their trade secret

information. For these reasons, the Legislature finds that it is a public necessity to make such trade secret information contained in the books and records of pharmacy benefit managers confidential and exempt from public records requirements.

Section 4. This act shall take effect on the same date that SB 1550 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

April 13, 2023
Meeting Date

Fiscal Policy
Committee

1552
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

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Email Barney@BarneyBishop.com

Tallahassee FL 32308
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Small Business Pharmacy

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	CS/CS/SB 7016
INTRODUCER:	Fiscal Policy Committee; Appropriations Committee on Criminal and Civil Justice; and Criminal Justice Committee
SUBJECT:	Department of Corrections
DATE:	April 14, 2023
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Parker	Stokes		**CJ Submitted as Committee Bill**
1.	Atchley	Harkness	ACJ	**Fav/CS**
2.	Parker	Yeatman	FP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 7016 amends s. 944.35, F.S., providing criminal penalties for any volunteer in or employee of a contractor or subcontractor of the Department of Corrections (DOC) or private corrections facility who engages in sexual misconduct with specified inmates or offenders. The bill defines "volunteer" to mean a person registered with the DOC or a private correctional facility who is engaged in specific voluntary service activities on an ongoing or continual basis.

A person who commits this offense commits a third degree felony.[1]

The bill provides the following exceptions:

- Any employee, volunteer, contractor or subcontractor, of the department or private correctional facility who is legally married to an inmate or offender under supervision.
- Any employee, volunteer, or employee of a contractor or subcontractor who has no knowledge, and would have no reason to believe, that the person with whom the employee, volunteer, or employee of a contractor or subcontractor has engaged in sexual misconduct is an inmate or offender under supervision.

1 A felony of the third degree is punishable by a term of imprisonment not exceeding 5 years and a $5000 fine, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

This bill transfers all power, duties, functions, records, personnel, associated administrative support positions, property, administrative authority, and administrative rules relating to private correctional facilities by a type two transfer, as defined in s. 20.06(2), F.S.,[2] from the Department of Management Services (DMS) to the DOC.

The bill contains provisions relating to existing contracts, agreements, bonds, certificates of participation and other instruments of indebtedness.

The bill amends s. 287.042, F.S., to remove the ability of DMS to enter into contracts for the designing, financing, acquiring, leasing, constructing, or operating of private correctional facilities.

The bill may have a positive indeterminate fiscal impact on the DOC (indeterminate positive prison bed impact). The provisions of the bill relating to the transfer of oversight of private correctional facilities will likely have no fiscal impact due to the type two transfer provisions.

The bill makes technical and conforming changes.

The bill is effective October 1, 2023.

II. Present Situation:

Sexual Misconduct with Inmates

Section 944.35, F.S., states that any employee of the DOC or a private correctional facility as defined in s. 944.710, F.S., who engages in sexual misconduct with an inmate or an offender supervised by the DOC in the community, without committing the crime of sexual battery, commits a third degree felony.[3]

The consent of such inmate or offender to any act of sexual misconduct may not be raised as a defense to a prosecution under this paragraph.[4] This paragraph does not apply to any employee of the DOC or any employee of a private correctional facility who is legally married to an inmate or an offender supervised by the DOC in the community. It also does not apply to any employee who has no knowledge, and would have no reason to believe, that the person with whom the employee has engaged in sexual misconduct is an inmate or an offender under community supervision of the DOC.[5]

"Sexual misconduct" means oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object, but does

[2] Section 20.06(2), F.S., states that a type two transfer is the merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if certain identifiable units or subunits, merging into an agency or department of the existing agency or department with certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolished.
[3] Section 944.35(3)(b)2., F.S.; A felony of the third degree is punishable by a term of imprisonment not exceeding 5 years and a $5000 fine punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.
[4] Section 944.35(3)(b)3., F.S.
[5] Section 944.35(3)(b)4., F.S.

not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of the employee's duty.[6]

Sexual misconduct by corrections officers and other prison staff can violate the Eighth Amendment, regardless of whether physical force is used.[7] Under federal and state law, forms of coerced sexual contact are prohibited by general criminal laws that apply to all persons regardless of the setting in which the coerced sexual contact occurs. Forty-one states, including the District of Columbia and the federal government, have laws specifically prohibiting criminalizing certain types of sexual misconduct in prisons.[8] Florida is one of the states that criminalizes sexual contact between correctional employees of the DOC and a person under the DOC's custody.[9]

Rule 33-208.001(5), F.A.C., governs the conduct of volunteers and non-DOC employees. The rule states that all rules, directives, and policy statements governing conduct of the DOC employees apply to volunteers and non-DOC employees, violation of which may result in immediate removal from the institution or office and future denial of access to such area by the Administrator, Warden, Officer-in-Charge, or Supervisor.

Sexual Misconduct Between Detention Facility Employees and Inmates

Section 951.221, F.S., states that any employee of a county or municipal detention facility or of a private detention facility under contract with a county commission who engages in sexual misconduct, as defined in s. 944.35(3)(b)1., F.S., with an inmate or an offender supervised by the facility without committing the crime of sexual battery commits a third degree felony.[10] The consent of an inmate to any act of sexual misconduct may not be raised as a defense to prosecution under this section.[11]

Transfer of Private Prison Oversight

The DMS,[12] is responsible for overseeing the State's private prison system and ensuring private correctional facility compliance with contract terms and conditions.[13]

The DMS currently oversees private prisons in Florida and has the powers, duties, and functions to contract.[14] The Bureau of Private Prison Monitoring at DMS currently contracts with three providers, CoreCivic of Tennessee, LLC (CoreCivic); GEO Group, Inc., (GEO); and

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[6] Section 944.35(3)(b)1., F.S.
[7] *Sconiers v. Lockhart*, 946 F.3d 1256, 1267 (11th Cir. 2020) (holding the Eight Amendment protects prisoners from sexual abuse, even when there is no serious physical injury).
[8] United States General Accounting Office, *Women in Prison, Sexual Misconduct by Correctional Staff*, p. 5 (June 1999) available at https://www.gao.gov/products/ggd-99-104 (last visited March 3, 2023).
[9] Section 944.35, F.S.
[10] A felony of the third degree is punishable by a term of imprisonment not exceeding 5 years and a $5000 fine punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.
[11] Section 951.221, F.S.
[12] Bureau of Private Prison Monitoring is a business operation within the Department of Management Services. This information is available at https://www.dms.myflorida.com/business_operations/private_prison_monitoring (last visited March 6, 2023).
[13] Section 957.04, F.S.
[14] Section 287.042, F.S.

Management and Training Corporation (MTC), to operate and manage the seven private correctional facilities throughout the state.[15]

Section 287.057, F.S., provides that state agencies are responsible for enforcing the terms and conditions of all contracts and ensuring that deliverables are appropriately satisfied. In Florida, the Bureau of Private Prison Monitoring at DMS is responsible for the oversight and contractual compliance for the private prison system with the state.[16]

In June 2022, the Florida Auditor General conducted an operational audit of the DMS on the oversight of the Bureau of Private Prisons.[17] The audit found seven areas of deficiency.[18]

III. Effect of Proposed Changes:

The bill amends s. 944.35, F.S., providing criminal penalties for any volunteer or employee of a contractor or subcontractor of the DOC or private correctional facility who engages in sexual misconduct with an inmate. Any person who commits such offense commits a third degree felony.[19] This language is consistent with the intent of Rule 33-208.001(5), F.A.C.[20]

The bill defines the term "volunteer" to mean a person registered with the DOC or a private correctional facility who is engaged in specific voluntary service activities on an ongoing or continual basis.

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[15] Dixon, Matt, (2013, December 16). *New contracts give private prison giant nearly 80 percent of Florida's private prison market*. Retrieved from The Florida Times-Union: https://www.jacksonville.com/story/news/2013/12/16/new-contracts-give-private-prison-giant-nearly-80-percent-floridas-private/15805432007/ (last visited March 3, 2023).

[16] In accordance with ch. 957, F.S., the Bureau of Private Prison Monitoring is responsible for entering into contracts for the design, construction, and operation of privately operated correctional facilities.

[17] Florida Auditor General, *Department of Management Services Oversight of Private Correctional Facilities Operational Audit*. Report No. 2022-23 (June 2022) (on file with the Senate Committee on Criminal Justice).

[18] *Id*. The Florida Auditor General conducted an operational audit of the Department of Management Services finding there to be issues with noncompliance, maintenance, safety, and staffing. The audit found seven areas of deficiency with the Bureau of Private Prison Monitoring at DMS: (1)The Bureau did not always issue written notices of noncompliance or document the basis for not issuing notices of noncompliance to private prison providers when noncompliance was identified; (2) The Bureau had not established policies and procedures for monitoring provider maintenance activities at private correctional facilities and monitoring tools were not always completed; (3) The Bureau policies and procedures for, and documentation of, review of on-site nursing consultant activities were identified as needing improvement to demonstrate that health care monitoring services at private correctional facilities are provided in accordance with contract terms; (4) The Bureau monitoring of private correctional facility staff was identified as needing enhancement to ensure that appropriate and qualified staff were assigned to provide for and maintain security, control, custody, and supervision of inmates; (5) Bureau efforts to review and verify the accuracy and completeness of private correctional facility provider incident reporting need enhancement to ensure that incidents are correctly reported and appropriately handled in accordance with applicable contract provisions and Bureau policies and procedures; (6) The Bureau did not ensure that private correctional facility providers obtained and maintained required insurance coverage; and (7) The Bureau was identified as needing improvement to ensure that audited provider Inmate Bank and Commissary financial statements were timely received and appropriately reviewed.

[19] A felony of the third degree is punishable by a term of imprisonment not exceeding 5 years and a $5000 fine as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

[20] Rule 33-208.001(5), F.A.C. states that "all rules, directives, and policy statement governing conduct of Department of Corrections employees apply to volunteers and non-FDC employees, violation of which may result in immediate removal from the institution or office and future denial of access to such area by the Administrator, Warden, Officer-in-Charge or Supervisor."

The bill prohibits any employee of the DOC or a private correctional facility or any volunteer in, or any employee of a contractor or subcontractor of, the DOC or a private correctional facility from engaging in sexual misconduct with an inmate or an offender supervised by the DOC in the community, without committing the crime of sexual battery. A person who commits this offense commits a third degree felony.

The bill provides exceptions. Specifically, the bill excludes:

- Any employee, volunteer, or employee of a contractor or subcontractor of the DOC or any employee, volunteer, or employee of a contractor of subcontractor of a private correctional facility who is legally married to an inmate or an offender supervised by the department in the community.
- Any employee, volunteer, or employee of a contractor or subcontractor who has no knowledge, and would have no reason to believe, that the person with whom the employee, volunteer, or employee of a contractor or subcontractor has engaged in sexual misconduct is an inmate.

The bill transfers oversight from the DMS to the DOC. The bill transfers all powers, duties, functions, records, personnel, associated administrative support positions, property, administrative authority, and administrative rules relating to private correctional facilities by a type two transfer, as defined in s. 20.06(2), F.S.,[21] from the DMS to the DOC. The DMS must ensure any unexpended funds or trust funds are transferred. The bill contains provisions relating to binding contracts and interagency agreements.

