

CHAMBER ACTION

1 The Future of Florida's Families Committee recommends the
2 following:

3
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to child care; transferring, renumbering,
8 and amending s. 402.3017, F.S.; revising requirements for
9 the Teacher Education and Compensation Helps scholarship
10 program; transferring authority for administration and
11 rules from the Department of Children and Family Services
12 to the Agency for Workforce Innovation; amending s.
13 402.302, F.S.; redefining the term "screening";
14 authorizing the screening of child care volunteers;
15 amending s. 402.3055, F.S.; requiring an applicant, owner,
16 or operator of a child care facility to sign an affidavit
17 attesting to the accuracy of certain information;
18 authorizing the Department of Children and Family Services
19 to apply certain requirements for personnel in child care
20 facilities to personnel in family day care homes and large
21 family child care homes; amending s. 402.308, F.S.;
22 requiring family day care homes that are required to be
23 licensed and large family child care homes to have a

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24 license that is renewed annually; authorizing the
25 Department of Children and Family Services to apply the
26 specified procedures for administering a license to family
27 day care homes and large family child care homes; amending
28 s. 402.309, F.S.; authorizing the local licensing agency
29 or the Department of Children and Family Services to issue
30 a provisional license or registration to a child care
31 facility, family day care home, or large family child care
32 home; providing that a provisional license or registration
33 may not be issued unless child care personnel are screened
34 according to law; requiring the department to adopt rules
35 for issuing, suspending, and revoking provisional licenses
36 and registrations; amending s. 402.310, F.S.; providing
37 that an increased administrative fine may be imposed in
38 addition to or in lieu of other disciplinary actions;
39 authorizing the department or local licensing agencies to
40 convert a license or registration to probation status for
41 a violation of certain laws and rules; authorizing the
42 department or local licensing agencies to apply
43 disciplinary actions to registered family day care homes;
44 directing the department to adopt rules establishing
45 grounds for imposing disciplinary actions for violations
46 of certain laws and rules; directing the department to
47 adopt rules to create a uniform system of procedures to
48 use for disciplinary actions; creating s. 402.3105, F.S.;
49 requiring the department to establish a database of
50 information concerning violations, citations, and
51 penalties imposed against child care facilities, family

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

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52 | day care homes, and large family child care homes licensed
 53 | by or registered with the department and local licensing
 54 | agencies; requiring the department to consult with the
 55 | State Technology Office; specifying database capabilities
 56 | and the uses of information contained therein; providing
 57 | that implementation is not contingent upon an
 58 | appropriation; amending s. 402.313, F.S.; removing
 59 | conflicting provisions regarding an administrative fine;
 60 | requiring the adoption of a rule establishing minimum
 61 | standards for safety; repealing s. 402.3131(1)(a), F.S.,
 62 | relating to the authority of the department or local
 63 | licensing agency to impose an administrative fine against
 64 | a large family child care home; providing an effective
 65 | date.

66 |
 67 | Be It Enacted by the Legislature of the State of Florida:

68 |
 69 | Section 1. Section 402.3017, Florida Statutes, is
 70 | transferred, renumbered as section 411.0103, Florida Statutes,
 71 | and amended to read:

72 | 411.0103 ~~402.3017~~ Teacher Education and Compensation Helps
 73 | (TEACH) scholarship program.--

74 | (1) The Legislature finds that the level of early child
 75 | care teacher education and training is a key predictor for
 76 | determining program quality. The Legislature also finds that low
 77 | wages for child care workers prevent many from obtaining
 78 | increased training and education and contribute to high turnover
 79 | rates. The Legislature therefore intends to help fund a program

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80 | which links teacher training and education to compensation and
81 | commitment to the field of early childhood education.

82 | (2) The Agency for Workforce Innovation ~~may Department of~~
83 | ~~Children and Family Services is authorized to~~ contract for the
84 | administration of the Teacher Education and Compensation Helps
85 | (TEACH) scholarship program, which provides educational
86 | scholarships to caregivers and administrators of early childhood
87 | programs, family day care homes, and large family child care
88 | homes.

89 | (3) The Agency for Workforce Innovation ~~may department~~
90 | ~~shall~~ adopt rules under ss. 120.536(1) and 120.54 as necessary
91 | to administer ~~implement~~ this section.

92 | ~~(4) For the 2004-2005 fiscal year only, the Agency for~~
93 | ~~Workforce Innovation shall administer this section. This~~
94 | ~~subsection expires July 1, 2005.~~

95 | Section 2. Subsection (13) of section 402.302, Florida
96 | Statutes, is amended to read:

97 | 402.302 Definitions.--

98 | (13) "Screening" means the act of assessing the background
99 | of child care personnel and volunteers and includes, but is not
100 | limited to, employment history checks, local criminal records
101 | checks through local law enforcement agencies, fingerprinting
102 | for all purposes and checks in this subsection, statewide
103 | criminal records checks through the Department of Law
104 | Enforcement, and federal criminal records checks through the
105 | Federal Bureau of Investigation; ~~except that screening for~~
106 | ~~volunteers included under the definition of personnel includes~~
107 | ~~only local criminal records checks through local law enforcement~~

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108 ~~agencies for current residence and residence immediately prior~~
 109 ~~to employment as a volunteer, if different, and statewide~~
 110 ~~criminal records correspondence checks through the Department of~~
 111 ~~Law Enforcement.~~

112 Section 3. Section 402.3055, Florida Statutes, is amended
 113 to read:

114 402.3055 Child care personnel requirements.--

115 (1) REQUIREMENTS FOR CHILD CARE PERSONNEL.--

116 (a) The department or local licensing agency shall require
 117 that the application for a license to operate a child care
 118 facility, family day care home, or large family child care home
 119 ~~license~~ contain a question that specifically asks the applicant,
 120 owner, or operator if he or she has ever had a license denied,
 121 revoked, or suspended in any state or jurisdiction or has been
 122 the subject of a disciplinary action or been fined while
 123 employed in a child care facility, family day care home, or
 124 large family child care home. The applicant, owner, or operator
 125 shall sign an affidavit attesting ~~attest~~ to the accuracy of the
 126 information requested under penalty of perjury.

127 1. If the applicant, owner, or operator admits that he or
 128 she has been a party in such action, the department or local
 129 licensing agency shall review the nature of the suspension,
 130 revocation, disciplinary action, or fine before granting the
 131 applicant a license to operate a child care facility, family day
 132 care home, or large family child care home.

133 2. If the department or local licensing agency determines
 134 as a ~~the~~ result of the ~~such~~ review that it is not in the best

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135 interest of the state or local jurisdiction for the applicant to
136 be licensed, a license shall not be granted.

137 (b) The employer of a child care facility, family day care
138 home, or large family child care home ~~employer~~ shall require
139 that the application for a child care personnel position contain
140 a question that specifically asks the applicant if he or she has
141 ever worked in a facility or home that has had a license denied,
142 revoked, or suspended in this or any other state ~~or jurisdiction~~
143 or if the applicant has been the subject of a disciplinary
144 action or been fined while he or she was employed in a child
145 care facility or home. The applicant shall attest to the
146 accuracy of the information requested under penalty of perjury.
147 If the applicant admits that he or she has been a party in such
148 action, the employer shall review the nature of the denial,
149 suspension, revocation, disciplinary action, or fine before the
150 applicant is hired.

151 (2) EXCLUSION FROM OWNING, OPERATING, OR BEING EMPLOYED BY
152 A CHILD CARE FACILITY OR OTHER CHILD CARE PROGRAM; HEARINGS
153 PROVIDED.--

154 (a) The department or local licensing agency shall deny,
155 suspend, or revoke a license or pursue other remedies provided
156 in s. 402.310, s. 402.312, or s. 402.319 in addition to or in
157 lieu of denial, suspension, or revocation for failure to comply
158 with this section. The disciplinary actions taken ~~determination~~
159 ~~to be made~~ by the department or the local licensing agency and
160 the procedure for hearing for applicants and licensees shall be
161 in accordance with s. 402.310.

162 (b) When the department or the local licensing agency has
 163 reasonable cause to believe that grounds for denial or
 164 termination of employment exist, it shall notify, in writing,
 165 the applicant, licensee, or other child care program and the
 166 child care personnel affected, stating the specific grounds
 167 indicating ~~record which indicates~~ noncompliance with the
 168 standards in s. 402.305(2).