The bill provides that the type two transfer shall not affect any existing agreements, bonds, certificates, or other instruments of indebtedness entered into by DMS and provides provisions related to such undertakings by the DMS.

The bill amends s. 287.042, F.S., to remove the ability of DMS to enter into contracts for the designing, financing, acquiring, leasing, constructing, or operating of private correctional facilities.

The bill amends ss. 943.13, 944.02, 944.115, 944.72, 944.8041, 945.215, 946.504, 957.04, 957.06, 957.07, 957.08, 957.12, 957.14, 957.15, 957.16, and 394.9151, F.S., conforming provisions to changes made by the act.

The bill is effective October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[21] Section 20.06(2), F.S., provides that a type two transfer is the merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department, or are abolished, it is the merging into an agency or department of the existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolishes.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have a positive indeterminate fiscal impact on the DOC (indeterminate positive prison bed impact). The bill may increase the number of people convicted under this offense because it expands the crime to include volunteers, contractors, and subcontractors.

The provisions of the bill relating to the transfer of oversight of private correctional facilities will likely have no fiscal impact due to the type two transfer provisions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 287.042, 394.9151, 943.13, 944.02, 944.115, 944.35, 944.72, 944.8041, 945.215, 946.504, 957.04, 957.06, 957.07, 957.08, 957.12, 957.14, 957.15, and 957.16.

This bill reenacts section 944.47 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Fiscal Policy on April 13, 2023:
The committee substitute:

- Provides that any binding contract or interagency agreement entered into and between the DMS and any other agency, entity, or person continues as a binding contract or agreement with the DOC.
- Provides an exception for certain contracts or agreements.
- Provides that the type two transfer shall not affect any existing agreements, bonds, certificates of participation or other instruments of indebtedness.
- Makes conforming and technical changes.

CS by Appropriations Committee on Criminal and Civil Justice on March 21, 2023:
The committee substitute:

- Provides clarifying language relating to what persons may be charged with a violation.
- Defines "volunteer" to mean a person registered with the department or a private correctional facility who is engaged in specific voluntary service activities on an ongoing or continual basis.
- Provides exceptions to the statute. Specifically, excluding:
  - Any employee, volunteer, contractor or subcontractor of the department or a private correctional facility who is legally married to an inmate.
  - Any employee, volunteer, or employee of a contractor or subcontractor who has no knowledge, and would have no reason to believe, that the person with whom the employee, volunteer, or employee of a contractor or subcontractor has engaged in sexual misconduct is an inmate.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Martin) recommended the following:

Senate Amendment (with title amendment)

Delete lines 19 - 404
and insert:
Section 1. Subsection (3) of section 944.35, Florida Statutes, is amended to read:
944.35 Authorized use of force; malicious battery and sexual misconduct prohibited; reporting required; penalties.—
(3)(a)1. Any employee of the department who, with malicious intent, commits a battery upon an inmate or an offender



supervised by the department in the community, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Any employee of the department who, with malicious intent, commits a battery or inflicts cruel or inhuman treatment by neglect or otherwise, and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to an inmate or an offender supervised by the department in the community, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b)1. As used in this paragraph, the term:

a. "Female genitals" includes the labia minora, labia majora, clitoris, vulva, hymen, and vagina.

b. "Private correctional facility" has the same meaning as in s. 944.710.

c.~~b.~~ "Sexual misconduct" means the oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object, but does not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of the employee's duty.

d. "Volunteer" means a person registered with the department or a private correctional facility who is engaged in specific voluntary service activities on an ongoing or continual basis.

2. Any employee of the department or a private correctional facility or any volunteer in, or any employee of a contractor or subcontractor of, the department or a private correctional facility ~~as defined in s. 944.710~~ who engages in sexual


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misconduct with an inmate or an offender supervised by the department in the community, without committing the crime of sexual battery, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. The consent of the inmate or offender supervised by the department in the community to any act of sexual misconduct may not be raised as a defense to a prosecution under this paragraph.

4. This paragraph does not apply to any employee, volunteer, or employee of a contractor or subcontractor of the department or any employee, volunteer, or employee of a contractor or subcontractor of a private correctional facility who is legally married to an inmate or an offender supervised by the department in the community, nor does it apply to any employee, volunteer, or employee of a contractor or subcontractor who has no knowledge, and would have no reason to believe, that the person with whom the employee, volunteer, or employee of a contractor or subcontractor has engaged in sexual misconduct is an inmate or an offender under community supervision of the department.

(c) Notwithstanding prosecution, any violation of the provisions of this subsection, as determined by the Public Employees Relations Commission, shall constitute sufficient cause under s. 110.227 for dismissal from employment with the department, and such person shall not again be employed in any capacity in connection with the correctional system.

(d) Each employee who witnesses, or has reasonable cause to suspect, that an inmate or an offender under the supervision of the department in the community has been unlawfully abused or is


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the subject of sexual misconduct pursuant to this subsection shall immediately prepare, date, and sign an independent report specifically describing the nature of the force used or the nature of the sexual misconduct, the location and time of the incident, and the persons involved. The report shall be delivered to the inspector general of the department with a copy to be delivered to the warden of the institution or the regional administrator. The inspector general shall immediately conduct an appropriate investigation, and, if probable cause is determined that a violation of this subsection has occurred, the respective state attorney in the circuit in which the incident occurred shall be notified.

Section 2. All powers, duties, functions, records, personnel, associated administrative support positions, property, administrative authority, and administrative rules relating to private correctional facilities are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, from the Department of Management Services to the Department of Corrections. The Department of Management Services must ensure any unexpended funds or trust funds are transferred. Any binding contract or interagency agreement concerning private correctional facilities entered into and between the Department of Management Services and any other agency, entity, or person continues as a binding contract or an interagency agreement with the Department of Corrections for the remainder of the term of the contract or agreement, except for any contract or agreement entered into as a result of state appropriations from the federal Coronavirus State Fiscal Recovery Fund (Public Law 117-2) for fixed capital outlay projects. The Department of


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Corrections assumes all rights and responsibilities of the Department of Management Services under such contract or interagency agreement as if it were the original party to the agreement, except as it pertains to the Department of Management Services' rights with regard to action against any state contractor pursuant to law, which rights remain with the Department of Management Services. Notwithstanding the above, for any client agency agreements concerning private correctional facilities, the rights and responsibilities of the client agency, and only those rights and responsibilities, are transferred to the Department of Corrections.

(2) In no way shall the transfer under this act affect any existing agreements, bonds, certificates of participation, or other instruments of indebtedness entered into by the Department of Management Services. All undertakings of the Department of Management Services in connection with the issuance of certificates of participation and the obligations to make rent payments thereunder to the Florida Correctional Finance Corporation are validated and continue to be valid and binding on the Department of Corrections in accordance with their respective terms, conditions, and covenants.

Section 3. Subsection (17) of section 287.042, Florida Statutes, is amended to read:

287.042 Powers, duties, and functions.—The department shall have the following powers, duties, and functions:

~~(17)(a) To enter into contracts pursuant to chapter 957 for the designing, financing, acquiring, leasing, constructing, or operating of private correctional facilities. The department shall enter into a contract or contracts with one contractor per~~


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~~facility for the designing, acquiring, financing, leasing, constructing, and operating of that facility or may, if specifically authorized by the Legislature, separately contract for any such services.~~

~~(b) To manage and enforce compliance with existing or future contracts entered into pursuant to chapter 957.~~

~~The department may not delegate the responsibilities conferred by this subsection.~~

Section 4. Section 394.9151, Florida Statutes, is amended to read:

394.9151 Contract authority.—The Department of Children and Families may contract with a private entity or state agency for use of and operation of facilities to comply with the requirements of this act. The Department of Children and Families may also contract with the Department of Corrections ~~Management Services~~ to issue a request for proposals and monitor contract compliance for these services.

Section 5. Section 943.13, Florida Statutes, is amended to read:

943.13 Officers' minimum qualifications for employment or appointment.—On or after October 1, 1984, any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer or correctional officer; on or after October 1, 1986, any person employed as a full-time, part-time, or auxiliary correctional probation officer; and on or after October 1, 1986, any person employed as a full-time, part-time, or auxiliary correctional officer by a private entity under contract to the Department of Corrections or~~,~~ to a county


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commission~~, or to the Department of Management Services~~ shall:

(1) Be at least 19 years of age, except that any person employed as a full-time, a part-time, or an auxiliary correctional officer must be at least 18 years of age.

(2) Be a citizen of the United States, notwithstanding any law of the state to the contrary.

(3) Be a high school graduate or its "equivalent" as the commission has defined the term by rule.

(4) Not have been convicted of any felony or of a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the Armed Forces of the United States. Any person who, after July 1, 1981, pleads guilty or nolo contendere to or is found guilty of any felony or of a misdemeanor involving perjury or a false statement is not eligible for employment or appointment as an officer, notwithstanding suspension of sentence or withholding of adjudication. Notwithstanding this subsection, any person who has pled nolo contendere to a misdemeanor involving a false statement, prior to December 1, 1985, and has had such record sealed or expunged shall not be deemed ineligible for employment or appointment as an officer.

(5) Have documentation of his or her processed fingerprints on file with the employing agency or, if a private correctional officer, have documentation of his or her processed fingerprints on file with the Department of Corrections or the Criminal Justice Standards and Training Commission. The department shall retain and enter into the statewide automated biometric identification system authorized by s. 943.05 all fingerprints submitted to the department as required by this section.


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Thereafter, the fingerprints shall be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. 943.051. The department shall search all arrest fingerprints received pursuant to s. 943.051 against the fingerprints retained in the statewide automated biometric identification system pursuant to this section and report to the employing agency any arrest records that are identified with the retained employee's fingerprints. These fingerprints must be forwarded to the department for processing and retention.

(6) Have passed a physical examination by a licensed physician, physician assistant, or licensed advanced practice registered nurse, based on specifications established by the commission. In order to be eligible for the presumption set forth in s. 112.18 while employed with an employing agency, a law enforcement officer, correctional officer, or correctional probation officer must have successfully passed the physical examination required by this subsection upon entering into service as a law enforcement officer, correctional officer, or correctional probation officer with the employing agency, which examination must have failed to reveal any evidence of tuberculosis, heart disease, or hypertension. A law enforcement officer, correctional officer, or correctional probation officer may not use a physical examination from a former employing agency for purposes of claiming the presumption set forth in s. 112.18 against the current employing agency. The employing agency must maintain records of the physical examination for at least 5 years after the employee's separation from the employing agency. If the employing agency fails to maintain the records of


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the physical examination for the 5-year period after the employee's separation, it is presumed that the employee has met the requirements of this subsection.

(7) Have a good moral character as determined by a background investigation under procedures established by the commission.

(8) Execute and submit to the employing agency or, if a private correctional officer, submit to the appropriate governmental entity an affidavit-of-applicant form, adopted by the commission, attesting to his or her compliance with subsections (1)-(7). The affidavit shall require the applicant to disclose any pending investigation by a local, state, or federal agency or entity for criminal, civil, or administrative wrongdoing and whether the applicant separated or resigned from previous criminal justice employment while he or she was under investigation. The affidavit shall be executed under oath and constitutes an official statement within the purview of s. 837.06. The affidavit shall include conspicuous language that the intentional false execution of the affidavit constitutes a misdemeanor of the second degree. The affidavit shall be retained by the employing agency.