169 (c) When the department is the agency initiating the
 170 allegations of ~~statement regarding~~ noncompliance, the procedures
 171 established for hearing under chapter 120 shall be available to
 172 the applicant, licensee, or other child care program and to the
 173 affected child care personnel, in order to present evidence
 174 relating either to the accuracy of the basis of exclusion or to
 175 the denial of an exemption from disqualification.

176 (d) When a local licensing agency is the agency initiating
 177 the allegations of ~~statement regarding~~ noncompliance of an
 178 employee with the standards contained in s. 402.305(2), the
 179 employee, applicant, licensee, or other child care program has
 180 15 days from receipt of ~~the time of~~ written notification of the
 181 agency's finding of noncompliance to make a written request for
 182 a hearing. If a written request for a hearing is not received in
 183 that time, the permanent employee, applicant, licensee, or other
 184 child care program is presumed to accept the finding of of
 185 noncompliance.

186 (e) If a request for a hearing is made to the local
 187 licensing agency, a hearing shall be held within 30 days and
 188 shall be conducted by an individual designated by the county
 189 commission.

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190 (f) An employee, applicant, licensee, or other child care
 191 program has ~~shall have~~ the right to appeal a finding of the
 192 local licensing agency to a representative of the department.
 193 Any required hearing shall be held in the county in which the
 194 permanent employee is employed. The hearing shall be conducted
 195 in accordance with ~~the provisions of~~ chapter 120.

196 (g) Refusal on the part of an applicant or licensee to
 197 dismiss child care personnel who have been found to be in
 198 noncompliance with personnel standards of s. 402.305(2) shall
 199 result in automatic denial or revocation of the license in
 200 addition to any other remedies pursued by the department or
 201 local licensing agency.

202 Section 4. Subsections (1) and (3) of section 402.308,
 203 Florida Statutes, are amended to read:

204 402.308 Issuance of license.--

205 (1) ANNUAL LICENSING.--Every child care facility, family
 206 day care home requiring licensure, or large family child care
 207 home in the state shall have a license that ~~which~~ shall be
 208 renewed annually.

209 (3) STATE ADMINISTRATION OF LICENSING.--In any county in
 210 which the department has the authority to issue licenses, the
 211 following procedures shall be applied:

212 (a) Application for a license or for a renewal of a
 213 license to operate a child care facility, family day care home,
 214 or large family child care home shall be made in the manner and
 215 on the forms prescribed by the department. The applicant's
 216 social security number shall be included on the form submitted
 217 to the department. Pursuant to the federal Personal

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218 Responsibility and Work Opportunity Reconciliation Act of 1996,
219 each applicant is required to provide his or her social security
220 number in accordance with this section. Disclosure of social
221 security numbers obtained through this requirement shall be
222 limited to the purpose of administration of the Title IV-D
223 program for child support enforcement.

224 (b) Before renewing ~~Prior to the renewal of~~ a license, the
225 department shall reexamine the child care facility, family day
226 care home, or large family child care home, including in that
227 process the examination of the premises and those records of the
228 facility or home as required under s. 402.305, to determine that
229 minimum standards for licensing continue to be met.

230 (c) The department shall coordinate all inspections of
231 child care facilities, family day care homes, and large family
232 child care homes. A child care provider facility is not required
233 to implement a recommendation of one agency which ~~that~~ is in
234 conflict with a recommendation of another agency if the ~~such~~
235 conflict arises from ~~due to~~ uncoordinated inspections. Any
236 conflict in recommendations shall be resolved by the secretary
237 of the department within 15 days after written notice that the
238 ~~such~~ conflict exists.

239 (d) The department shall issue or renew a license upon
240 receipt of the license fee and upon being satisfied that all
241 standards required by ss. 402.301-402.319 have been met. A
242 license may be issued if all the screening materials have been
243 timely submitted; however, a license may not be issued or
244 renewed if any of the child care personnel at the applicant

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245 | facility or home have failed the screening required by ss.
246 | 402.305(2) and 402.3055.