(9) Complete a commission-approved basic recruit training program for the applicable criminal justice discipline, unless exempt under this subsection. An applicant who has:

(a) Completed a comparable basic recruit training program for the applicable criminal justice discipline in another state or for the Federal Government and served as a full-time sworn officer in another state or for the Federal Government for at least 1 year, provided there is no more than an 8-year break in


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employment, as measured from the separation date of the most recent qualifying employment to the time a complete application for an exemption under this subsection is submitted; or

(b) Served in the special operations forces for a minimum of 5 years, provided there is no more than a 4-year break from the applicant's special operations forces experience, as measured from the separation date from the special operations forces to the time a complete application for an exemption under this subsection is submitted,

is exempt in accordance with s. 943.131(2) from completing the commission-approved basic recruit training program.

(10) Achieve an acceptable score on the officer certification examination for the applicable criminal justice discipline.

(11) Comply with the continuing training or education requirements of s. 943.135.

Section 6. Subsection (4) of section 944.02, Florida Statutes, is amended, and subsection (3) of that section is republished, to read:

944.02 Definitions.—The following words and phrases used in this chapter shall, unless the context clearly indicates otherwise, have the following meanings:

(3) "Department" means the Department of Corrections.

(4) "Elderly offender" means a prisoner age 50 or older in a state correctional institution or facility operated by the department ~~of Corrections or the Department of Management Services~~.

Section 7. Paragraph (b) of subsection (2) of section


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944.115, Florida Statutes, is amended, and paragraph (a) of that subsection is republished, to read:

944.115 Smoking prohibited inside state correctional facilities.—

(2) As used in this section, the term:

(a) "Department" means the Department of Corrections.

(b) "Employee" means an employee of the department or a private vendor in a contractual relationship with ~~either~~ the department ~~of Corrections or the Department of Management Services~~, and includes persons such as contractors, volunteers, or law enforcement officers who are within a state correctional facility to perform a professional service.

Section 8. Subsection (1) of section 944.72, Florida Statutes, is amended to read:

944.72 Privately Operated Institutions Inmate Welfare Trust Fund.—

(1) There is hereby created in the Department of Corrections the Privately Operated Institutions Inmate Welfare Trust Fund. The purpose of the trust fund shall be the benefit and welfare of inmates incarcerated in private correctional facilities under contract with the department pursuant to this chapter or ~~the Department of Management Services pursuant to~~ chapter 957. Moneys shall be deposited in the trust fund and expenditures made from the trust fund as provided in s. 945.215.

Section 9. Section 944.8041, Florida Statutes, is amended to read:

944.8041 Elderly offenders; annual review.—For the purpose of providing information to the Legislature on elderly offenders within the correctional system, the department and the


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Correctional Medical Authority shall each submit annually a report on the status and treatment of elderly offenders in the state-administered and private state correctional systems and the department's geriatric facilities and dorms. In order to adequately prepare the reports, the department ~~and the Department of Management Services~~ shall grant access to the Correctional Medical Authority that includes access to the facilities, offenders, and any information the agencies require to complete their reports. The review shall also include an examination of promising geriatric policies, practices, and programs currently implemented in other correctional systems within the United States. The reports, with specific findings and recommendations for implementation, shall be submitted to the President of the Senate and the Speaker of the House of Representatives on or before December 31 of each year.

Section 10. Subsection (3) of section 945.215, Florida Statutes, is amended to read:

945.215 Inmate welfare and employee benefit trust funds.—

(3) PRIVATELY OPERATED INSTITUTIONS INMATE WELFARE TRUST FUND; PRIVATE CORRECTIONAL FACILITIES.—

(a) For purposes of this subsection, privately operated institutions or private correctional facilities are those correctional facilities under contract with the department pursuant to chapter 944 or ~~the Department of Management Services pursuant to~~ chapter 957.

(b)1. The net proceeds derived from inmate canteens, vending machines used primarily by inmates, telephone commissions, and similar sources at private correctional facilities shall be deposited in the Privately Operated


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Institutions Inmate Welfare Trust Fund.

2. Funds in the Privately Operated Institutions Inmate Welfare Trust Fund shall be expended only pursuant to legislative appropriation.

(c) The department ~~of Management Services~~ shall annually compile a report that documents Privately Operated Institutions Inmate Welfare Trust Fund receipts and expenditures at each private correctional facility. This report must specifically identify receipt sources and expenditures. The department ~~of Management Services~~ shall compile this report for the prior fiscal year and shall submit the report by September 1 of each year to the chairs of the appropriate substantive and fiscal committees of the Senate and House of Representatives and to the Executive Office of the Governor.

Section 11. Subsection (3) and paragraph (a) of subsection (6) of section 946.504, Florida Statutes, are amended to read:

946.504 Organization of corporation to operate correctional work programs; lease of facilities.—

(3) The corporation shall negotiate with the department ~~of Management Services~~ to reach and enter into an agreement for the lease of each correctional work program proposed by the corporation. The facilities to be leased and the amount of rental for such facilities shall be agreed upon by the department ~~of Management Services~~ and the corporation~~, with consultation with the department~~. The length of such lease shall be mutually agreed upon <u>between</u> ~~among~~ the department~~, the Department of Management Services,~~ and the corporation; however, the initial lease may not exceed 7 years. The department shall continue to manage and operate the various correctional work


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programs until the lease between the department and the corporation is effective.

(6)(a) Upon the effective date of each lease of each correctional work program, the department shall cause to be remitted to the corporation all funds appropriated for, associated with, or budgeted for the operation of that correctional work program, as agreed upon between ~~among~~ the department~~, the Department of Management Services,~~ and the corporation.

Section 12. Section 957.04, Florida Statutes, is amended to read:

957.04 Contract requirements.—

(1) A contract entered into under this chapter for the operation of private correctional facilities shall maximize the cost savings of such facilities and shall:

(a) Be negotiated with the firm found most qualified. However, a contract for private correctional services may not be entered into by the department ~~of Management Services~~ unless the department ~~of Management Services~~ determines that the contractor has demonstrated that it has:

1. The qualifications, experience, and management personnel necessary to carry out the terms of the contract.

2. The ability to expedite the siting, design, and construction of correctional facilities.

3. The ability to comply with applicable laws, court orders, and national correctional standards.

(b) Indemnify the state and the department, including their officials and agents, against any and all liability, including, but not limited to, civil rights liability. Proof of


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satisfactory insurance is required in an amount to be determined by the department ~~of Management Services~~.

(c) Require that the contractor seek, obtain, and maintain accreditation by the American Correctional Association for the facility under that contract. Compliance with amendments to the accreditation standards of the association is required upon the approval of such amendments by the department ~~commission~~.

(d) Require that the proposed facilities and the management plans for the inmates meet applicable American Correctional Association standards and the requirements of all applicable court orders and state law.

(e) Establish operations standards for correctional facilities subject to the contract. However, if the department and the contractor disagree with an operations standard, the contractor may propose to waive any rule, policy, or procedure of the department related to the operations standards of correctional facilities which is inconsistent with the mission of the contractor to establish cost-effective, privately operated correctional facilities. The department ~~of Management Services~~ shall be responsible for considering all proposals from the contractor to waive any rule, policy, or procedure and shall render a final decision granting or denying such request.

(f) Require the contractor to be responsible for a range of dental, medical, and psychological services; diet; education; and work programs at least equal to those provided by the department in comparable facilities. The work and education programs must be designed to reduce recidivism, and include opportunities to participate in such work programs as authorized pursuant to s. 946.523.


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(g) Require the selection and appointment of a full-time contract monitor. The contract monitor shall be appointed and supervised by the department ~~of Management Services~~. The contractor is required to reimburse the department ~~of Management Services~~ for the salary and expenses of the contract monitor. It is the obligation of the contractor to provide suitable office space for the contract monitor at the correctional facility. The contract monitor shall have unlimited access to the correctional facility.

(h) Be for a period of 3 years and may be renewed for successive 2-year periods thereafter. However, the state is not obligated for any payments to the contractor beyond current annual appropriations.

(2) Each contract entered into for the design and construction of a private correctional facility or juvenile commitment facility must include:

(a) Notwithstanding any provision of chapter 255 to the contrary, a specific provision authorizing the use of tax-exempt financing through the issuance of tax-exempt bonds, certificates of participation, lease-purchase agreements, or other tax-exempt financing methods. Pursuant to s. 255.25, approval is hereby provided for the lease-purchase of up to two private correctional facilities and any other facility authorized by the General Appropriations Act.

(b) A specific provision requiring the design and construction of the proposed facilities to meet the applicable standards of the American Correctional Association and the requirements of all applicable court orders and state law.

(c) A specific provision requiring the contractor, and not


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the department ~~of Management Services~~, to obtain the financing required to design and construct the private correctional facility or juvenile commitment facility built under this chapter.

(d) A specific provision stating that the state is not obligated for any payments that exceed the amount of the current annual appropriation.

(3)(a) Each contract for the designing, financing, acquiring, leasing, constructing, and operating of a private correctional facility shall be subject to ss. 255.2502 and 255.2503.

(b) Each contract for the designing, financing, acquiring, leasing, and constructing of a private juvenile commitment facility shall be subject to ss. 255.2502 and 255.2503.

(4) A contract entered into under this chapter does not accord third-party beneficiary status to any inmate or juvenile offender or to any member of the general public.

(5) Each contract entered into by the department ~~of Management Services~~ must include substantial minority participation unless demonstrated by evidence, after a good faith effort, as impractical and must also include any other requirements the department ~~of Management Services~~ considers necessary and appropriate for carrying out the purposes of this chapter.

(6) Notwithstanding s. 253.025(9), the Board of Trustees of the Internal Improvement Trust Fund need not approve a lease-purchase agreement negotiated by the department ~~of Management Services~~ if the department ~~of Management Services~~ finds that there is a need to expedite the lease-purchase.


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(7)(a) Notwithstanding s. 253.025 or s. 287.057, whenever the department ~~of Management Services~~ finds it to be in the best interest of timely site acquisition, it may contract without the need for competitive selection with one or more appraisers whose names are contained on the list of approved appraisers maintained by the Division of State Lands of the Department of Environmental Protection in accordance with s. 253.025(8). In those instances when the department ~~of Management Services~~ directly contracts for appraisal services, it shall also contract with an approved appraiser who is not employed by the same appraisal firm for review services.

(b) Notwithstanding s. 253.025(8), the department ~~of Management Services~~ may negotiate and enter into lease-purchase agreements before an appraisal is obtained. Any such agreement must state that the final purchase price cannot exceed the maximum value allowed by law.

Section 13. Subsection (2) of section 957.06, Florida Statutes, is amended to read:

957.06 Powers and duties not delegable to contractor.—A contract entered into under this chapter does not authorize, allow, or imply a delegation of authority to the contractor to:

(2) Choose the facility to which an inmate is initially assigned or subsequently transferred. The contractor may request, in writing, that an inmate be transferred to a facility operated by the department. The ~~Department of Management Services, the~~ contractor~~,~~ and the department shall develop and implement a cooperative agreement for transferring inmates between a correctional facility operated by the department and a private correctional facility. The department~~, the Department of~~


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~~Management Services,~~ and the contractor must comply with the cooperative agreement.

Section 14. Section 957.07, Florida Statutes, is amended to read:

957.07 Cost-saving requirements.—

(1) The department ~~of Management Services~~ may not enter into a contract or series of contracts unless the department determines that the contract or series of contracts in total for the facility will result in a cost savings to the state of at least 7 percent over the public provision of a similar facility. Such cost savings as determined and certified by the Auditor General ~~Department of Management Services~~ must be based upon the actual costs associated with the construction and operation of similar facilities or services as determined by the department ~~of Corrections and certified by the Auditor General~~. The department ~~of Corrections~~ shall calculate all of the cost components that determine the inmate per diem in correctional facilities of a substantially similar size, type, and location that are operated by the department ~~of Corrections~~, including administrative costs associated with central administration. Services that are provided to the department ~~of Corrections~~ by other governmental agencies at no direct cost to the department shall be assigned an equivalent cost and included in the per diem.

(2) Reasonable projections of payments of any kind to the state or any political subdivision thereof for which the private entity would be liable because of its status as private rather than a public entity, including, but not limited to, corporate income and sales tax payments, shall be included as cost savings


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in all such determinations. In addition, the costs associated with the appointment and activities of each contract monitor shall be included in such determination.

(3) In counties where the department ~~of Corrections~~ pays its employees a competitive area differential, the cost for the public provision of a similar correctional facility may include the competitive area differential paid by the department.

(4) The department ~~of Corrections~~ shall provide a report detailing the state cost to design, finance, acquire, lease, construct, and operate a facility similar to the private correctional facility on a per diem basis. This report shall be provided to the Auditor General in sufficient time that it may be certified ~~to the Department of Management Services~~ to be included in the request for proposals.

(5)(a) At the request of the Speaker of the House of Representatives or the President of the Senate, the Prison Per-Diem Workgroup shall develop consensus per diem rates for use by the Legislature. The Office of Program Policy Analysis and Government Accountability and the staffs of the appropriations committees of both the Senate and the House of Representatives are the principals of the workgroup. The workgroup may consult with other experts to assist in the development of the consensus per diem rates. All meetings of the workgroup shall be open to the public as provided in chapter 286.

(b) When developing the consensus per diem rates, the workgroup must:

1. Use data provided by the department ~~of Corrections~~ from the most recent fiscal year to determine per diem costs for the following activities:


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a. Custody and control;

b. Health services;

c. Substance abuse programs; and

d. Educational programs;

2. Include the cost of departmental, regional, institutional, and program administration and any other fixed costs of the department;

3. Calculate average per diem rates for the following offender populations: adult male, youthful offender male, and female; and

4. Make per diem adjustments, as appropriate, to account for variations in size and location of correctional facilities.

(c) The consensus per diem rates determined by the workgroup may be used to assist the Legislature in determining the level of funding provided to privately operated prisons to meet the 7-percent savings required of private prisons by this chapter.

(d) If a private vendor chooses not to renew the contract at the appropriated level, the department ~~of Management Services~~ shall terminate the contract as provided in s. 957.14.

Section 15. Section 957.08, Florida Statutes, is amended to read:

957.08 Capacity requirements.—The department ~~of Corrections~~ shall transfer and assign prisoners to each private correctional facility opened pursuant to this chapter in an amount not less than 90 percent or more than 100 percent of the capacity of the facility pursuant to the contract ~~with the Department of Management Services~~. The prisoners transferred by the department ~~of Corrections~~ shall represent a cross-section of the general


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inmate population, based on the grade of custody or the offense of conviction, at the most comparable facility operated by the department.

Section 16. Section 957.12, Florida Statutes, is amended to read:

957.12 Prohibition on contact.—A bidder or potential bidder is not permitted to have any contact with any member or employee of or consultant to the department ~~commission~~ regarding a request for proposal, a proposal, or the evaluation or selection process from the time a request for proposals for a private correctional facility is issued until the time a notification of intent to award is announced, except if such contact is in writing or in a meeting for which notice was provided in the Florida Administrative Register.

Section 17. Section 957.14, Florida Statutes, is amended to read:

957.14 Contract termination and control of a correctional facility by the department.—A detailed plan shall be provided by a private vendor under which the department shall assume temporary control of a private correctional facility upon termination of the contract. The department ~~of Management Services~~ may terminate the contract with cause after written notice of material deficiencies and after 60 workdays in order to correct the material deficiencies. If any event occurs that involves the noncompliance with or violation of contract terms and that presents a serious threat to the safety, health, or security of the inmates, employees, or the public, the department may temporarily assume control of the private correctional facility~~, with the approval of the department of~~


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~~Management Services~~. A plan shall also be provided by a private vendor for the purchase and temporary assumption of operations of a correctional facility by the department in the event of bankruptcy or the financial insolvency of the private vendor. The private vendor shall provide an emergency plan to address inmate disturbances, employee work stoppages, strikes, or other serious events in accordance with standards of the American Correctional Association.

Section 18. Section 957.15, Florida Statutes, is amended to read:

957.15 Funding of contracts for operation, maintenance, and lease-purchase of private correctional facilities.—The request for appropriation of funds to make payments pursuant to contracts entered into by the department ~~of Management Services~~ for the operation, maintenance, and lease-purchase of the private correctional facilities authorized by this chapter shall be included ~~made by the Department of Management Services in a request to the department. The department shall include such request~~ in its budget request to the Legislature as a separately identified item ~~and shall forward the request of the Department of Management Services without change~~. After an appropriation has been made by the Legislature to the department for the private correctional facilities, the department shall have no authority over such funds other than to pay from such appropriation to the appropriate private vendor such amounts as are certified for payment by the department ~~of Management Services~~.

Section 19. Section 957.16, Florida Statutes, is amended to read:


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957.16 Expanding capacity.—The department ~~of Management Services~~ is authorized to modify and execute agreements with contractors to expand up to the total capacity of contracted correctional facilities. Total capacity means the design capacity of all contracted correctional facilities increased by one-half as described under s. 944.023(1)(b). Any additional beds authorized under this section must comply with the cost-saving requirements set forth in s. 957.07. Any additional beds authorized as a result of expanded capacity under this section are contingent upon specified appropriations.

Section 20. For the purpose of incorporating the amendment made by this act to section 944.115, Florida Statutes, in a reference thereto, paragraph (b) of subsection (2) of section 944.47, Florida Statutes, is reenacted to read:

944.47 Introduction, removal, or possession of contraband; penalty.—

(2)

(b) A violation of this section by an employee, as defined in s. 944.115(2)(b), who uses or attempts to use the powers, rights, privileges, duties, or position of his or her employment in the commission of the violation is ranked one level above the ranking specified in s. 921.0022 or s. 921.0023 for the offense committed.

Section 21. This act shall take effect October 1, 2023.

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

And the title is amended as follows:

Delete lines 12 - 15

and insert:


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providing construction; amending ss. 287.042, 394.9151, 943.13, 944.02, 944.115, 944.72, 944.8041, 945.215, 946.504, 957.04, 957.06, 957.07, 957.08, 957.12, 957.14, 957.15, and 957.16, F.S.; conforming provisions to changes made by the act; reenacting s. 944.47(2)(b), F.S., relating to the penalty for the introduction, removal, or possession of contraband, to incorporate the amendment made to s. 944.115, F.S., in a reference thereto; providing an effective date.

By the Appropriations Committee on Criminal and Civil Justice; and the Committee on Criminal Justice

604-02848-23 20237016c1

A bill to be entitled

An act relating to the Department of Corrections; amending s. 944.35, F.S.; providing criminal penalties for any volunteer or employee of a contractor or subcontractor of the Department of Corrections who engages in sexual misconduct with specified inmates or offenders; defining the terms "private correctional facility" and "volunteer"; providing exceptions; providing for a type two transfer of private correctional facilities from the Department of Management Services to the Department of Corrections; amending ss. 287.042, 957.04, 957.06, 957.07, 957.08, 957.14, 957.15, and 957.16, F.S.; conforming provisions to changes made by the act; providing effective dates.

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

Section 1. Effective October 1, 2023, subsection (3) of section 944.35, Florida Statutes, is amended to read:

944.35 Authorized use of force; malicious battery and sexual misconduct prohibited; reporting required; penalties.—

(3)(a)1. Any employee of the department who, with malicious intent, commits a battery upon an inmate or an offender supervised by the department in the community, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Any employee of the department who, with malicious intent, commits a battery or inflicts cruel or inhuman treatment

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by neglect or otherwise, and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to an inmate or an offender supervised by the department in the community, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b)1. As used in this paragraph, the term:

a. "Female genitals" includes the labia minora, labia majora, clitoris, vulva, hymen, and vagina.

b. "Private correctional facility" has the same meaning as in s. 944.710.

c.~~b.~~ "Sexual misconduct" means the oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object, but does not include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of the employee's duty.

d. "Volunteer" means a person registered with the department or a private correctional facility who is engaged in specific voluntary service activities on an ongoing or continual basis.

2. Any employee of the department or a private correctional facility or any volunteer in, or any employee of a contractor or subcontractor of, the department or a private correctional facility ~~as defined in s. 944.710~~ who engages in sexual misconduct with an inmate or an offender supervised by the department in the community, without committing the crime of sexual battery, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. The consent of the inmate or offender supervised by the

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department in the community to any act of sexual misconduct may not be raised as a defense to a prosecution under this paragraph.

4. This paragraph does not apply to any employee, volunteer, or employee of a contractor or subcontractor of the department or any employee, volunteer, or employee of a contractor or subcontractor of a private correctional facility who is legally married to an inmate or an offender supervised by the department in the community, nor does it apply to any employee, volunteer, or employee of a contractor or subcontractor who has no knowledge, and would have no reason to believe, that the person with whom the employee, volunteer, or employee of a contractor or subcontractor has engaged in sexual misconduct is an inmate or an offender under community supervision of the department.

(c) Notwithstanding prosecution, any violation of the provisions of this subsection, as determined by the Public Employees Relations Commission, shall constitute sufficient cause under s. 110.227 for dismissal from employment with the department, and such person shall not again be employed in any capacity in connection with the correctional system.

(d) Each employee who witnesses, or has reasonable cause to suspect, that an inmate or an offender under the supervision of the department in the community has been unlawfully abused or is the subject of sexual misconduct pursuant to this subsection shall immediately prepare, date, and sign an independent report specifically describing the nature of the force used or the nature of the sexual misconduct, the location and time of the incident, and the persons involved. The report shall be

delivered to the inspector general of the department with a copy to be delivered to the warden of the institution or the regional administrator. The inspector general shall immediately conduct an appropriate investigation, and, if probable cause is determined that a violation of this subsection has occurred, the respective state attorney in the circuit in which the incident occurred shall be notified.

Section 2. All powers, duties, functions, records, offices, personnel, associated administrative support positions, property, administrative authority, and administrative rules relating to private correctional facilities are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, from the Department of Management Services to the Department of Corrections. Any binding contract or interagency agreement entered into and between the Department of Management Services concerning private correctional facilities and any other agency, entity, or person continues as a binding contract or agreement with the Department of Corrections for the remainder of the term of the contract or agreement.

Section 3. Subsection (17) of section 287.042, Florida Statutes, is amended to read:

287.042 Powers, duties, and functions.—The department shall have the following powers, duties, and functions:

~~(17)(a) To enter into contracts pursuant to chapter 957 for the designing, financing, acquiring, leasing, constructing, or operating of private correctional facilities. The department shall enter into a contract or contracts with one contractor per facility for the designing, acquiring, financing, leasing, constructing, and operating of that facility or may, if~~

~~specifically authorized by the Legislature, separately contract for any such services.~~

~~(b) To manage and enforce compliance with existing or future contracts entered into pursuant to chapter 957.~~

~~The department may not delegate the responsibilities conferred by this subsection.~~

Section 4. Section 957.04, Florida Statutes, is amended to read:

957.04 Contract requirements.—

(1) A contract entered into under this chapter for the operation of private correctional facilities shall maximize the cost savings of such facilities and shall:

(a) Be negotiated with the firm found most qualified. However, a contract for private correctional services may not be entered into by the department ~~of Management Services~~ unless the department ~~of Management Services~~ determines that the contractor has demonstrated that it has:

1. The qualifications, experience, and management personnel necessary to carry out the terms of the contract.

2. The ability to expedite the siting, design, and construction of correctional facilities.

3. The ability to comply with applicable laws, court orders, and national correctional standards.

(b) Indemnify the state and the department, including their officials and agents, against any and all liability, including, but not limited to, civil rights liability. Proof of satisfactory insurance is required in an amount to be determined by the department ~~of Management Services~~.

(c) Require that the contractor seek, obtain, and maintain accreditation by the American Correctional Association for the facility under that contract. Compliance with amendments to the accreditation standards of the association is required upon the approval of such amendments by the commission.

(d) Require that the proposed facilities and the management plans for the inmates meet applicable American Correctional Association standards and the requirements of all applicable court orders and state law.

(e) Establish operations standards for correctional facilities subject to the contract. However, if the department and the contractor disagree with an operations standard, the contractor may propose to waive any rule, policy, or procedure of the department related to the operations standards of correctional facilities which is inconsistent with the mission of the contractor to establish cost-effective, privately operated correctional facilities. The department ~~of Management Services~~ shall be responsible for considering all proposals from the contractor to waive any rule, policy, or procedure and shall render a final decision granting or denying such request.

(f) Require the contractor to be responsible for a range of dental, medical, and psychological services; diet; education; and work programs at least equal to those provided by the department in comparable facilities. The work and education programs must be designed to reduce recidivism, and include opportunities to participate in such work programs as authorized pursuant to s. 946.523.

(g) Require the selection and appointment of a full-time contract monitor. The contract monitor shall be appointed and

supervised by the department ~~of Management Services~~. The contractor is required to reimburse the department ~~of Management Services~~ for the salary and expenses of the contract monitor. It is the obligation of the contractor to provide suitable office space for the contract monitor at the correctional facility. The contract monitor shall have unlimited access to the correctional facility.

(h) Be for a period of 3 years and may be renewed for successive 2-year periods thereafter. However, the state is not obligated for any payments to the contractor beyond current annual appropriations.

(2) Each contract entered into for the design and construction of a private correctional facility or juvenile commitment facility must include:

(a) Notwithstanding any provision of chapter 255 to the contrary, a specific provision authorizing the use of tax-exempt financing through the issuance of tax-exempt bonds, certificates of participation, lease-purchase agreements, or other tax-exempt financing methods. Pursuant to s. 255.25, approval is hereby provided for the lease-purchase of up to two private correctional facilities and any other facility authorized by the General Appropriations Act.

(b) A specific provision requiring the design and construction of the proposed facilities to meet the applicable standards of the American Correctional Association and the requirements of all applicable court orders and state law.

(c) A specific provision requiring the contractor, and not the department ~~of Management Services~~, to obtain the financing required to design and construct the private correctional

facility or juvenile commitment facility built under this chapter.

(d) A specific provision stating that the state is not obligated for any payments that exceed the amount of the current annual appropriation.

(3)(a) Each contract for the designing, financing, acquiring, leasing, constructing, and operating of a private correctional facility shall be subject to ss. 255.2502 and 255.2503.

(b) Each contract for the designing, financing, acquiring, leasing, and constructing of a private juvenile commitment facility shall be subject to ss. 255.2502 and 255.2503.

(4) A contract entered into under this chapter does not accord third-party beneficiary status to any inmate or juvenile offender or to any member of the general public.

(5) Each contract entered into by the department ~~of Management Services~~ must include substantial minority participation unless demonstrated by evidence, after a good faith effort, as impractical and must also include any other requirements the department ~~of Management Services~~ considers necessary and appropriate for carrying out the purposes of this chapter.

(6) Notwithstanding s. 253.025(9), the Board of Trustees of the Internal Improvement Trust Fund need not approve a lease-purchase agreement negotiated by the department ~~of Management Services~~ if the department ~~of Management Services~~ finds that there is a need to expedite the lease-purchase.

(7)(a) Notwithstanding s. 253.025 or s. 287.057, whenever the department ~~of Management Services~~ finds it to be in the best

interest of timely site acquisition, it may contract without the need for competitive selection with one or more appraisers whose names are contained on the list of approved appraisers maintained by the Division of State Lands of the Department of Environmental Protection in accordance with s. 253.025(8). In those instances when the department ~~of Management Services~~ directly contracts for appraisal services, it shall also contract with an approved appraiser who is not employed by the same appraisal firm for review services.

(b) Notwithstanding s. 253.025(8), the department ~~of Management Services~~ may negotiate and enter into lease-purchase agreements before an appraisal is obtained. Any such agreement must state that the final purchase price cannot exceed the maximum value allowed by law.

Section 5. Subsection (2) of section 957.06, Florida Statutes, is amended to read:

957.06 Powers and duties not delegable to contractor.—A contract entered into under this chapter does not authorize, allow, or imply a delegation of authority to the contractor to:

(2) Choose the facility to which an inmate is initially assigned or subsequently transferred. The contractor may request, in writing, that an inmate be transferred to a facility operated by the department. The ~~Department of Management Services, the~~ contractor~~,~~ and the department shall develop and implement a cooperative agreement for transferring inmates between a correctional facility operated by the department and a private correctional facility. The department~~, the Department of Management Services,~~ and the contractor must comply with the cooperative agreement.

Section 6. Section 957.07, Florida Statutes, is amended to read:

957.07 Cost-saving requirements.—

(1) The department ~~of Management Services~~ may not enter into a contract or series of contracts unless the department determines that the contract or series of contracts in total for the facility will result in a cost savings to the state of at least 7 percent over the public provision of a similar facility. Such cost savings as determined and certified by the Auditor General ~~Department of Management Services~~ must be based upon the actual costs associated with the construction and operation of similar facilities or services as determined by the department ~~of Corrections and certified by the Auditor General~~. The department ~~of Corrections~~ shall calculate all of the cost components that determine the inmate per diem in correctional facilities of a substantially similar size, type, and location that are operated by the department ~~of Corrections~~, including administrative costs associated with central administration. Services that are provided to the department ~~of Corrections~~ by other governmental agencies at no direct cost to the department shall be assigned an equivalent cost and included in the per diem.

(2) Reasonable projections of payments of any kind to the state or any political subdivision thereof for which the private entity would be liable because of its status as private rather than a public entity, including, but not limited to, corporate income and sales tax payments, shall be included as cost savings in all such determinations. In addition, the costs associated with the appointment and activities of each contract monitor

shall be included in such determination.

(3) In counties where the department ~~of Corrections~~ pays its employees a competitive area differential, the cost for the public provision of a similar correctional facility may include the competitive area differential paid by the department.

(4) The department ~~of Corrections~~ shall provide a report detailing the state cost to design, finance, acquire, lease, construct, and operate a facility similar to the private correctional facility on a per diem basis. This report shall be provided to the Auditor General in sufficient time that it may be certified ~~to the Department of Management Services~~ to be included in the request for proposals.

(5)(a) At the request of the Speaker of the House of Representatives or the President of the Senate, the Prison Per-Diem Workgroup shall develop consensus per diem rates for use by the Legislature. The Office of Program Policy Analysis and Government Accountability and the staffs of the appropriations committees of both the Senate and the House of Representatives are the principals of the workgroup. The workgroup may consult with other experts to assist in the development of the consensus per diem rates. All meetings of the workgroup shall be open to the public as provided in chapter 286.

(b) When developing the consensus per diem rates, the workgroup must:

1. Use data provided by the department ~~of Corrections~~ from the most recent fiscal year to determine per diem costs for the following activities:

a. Custody and control;

b. Health services;

c. Substance abuse programs; and

d. Educational programs;

2. Include the cost of departmental, regional, institutional, and program administration and any other fixed costs of the department;

3. Calculate average per diem rates for the following offender populations: adult male, youthful offender male, and female; and

4. Make per diem adjustments, as appropriate, to account for variations in size and location of correctional facilities.

(c) The consensus per diem rates determined by the workgroup may be used to assist the Legislature in determining the level of funding provided to privately operated prisons to meet the 7-percent savings required of private prisons by this chapter.

(d) If a private vendor chooses not to renew the contract at the appropriated level, the department ~~of Management Services~~ shall terminate the contract as provided in s. 957.14.

Section 7. Section 957.08, Florida Statutes, is amended to read:

957.08 Capacity requirements.—The department ~~of Corrections~~ shall transfer and assign prisoners to each private correctional facility opened pursuant to this chapter in an amount not less than 90 percent or more than 100 percent of the capacity of the facility pursuant to the contract ~~with the Department of Management Services~~. The prisoners transferred by the department ~~of Corrections~~ shall represent a cross-section of the general inmate population, based on the grade of custody or the offense of conviction, at the most comparable facility operated by the

department.

Section 8. Section 957.14, Florida Statutes, is amended to read:

957.14 Contract termination and control of a correctional facility by the department.—A detailed plan shall be provided by a private vendor under which the department shall assume temporary control of a private correctional facility upon termination of the contract. The department ~~of Management Services~~ may terminate the contract with cause after written notice of material deficiencies and after 60 workdays in order to correct the material deficiencies. If any event occurs that involves the noncompliance with or violation of contract terms and that presents a serious threat to the safety, health, or security of the inmates, employees, or the public, the department may temporarily assume control of the private correctional facility, with the approval of the department ~~of Management Services~~. A plan shall also be provided by a private vendor for the purchase and temporary assumption of operations of a correctional facility by the department in the event of bankruptcy or the financial insolvency of the private vendor. The private vendor shall provide an emergency plan to address inmate disturbances, employee work stoppages, strikes, or other serious events in accordance with standards of the American Correctional Association.

Section 9. Section 957.15, Florida Statutes, is amended to read:

957.15 Funding of contracts for operation, maintenance, and lease-purchase of private correctional facilities.—The request for appropriation of funds to make payments pursuant to

contracts entered into by the department ~~of Management Services~~ for the operation, maintenance, and lease-purchase of the private correctional facilities authorized by this chapter shall be made by the ~~Department of Management Services in a request to the~~ department. The department shall include such request in its budget request to the Legislature as a separately identified item ~~and shall forward the request of the Department of Management Services without change. After an appropriation has been made by the Legislature to the department for the private correctional facilities, the department shall have no authority over such funds other than to pay from such appropriation to the appropriate private vendor such amounts as are certified for payment by the Department of Management Services~~.

Section 10. Section 957.16, Florida Statutes, is amended to read:

957.16 Expanding capacity.—The department ~~of Management Services~~ is authorized to modify and execute agreements with contractors to expand up to the total capacity of contracted correctional facilities. Total capacity means the design capacity of all contracted correctional facilities increased by one-half as described under s. 944.023(1)(b). Any additional beds authorized under this section must comply with the cost-saving requirements set forth in s. 957.07. Any additional beds authorized as a result of expanded capacity under this section are contingent upon specified appropriations.

Section 11. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2023.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

April 13, 2023
Meeting Date

Senate Fiscal Policy Committee
Committee

SB 7016
Bill Number or Topic

Amendment Barcode (if applicable)

Name Scotti Vaughan

Phone 850-488-7436

Address 501 South Calhoun Street
Street

Email scotti.vaughan@fdc.myflorida.com

Tallahassee Florida 32399
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:
Florida Department of Corrections

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/13/23
Meeting Date

Fiscal Policy
Committee

CS/SB 7016
Bill Number or Topic

Amendment Barcode (if applicable)

Name Laurette Philipsen

Phone 727-484-0237

Address 7240 Westwind Drive
Street

Email advocatephilipsen@gmail.com

Port Richey FL 34668
City State Zip

Speaking: [X] For [ ] Against [ ] Information **OR** Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[X] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

April 13, 2023
Meeting Date

Fiscal Policy
Committee

7016
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 1454 Vieux Carre Drive
Street

Email Barney@BarneyBishop.com

Tallahassee FL 32308
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☑ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☑ I am a registered lobbyist, representing:

Fla. Smart Justice

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL:	SPB 7044
INTRODUCER:	Regulated Industries Committee
SUBJECT:	Changes in Ownership of or Interest in Pari-mutuel Permits
DATE:	April 12, 2023
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof		**RI Submitted as Committee Bill**
2.	Kraemer	Yeatman	FP	**Favorable**
3.				

I. Summary:

SPB 7044 revises provisions relating to pari-mutuel wagering[1] permits, cardroom licenses, and annual operating licenses to address an inadvertent oversight respecting the sale, transfer, or assignment of permits and issuance of cardroom licenses.

The bill revises s. 550.054(15), F.S., relating to permits for the conduct of pari-mutuel wagering (PMW permit), to clarify that a PMW permit may be held by a permitholder who held an operating license to conduct pari-mutuel wagering in Fiscal Year 2020-2021 or a purchaser, transferee, or assignee of a valid PMW permit, if the purchase, transfer, or assignment is approved by the Florida Gaming Control Commission (commission) before such purchase, transfer, or assignment. However, current law prohibiting the commission from approving or issuing any additional PMW permits remains effective.

Similarly, the bill revises s. 849.086(5), F.S., relating to cardrooms authorized to operate in the state,[2] to clarify that a purchaser, transferee, or assignee of a valid PMW permit may be issued a license to operate an authorized cardroom.

The bill conforms the annual operating license requirements in current law to the pari-mutuel wagering permit provisions that are revised in the bill, to authorize the issuance of an annual operating license to an eligible purchaser, transferee, or assignee of a valid pari-mutuel wagering permit.

[1] "Pari-mutuel" is defined in Florida law as "a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes." *See* s. 550.002(21), F.S.

[2] Under s. 849.086(5)(a), F.S., a cardroom license may only be issued to a licensed pari-mutuel permitholder, and an authorized cardroom may only be operated at the same facility where the permitholder is authorized to conduct pari-mutuel wagering activities under its valid PMW permit.

The bill does not have an impact on state government.

The bill is effective upon becoming a law.

II. Present Situation:

In 202l, the Legislature updated Florida law for authorized gaming in the state,[3] providing in part, that a pari-mutuel permitholder may not be issued an operating license for the conduct of pari-mutuel wagering, slot machine gaming, or the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering for Fiscal Year 2020-2021.[4] Under current law, a permit for the conduct of pari-mutuel wagering and associated cardroom or slot machine licenses[5] may only be held by a permitholder, other than a limited thoroughbred permitholder, who held an operating license for the conduct of pari-mutuel wagering for Fiscal year 2020-2021.[6] Further, permits held on January 1, 2021 are deemed valid, but new permits for pari-mutuel wagering may not be approved or issued.[7]

Current law also requires that cardroom licenses not be issued to any permitholder, other than a limited thoroughbred permitholder, if the permitholder did not hold an operating license for Fiscal Year 2020-2021.[8]

Section 550.054(11), F.S., generally requires that any transfer or assignment of a PMW permit receive prior approval[9] by the commission, which must determine the eligibility of persons and entities to hold a PMW permit pursuant to s. 550.1815, F.S. Similarly, if a PMW permit is held by a corporation or business entity other than an individual, the transfer of l0 percent or more of the stock or other evidence of ownership or equity in the permitholder may not be made without the prior approval of the transferee by the commission.[10]

Section 550.1815, F.S., addresses which persons and entities (including but not limited to employees, officers and directors, partners, and owners of the permitholder) may hold permits, based on whether they are of "good moral character," or have been convicted of a disqualifying felony[11] or for bookmaking.[12]

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[3] See ch. 2021-271, Laws of Fla.
[4] Section 550.01215(1)(d), F.S.
[5] Under s. 551.114(4), F.S., designated slot machine gaming areas must be located at the address specified in the licensed permitholder's slot machine license issued for Fiscal Year 2020-2021.
[6] Section 550.054(15)(a), F.S.
[7] Section 550.054(15)(c), F.S.
[8] Section 849.086(5)(c), F.S.
[9] There is one exception to the prior-approval requirement in s. 550.054(11)(a), F.S., which is that the holder of a permit converted to a jai alai permit "may lease or build anywhere within the county in which its permit is located." As of 2021, such conversions are prohibited. *See* s. 550.054(15)(d), F.S.
[10] *See* s. 550.054(11)(b), F.S.
[11] Pursuant to s. 550.1815(1)(b), F.S., the following are disqualifying felonies: (1) a felony in Florida; (2) any felony in any other state which would be a felony if committed in Florida under the laws of this state; (3) any felony under the laws of the United States; or (4) a felony under the laws of another state if related to gambling which would be a felony under Florida law if the offense was committed in Florida.
[12] The term "bookmaking" is defined in s. 849.25, F.S., to mean "the act of taking or receiving, while engaged in the business or profession of gambling, any bet or wager upon the result of any trial or contest of skill, speed, power, or endurance of

In December 2022, West Flagler Associates, Ltd. applied to the Florida Gaming Control Commission (commission) to transfer its pari-mutuel permit #155 and associated licenses to conduct pari-mutuel wagering and slot machine gaming, and operate a cardroom, to Wind Creek Miami, LLC, a wholly owned subsidiary of PCI Gaming Authority, an unincorporated chartered instrumentality of the Poarch Band of Creek Indians. The commission did not approve the transfer of the permit because Wind Creek Miami, LLC did not hold an operating license for the conduct of pari-mutuel wagering for Fiscal Year 2020-2021 as required by s. 550.054(15)(a), F.S.[13]

In February 2023, the commission conditionally approved the acquisition of West Flagler Associates, Ltd.'s permit after PCI Gaming Authority substituted Gretna Racing LLC as the purchaser of pari-mutuel permit #155 and the accompanying pari-mutuel, slot machine, and cardroom licenses. Gretna Racing LLC did hold operating an operating license for pari-mutuel wagering and the operation of a cardroom for Fiscal Year 2020-2021.[14]

III. Effect of Proposed Changes:

SPB 7044 revises provisions relating to pari-mutuel wagering permits and cardroom licenses to address an inadvertent oversight respecting the sale, transfer, or assignment of permits and issuance of cardroom licenses.

Section 1 of the bill revises s. 550.054(15), F.S., relating to PMW permits, to clarify that a purchaser, transferee, or assignee of a valid PMW permit may be issued a PMW permit to be purchased, transferred, or assigned by a permitholder, if approved by the Florida Gaming Control Commission (commission) before such purchase, transfer, or assignment. However, current law prohibiting the commission from approving or issuing any additional PMW permits remains effective.

Section 2 of the bill revises s. 849.086(5), F.S., relating to cardrooms authorized to operate in the state, to clarify that a purchaser, transferee, or assignee of a valid PMW permit may be issued a license to operate an authorized cardroom.

Section 3 of the bill revises s. 550.01215(1)(d), F.S., to authorize the issuance of an annual operating license to an eligible purchaser, transferee, or assignee of a valid PMW permit.

The bill is effective upon becoming a law.

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human, beast, fowl, motor vehicle, or mechanical apparatus or upon the result of any chance, casualty, unknown, or contingent event whatsoever."

[13] Section 550.01215(1)(d), F.S., also prohibits the issuance of an operating license for the conduct of pari-mutuel wagering, slot machine gaming, or the operation of a cardroom, if the permitholder did not hold an operating license to conduct pari-mutuel wagering for Fiscal Year 2020-2021. Section 849.086(5)(c), F.S., also prohibits the issuance of a cardroom license under the same restrictions.

[14] Memorandum to the Florida Gaming Control Commission from Ross Marshman, General Counsel, *Proposed acquisition of a pari-mutuel wagering permit and its paired licenses by Gretna Racing, LLC, from West Flagler Associates, Ltd.*, February 6, 2023 (on file with the Senate Regulated Industries Committee).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The clarification in the bill that purchasers, transferees, and assignees of a valid pari-mutuel permit may hold a valid pari-mutuel permit, if approved by the commission before the change in ownership, eliminates an inadvertent uncertainty in current law, for those permitholders authorized to conduct pari-mutuel wagering who wish to sell, transfer, or assign a valid pari-mutuel permit and its associated licenses.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 550.054, 550.01215, and 849.086.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committee on Regulated Industries

580-03287-23 20237044__

A bill to be entitled

An act relating to changes in ownership of or interest in pari-mutuel permits; amending s. 550.054, F.S.; revising entities authorized to hold pari-mutuel wagering permits and associated licenses; amending s. 849.086, F.S.; specifying such entities may hold a license for the operation of a cardroom; amending s. 550.01215, F.S.; providing applicability; providing an effective date.

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

Section 1. Subsection (15) of section 550.054, Florida Statutes, is amended to read:

550.054 Application for permit to conduct pari-mutuel wagering.—

(15)(a) Notwithstanding any other provision of law, a permit for the conduct of pari-mutuel wagering and associated cardroom or slot machine licenses may only be held by a permitholder who held an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021 or who holds a permit issued pursuant to s. 550.3345 or by a purchaser, transferee, or assignee of a valid permit for the conduct of pari-mutuel wagering if approved by the commission before such purchase, transfer, or assignment and provided that the commission does not approve or issue an additional permit for the conduct of pari-mutuel wagering;

(b) All permits issued under this chapter held by permitholders on January 1, 2021, are deemed valid for the sole

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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and exclusive purpose of satisfying all conditions for the valid issuance of the permits, if such permitholder held an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021 or if such permitholder held a permit issued pursuant to s. 550.3345;

(c) Additional permits for the conduct of pari-mutuel wagering may not be approved or issued by the commission or former Division of Pari-mutuel Wagering after January 1, 2021; and

(d) A permit to conduct pari-mutuel wagering may not be converted to another class of permit.

Section 2. Paragraph (c) of subsection (5) of section 849.086, Florida Statutes, is amended to read:

849.086 Cardrooms authorized.—

(5) LICENSE REQUIRED; APPLICATION; FEES.—No person may operate a cardroom in this state unless such person holds a valid cardroom license issued pursuant to this section.

(c) Notwithstanding any other provision of law, a pari-mutuel permitholder, other than a permitholder issued a permit pursuant to s. 550.3345 or a purchaser, transferee, or assignee holding a valid permit for the conduct of pari-mutuel wagering approved pursuant to s. 550.054(15)(a), may not be issued a license for the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021. In order for an initial cardroom license to be issued to a thoroughbred permitholder issued a permit pursuant to s. 550.3345, the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least a full schedule of live racing.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

In order for a cardroom license to be renewed by a thoroughbred permitholder, the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least 90 percent of the total number of live performances conducted by such permitholder during either the state fiscal year in which its initial cardroom license was issued or the state fiscal year immediately prior thereto if the permitholder ran at least a full schedule of live racing or games in the prior year.

Section 3. Paragraph (d) of subsection (1) of section 550.01215, Florida Statutes, is amended to read:

550.01215 License application; periods of operation; license fees; bond.—

(1) Each permitholder shall annually, during the period between December 15 and January 4, file in writing with the commission its application for an operating license for a pari-mutuel facility for the conduct of pari-mutuel wagering during the next state fiscal year, including intertrack and simulcast race wagering. Each application for live performances must specify the number, dates, and starting times of all live performances that the permitholder intends to conduct. It must also specify which performances will be conducted as charity or scholarship performances.

(d) Notwithstanding any other provision of law, other than a permitholder issued a permit pursuant to s. 550.3345, a pari-mutuel permitholder may not be issued an operating license for the conduct of pari-mutuel wagering, slot machine gaming, or the operation of a cardroom if the permitholder did not hold an operating license for the conduct of pari-mutuel wagering for fiscal year 2020-2021. This paragraph does not apply to a

purchaser, transferee, or assignee holding a valid permit for the conduct of pari-mutuel wagering approved pursuant to s. 550.054(15)(a).

Section 4. This act shall take effect upon becoming a law.

CourtSmart Tag Report

Room: KB 412 **Case No.:** - **Type:**
Caption: Senate Fiscal Policy Committee **Judge:**

Started: 4/13/2023 10:34:13 AM
Ends: 4/13/2023 3:20:11 PM Length: 04:45:59

10:34:12 AM Meeting called to order, roll call
10:34:58 AM Quorum is present
10:35:01 AM Chair Hutson makes opening remarks
10:35:38 AM Pledge
10:36:25 AM Tab 13, CS/SB 1320- Child Protection in Public Schools by Senator Yarborough
10:36:40 AM Chair Hutson recognizes Senator Yarborough
10:36:46 AM Senator Yarborough explains the bill
10:38:54 AM Amendment 879888
10:38:57 AM Senator Berman explains the amendment
10:41:08 AM Debate:
10:41:10 AM Senator Yarborough
10:42:58 AM Senator Berman closes on the amendment
10:44:17 AM Chair Hutson reports the amendment
10:44:26 AM Questions:
10:44:28 AM Senator Jones
10:45:20 AM Senator Yarborough
10:47:12 AM Senator Jones
10:47:31 AM Senator Yarborough
10:47:34 AM Senator Jones
10:47:53 AM Senator Yarborough
10:48:15 AM Senator Jones
10:48:35 AM Senator Yarborough
10:48:52 AM Senator Jones
10:49:40 AM Senator Yarborough
10:50:41 AM Senator Jones
10:51:44 AM Senator Yarborough
10:52:25 AM Senator Osgood
10:52:53 AM Senator Yarborough
10:53:27 AM Senator Osgood
10:54:22 AM Senator Yarborough
10:54:55 AM Senator Torres
10:55:27 AM Senator Yarborough
10:56:23 AM Senator Torres
10:56:49 AM Senator Yarborough
10:57:10 AM Senator Jones
10:57:47 AM Senator Yarborough
10:58:25 AM Senator Jones
10:58:39 AM Senator Yarborough
10:58:55 AM Senator Jones
10:59:22 AM Senator Yarborough
11:01:46 AM Senator Jones
11:02:52 AM Senator Yarborough
11:03:48 AM Senator Jones
11:04:15 AM Senator Yarborough
11:04:36 AM Senator Torres
11:05:01 AM Senator Yarborough
11:05:41 AM Senator Berman
11:06:20 AM Senator Yarborough
11:06:25 AM Senator Berman
11:06:48 AM Senator Yarborough
11:07:29 AM Senator Berman
11:08:35 AM Senator Yarborough

11:08:42 AM Senator Berman
11:08:57 AM Senator Yarborough
11:09:22 AM Senator Berman
11:09:45 AM Senator Yarborough
11:10:12 AM Senator Berman
11:10:34 AM Senator Yarborough
11:11:28 AM Senator Stewart
11:12:33 AM Senator Yarborough
11:13:39 AM Chair Hutson recognizes public testimony:
11:14:38 AM JT Eckhoff
11:15:24 AM John Labriola, Christian Family Coalition
11:17:22 AM Ann Bish
11:17:58 AM Kaylee Sandell
11:20:19 AM Jeremy Rodriguez
11:21:39 AM Jon Harris Mauer
11:23:13 AM Kolyn B
11:25:01 AM Nia Larkins
11:26:45 AM Will Larkins
11:30:02 AM Chair Hutson
11:30:23 AM Will Larkins
11:32:02 AM Chair Hutson
11:32:28 AM Maria Ellis
11:34:16 AM Aaron DiPietro, Florida Family Policy Council
11:37:03 AM Shane Mulkay
11:42:21 AM Ryan Kennedy, Florida Citizens Alliance
11:43:30 AM Renee
11:47:45 AM Mary Eakins-Durand
11:49:54 AM Sierra Curistianna
11:52:44 AM Kara Gross, ACLU of Florida
11:55:27 AM Yenisbel Vilorio, State Innovation Exchange Action
11:58:23 AM Andrea Montenez
12:01:54 PM Debate:
12:01:55 PM Senator Stewart
12:03:15 PM Senator Osgood
12:08:24 PM Senator Jones
12:12:48 PM Senator Berman
12:16:46 PM Senator Thompson
12:21:12 PM Senator Torres
12:25:29 PM Senator Boyd
12:27:27 PM Senator Calatayud
12:30:51 PM Senator Yarborough closes on the bill
12:36:51 PM Chair Hutson
12:36:58 PM Roll call on CS/SB 1320
12:37:34 PM Chair Hutson reports the bill
12:37:55 PM Tab 19, SB 7044- Changes in Ownership of or Interest in Pari-mutuel Permits by RI
12:38:25 PM Chair Hutson recognizes Senator Gruters
12:38:35 PM Senator Gruters explains the bill
12:38:48 PM Questions:
12:38:49 PM Senator Berman
12:38:59 PM Senator Gruters
12:39:10 PM Senator Gruters waives close
12:39:13 PM Roll call on SB 7044
12:39:46 PM Chair Hutson reports the bill
12:39:51 PM Tab 1, CS/SB 112- Step-therapy Protocols by Senator Harrell
12:40:13 PM Chair Hutson recognizes Senator Harrell
12:40:17 PM Senator Harrell explains the bill
12:42:36 PM Chair Hutson reads appearance cards waiving
12:43:39 PM Senator Harrell waives close
12:43:45 PM Roll call on CS/SB 112
12:44:13 PM Chair Hutson reports the bill
12:44:23 PM Tab 8, CS/SB 452- Home Health Aides for Medically Fragile Children by Senator Harrell
12:44:50 PM Chair Hutson recognizes Senator Harrell

12:44:57 PM Senator Harrell explains the bill
12:45:38 PM Amendment 331410
12:45:46 PM Senator Harrell explains the amendment
12:46:06 PM Chair Hutson reports the amendment
12:46:17 PM Amendment 542768
12:46:21 PM Senator Harrell explains the amendment
12:46:41 PM Chair Hutson reports the amendment
12:46:56 PM Senator Harrell waives close
12:47:14 PM Roll call on CS/CS/SB 452
12:47:43 PM Chair Hutson reports the bill
12:47:56 PM Tab 9, CS/SB 486- Solicitation of Minors to Commit Lewd or Lascivious Acts by Senator Bradley
12:48:30 PM Chair Hutson recognizes Senator Bradley
12:48:39 PM Senator Bradley explains the bill
12:49:05 PM Chair Hutson reads appearance cards waiving
12:49:11 PM Senator Bradley waives close
12:49:17 PM Roll call on CS/SB 486
12:49:25 PM Chair Hutson reports the bill
12:49:51 PM Tab 10, CS/SB 594- Property Insurance by Senator Martin
12:50:02 PM Chair Hutson recognizes Senator Martin
12:50:09 PM Senator Martin explains the bill
12:51:38 PM Amendment 792748
12:51:47 PM Senator Martin explains the amendment
12:52:02 PM Chair Hutson reports the amendment
12:52:11 PM Amendment 372918
12:52:20 PM Senator DiCeglie explains the amendment
12:52:42 PM Chair Hutson reads appearance cards waiving
12:52:56 PM Chair Hutson reports the amendment
12:53:17 PM Chair Hutson reads appearance cards waiving
12:53:30 PM Senator Martin closes on the bill
12:53:48 PM Roll call on CS/CS/SB 594
12:54:08 PM Chair Hutson reports the bill
12:54:14 PM Tab 15, SB 1534- Pretrial Release and Detention by Senator Martin
12:54:37 PM Chair Hutson recognizes Senator Martin
12:54:44 PM Amendment 118746
12:55:13 PM Amendment 227786
12:55:18 PM Senator Martin explains the amendment
12:57:46 PM Chair Hutson reports the amendment
12:58:01 PM Questions:
12:58:02 PM Senator Berman
12:58:28 PM Senator Martin
12:58:42 PM Senator Berman
12:59:07 PM Senator Martin
1:00:02 PM Senator Berman
1:00:10 PM Senator Martin
1:00:48 PM Senator Thompson
1:01:05 PM Senator Martin
1:01:08 PM Senator Thompson
1:01:24 PM Senator Martin
1:01:32 PM Senator Thompson
1:01:41 PM Senator Martin
1:02:18 PM Senator Thompson
1:02:34 PM Senator Martin
1:03:00 PM Senator Thompson
1:03:13 PM Senator Martin
1:03:48 PM Chair Hutson reads appearance cards waiving
1:04:10 PM Senator Martin waives close
1:04:16 PM Roll call on CS/SB 1534
1:04:25 PM Chair Hutson reports the bill
1:04:33 PM Tab 18, CS/SB 7016- Department of Corrections by Criminal Justice
1:04:57 PM Chair Hutson recognizes Senator Martin
1:05:03 PM Senator Martin explains the bill
1:06:04 PM Amendment 855206

1:06:11 PM Senator Martin explains the amendment
1:06:36 PM Chair Hutson reports the amendment
1:06:45 PM Questions:
1:06:48 PM Senator Berman
1:06:59 PM Senator Martin
1:07:22 PM Chair Hutson recognizes public testimony:
1:07:36 PM Laurette Philipson
1:11:25 PM Debate:
1:11:28 PM Senator Berman
1:11:45 PM Senator Martin waives close
1:11:51 PM Roll call on CS/CS/SB 7016
1:12:18 PM Chair Hutson reports the bill
1:12:35 PM Tab 7, CS/SB 364- Bereavement Benefits for State Employees by Senator Avila
1:13:07 PM Chair Hutson recognizes Senator Avila
1:13:10 PM Senator Avila explains the bill
1:13:37 PM Amendment 921764
1:13:44 PM Senator Avila explains the amendment
1:14:03 PM Chair Hutson reports the amendment
1:14:12 PM Chair Hutson reads appearance cards waiving
1:14:37 PM Senator Avila waives close
1:14:41 PM Roll call on CS/CS/SB 364
1:15:01 PM Chair Hutson reports the bill
1:15:13 PM Tab 14, SB 1456- Firearm Offenses by Senator Avila
1:15:31 PM Chair Hutson recognizes Senator Avila
1:15:39 PM Senator Avila explains the bill
1:16:00 PM Amendment 957060
1:16:05 PM Senator Avila explains the amendment
1:16:35 PM Chair Hutson reports the amendment
1:16:48 PM Chair Hutson reads appearance cards waiving
1:16:57 PM Senator Avila waives close
1:17:01 PM Roll call on CS/SB 1456
1:17:25 PM Chair Hutson reports the bill
1:17:30 PM Tab 4, CS/CS/SB 280- Controlled Substances by Senator Brodeur
1:18:12 PM Amendment 773068
1:18:36 PM Senator Brodeur explains the amendment
1:18:43 PM Amendment 718760
1:18:53 PM Senator Brodeur explains the amendment
1:20:15 PM Chair Hutson reports the amendment
1:20:30 PM Chair Hutson reads appearance cards waiving
1:21:13 PM Debate:
1:21:14 PM Senator Boyd
1:21:31 PM Senator Brodeur waives close
1:21:37 PM Roll call on CS/CS/CS/SB 280
1:22:20 PM Chair Hutson reports the bill
1:22:28 PM Tab 16, CS/SB 1550- Prescription Drugs by Senator Brodeur
1:22:47 PM Amendment 281818
1:22:50 PM Senator Brodeur explains the amendment
1:27:30 PM Chair Hutson recognizes public testimony:
1:27:46 PM Michael Jackson
1:30:35 PM Senator Jones
1:31:06 PM Michael Jackson
1:32:27 PM Senator Jones
1:33:28 PM Senator Mayfield
1:34:25 PM Michael Jackson
1:35:39 PM Senator Torres
1:35:54 PM Michael Jackson
1:37:01 PM Senator Torres
1:37:22 PM Michael Jackson
1:38:00 PM Senator Torres
1:38:08 PM Michael Jackson
1:38:51 PM Connor Rose
1:40:45 PM Senator Mayfield

1:40:57 PM Connor Rose
1:41:07 PM Senator Mayfield
1:41:25 PM Connor Rose
1:42:01 PM Senator Mayfield
1:42:25 PM Barney Bishop III, Small Business Pharmacies
1:50:04 PM Questions:
1:50:06 PM Senator Jones
1:51:03 PM Senator Brodeur
1:51:34 PM Senator Jones
1:51:53 PM Senator Brodeur
1:55:15 PM Senator Jones
1:55:27 PM Senator Brodeur
1:56:38 PM Senator Brodeur waives close
1:56:48 PM Chair Stewart reports amendment
1:57:01 PM Questions:
1:57:01 PM Senator Mayfield
1:58:29 PM Senator Brodeur
1:59:20 PM Senator Mayfield
1:59:39 PM Senator Brodeur
1:59:42 PM Senator Burton
2:00:27 PM Senator Brodeur
2:00:50 PM Chair Stewart recognizes public testimony
2:01:08 PM Jesse Brashear
2:03:24 PM Audrey Brown, Florida Association of Healthplans
2:06:09 PM Barney Bishop III
2:08:45 PM Chair Hutson reads appearance cards waiving
2:08:56 PM Debate:
2:08:56 PM Senator Torres
2:10:53 PM Senator Mayfield
2:12:28 PM Senator Wright
2:12:58 PM Senator Brodeur closes on the bill
2:14:54 PM Roll call on CS/CS/SB 1550
2:15:18 PM Chair Hutson reports the bill
2:15:32 PM Chair Hutson recognizes Senator Mayfield for a point of personal privilege
2:16:03 PM Tab 17, CS/SB 1552- Public Records/ Pharmacy Benefits Managers by Senator Brodeur
2:16:25 PM Chair Hutson recognizes Senator Brodeur
2:16:36 PM Senator Brodeur explains the bill
2:16:42 PM Questions:
2:16:44 PM Senator Burton
2:16:46 PM Senator Brodeur
2:17:23 PM Chair Hutson reads appearance cards waiving
2:17:39 PM Senator Brodeur waives close
2:17:43 PM Roll call on CS/SB 1552
2:17:53 PM Chair Hutson reports the bill
2:17:58 PM Tab 6, CS/SB 302- Government and Corporate Activism by Senator Grall
2:18:25 PM Chair Hutson recognizes Senator Grall
2:18:30 PM Senator Grall explains the bill
2:19:54 PM Questions:
2:19:57 PM Senator Jones
2:20:06 PM Senator Grall
2:20:37 PM Senator Jones
2:20:56 PM Senator Grall
2:21:05 PM Senator Jones
2:21:11 PM Senator Grall
2:21:36 PM Senator Jones
2:22:26 PM Senator Grall
2:22:36 PM Senator Jones
2:22:43 PM Senator Grall
2:23:30 PM Senator Berman
2:24:18 PM Senator Grall
2:24:55 PM Senator Berman
2:25:08 PM Senator Grall

2:25:48 PM Senator Berman
2:25:55 PM Senator Grall
2:26:15 PM Senator Berman
2:26:38 PM Senator Grall
2:27:46 PM Senator Berman
2:27:55 PM Senator Grall
2:28:27 PM Senator Berman
2:28:51 PM Senator Grall
2:29:44 PM Chair Hutson recognizes public testimony:
2:30:00 PM Dr. Rich Templin, Florida AFL-CIO
2:34:50 PM Chair Hutson reads appearance cards waiving
2:37:28 PM Debate:
2:37:31 PM Senator Berman
2:39:56 PM Senator Torres
2:41:05 PM Senator Grall closes on the bill
2:43:05 PM Roll call on CS/SB 302
2:43:33 PM Chair Hutson reports the bill
2:43:41 PM Tab 11, CS/SB 1188- Contract Liability by Senator Boyd
2:44:22 PM Chair Hutson recognizes Senator Boyd
2:44:33 PM Senator Boyd explains the bill
2:44:48 PM Amendment 899040
2:45:09 PM Senator Boyd explains the amendment
2:45:30 PM Chair Hutson reports amendment
2:45:44 PM Questions:
2:45:46 PM Senator Berman
2:46:16 PM Senator Boyd
2:46:48 PM Senator Boyd waives close
2:46:54 PM Roll call on CS/CS/SB 1188
2:47:10 PM Chair Hutson reports the bill
2:47:29 PM Tab 12, CS/SB 1258- Use of Phosphogypsum by Senator Trumbull
2:48:15 PM Chair Hutson recognizes Senator Trumbull
2:48:23 PM Senator Trumbull explains the bill
2:49:16 PM Amendment 719398
2:49:27 PM Senator Trumbull explains the amendment
2:49:46 PM Chair Hutson reports the amendment
2:49:51 PM Amendment 894136
2:50:04 PM Senator Berman explains the amendment
2:50:56 PM Debate:
2:50:58 PM Senator Trumbull
2:51:59 PM Senator Berman closes on the amendment
2:52:34 PM Chair Hutson reports the amendment
2:52:55 PM Questions:
2:52:59 PM Senator Stewart
2:53:17 PM Senator Trumbull
2:53:33 PM Senator Stewart
2:53:41 PM Senator Trumbull
2:53:49 PM Senator Stewart
2:54:06 PM Senator Trumbull
2:54:20 PM Chair Hutson reads appearance cards waiving
2:54:43 PM Senator Trumbull waives close
2:54:51 PM Roll call on CS/CS/SB 1258
2:55:25 PM Chair Hutson reports the bill
2:55:31 PM Tab 5, CS/SB 290- Public School Student Progression for Students with Disabilities by Senator Jones
2:55:41 PM Chair Hutson recognizes Senator Jones
2:55:50 PM Senator Jones explains the bill
2:56:50 PM Chair Hutson reads appearance cards waiving
2:59:00 PM Senator Jones recognized to close on the bill
2:59:33 PM Roll call on CS/SB 290
3:00:10 PM Chair Hutson reports the bill
3:00:28 PM Tab 2, CS/CS/SB 162- Water and Wastewater Facility Operators by Senator Collins
3:00:54 PM Chair Hutson recognizes Senator Collins
3:01:00 PM Senator Collins explains the bill

3:01:45 PM Amendment 810760
3:01:52 PM Senator Collins explains the amendment
3:02:08 PM Chair Hutson reports amendment
3:02:23 PM Chair Hutson reads appearance cards waiving
3:02:38 PM Senator Collins waives close
3:02:45 PM Roll call on CS/CS/CS/SB 162
3:03:10 PM Chair Hutson reports the bill
3:03:16 PM Chair Hutson passes the chair to Vice Chair Stewart
3:03:29 PM Tab 3, CS/SB 240- Education by Senator Hutson
3:03:44 PM Amendment 117816
3:03:51 PM Senator Hutson explains the amendment
3:05:16 PM Chair Stewart reads appearance cards waiving
3:05:46 PM Debate:
3:05:51 PM Senator Calatayud
3:06:18 PM Senator Wright
3:06:47 PM Senator Hutson waives close
3:06:59 PM Chair Stewart reports amendment
3:07:16 PM Chair Stewart recognizes public testimony:
3:07:29 PM Nancy Lawther, Florida PTA
3:08:44 PM Mark Motl
3:11:22 PM Chair Stewart reads appearance cards waiving
3:15:20 PM Debate:
3:15:21 PM Senator Boyd
3:16:09 PM Senator Hutson closes on the bill
3:16:20 PM Roll call on CS/CS/SB 240
3:16:47 PM Chair Stewart reports the bill
3:16:52 PM Chair Stewart passes the chair back to Senator Hutson
3:17:12 PM Senator Mayfield moves to record a missed vote
3:17:24 PM Senator Calatayud moves to record a missed vote
3:17:33 PM Senator Berman moves to record a missed vote
3:17:42 PM Senator Osgood moves to record a missed vote
3:17:51 PM Senator Thompson moves to record a missed vote
3:18:00 PM Senator Torres moves to record a missed vote
3:18:18 PM Senator Jones moves to record a missed vote
3:18:27 PM Senator Albritton moves to record a missed vote
3:18:39 PM Senator Collins moves to record a missed vote
3:18:45 PM Senator Thompson moves to record a missed vote
3:19:29 PM Senator DiCeglie moves to record a missed vote
3:19:38 PM Senator Rodriguez moves to record a missed vote
3:19:54 PM Senator Mayfield moves we adjourn
3:20:11 PM Meeting adjourned