247 | Section 5. Section 402.309, Florida Statutes, is amended
248 | to read:

249 | 402.309 Provisional license or registration.--

250 | (1) The local licensing agency or the department,
251 | whichever is authorized to license child care facilities in a
252 | county, may issue a provisional license for child care
253 | facilities, family day care homes, or large family child care
254 | homes, or a provisional registration for family day care homes
255 | to applicants for an initial ~~a~~ license or registration or to
256 | licensees or registrants seeking a renewal who are unable to
257 | meet ~~conform to~~ all the standards provided for in ss. 402.301-
258 | 402.319.

259 | (2) ~~A~~ No provisional license or registration may not be
260 | issued unless the operator or owner makes adequate provisions
261 | for the health and safety of the child. A provisional license
262 | may be issued for a child care facility if all of the screening
263 | materials have been timely submitted. ~~;~~ ~~however,~~ A provisional
264 | license or registration may not be issued unless the child care
265 | facility, family day care home, or large family child care home
266 | is in compliance with the requirements for screening of child
267 | care personnel in ss. 402.305, ~~and~~ 402.3055, 402.313, and
268 | 402.3131, respectively.

269 | (3) The provisional license or registration may ~~not~~ shall
270 | ~~in no event~~ be issued for a period that exceeds ~~in excess of~~ 6
271 | months; however, it may be renewed one time for a period that

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272 may not exceed ~~in excess of~~ 6 months under unusual circumstances
273 beyond the control of the applicant.

274 (4) The provisional license or registration may be
275 suspended or revoked if periodic inspection or review ~~made~~ by
276 the local licensing agency or the department indicates that
277 insufficient progress has been made toward compliance.

278 (5) The department shall adopt rules specifying the
279 conditions and procedures under which a provisional license or
280 registration may be issued, suspended, or revoked.

281 Section 6. Section 402.310, Florida Statutes, is amended
282 to read:

283 402.310 Disciplinary actions; hearings upon denial,
284 suspension, or revocation of license or registration;
285 administrative fines.--

286 (1)(a) The department or local licensing agency may
287 administer any of the following disciplinary sanctions for a
288 violation of any provision of ss. 402.301-402.319, or rules
289 adopted thereunder: ~~deny, suspend, or revoke a license or~~

290 1. Impose an administrative fine not to exceed \$100 per
291 violation, per day, ~~for the violation of any provision of ss.~~
292 ~~402.301-402.319 or rules adopted thereunder.~~ However, if where
293 the violation could or does cause death or serious harm, the
294 department or local licensing agency may impose an
295 administrative fine, not to exceed \$500 per violation per day,
296 in addition to or in lieu of any other disciplinary action
297 described in this section.

298 2. Convert a license or registration to probation status
299 and require the licensee or registrant to comply with the terms

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300 of probation. A probation-status license or registration may not
 301 be issued for a period that exceeds 6 months and the license or
 302 registration may not be renewed. A probation-status license or
 303 registration may be suspended or revoked if periodic inspection
 304 by the department or local licensing agency finds that the
 305 probation-status licensee or registrant is not in compliance
 306 with the terms of probation or that the probation-status
 307 licensee or registrant is not making sufficient progress towards
 308 compliance with ss. 402.301-402.319.

309 3. Deny, suspend, or revoke a license or registration.

310 (b) In determining the appropriate disciplinary action to
 311 be taken for a violation as provided in paragraph (a), the
 312 following factors shall be considered:

313 1. The severity of the violation, including the
 314 probability that death or serious harm to the health or safety
 315 of any person will result or has resulted, the severity of the
 316 actual or potential harm, and the extent to which the provisions
 317 of ss. 402.301-402.319 have been violated.

318 2. Actions taken by the licensee or registrant to correct
 319 the violation or to remedy complaints.

320 3. Any previous violations of the licensee or registrant.

321 (c) The department shall adopt rules to:

322 1. Establish the grounds under which the department may
 323 deny, suspend, or revoke a license or registration or place a
 324 licensee or registrant on probation status for violations of ss.
 325 402.301-402.319.

326 2. Establish a uniform system of procedures to impose
 327 disciplinary sanctions for violations of ss. 402.301-402-319.

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328 | The uniform system of procedures must provide for the consistent
 329 | application of disciplinary actions across districts and a
 330 | progressively increasing level of penalties from predisciplinary
 331 | actions, such as efforts to assist licensees or registrants to
 332 | correct the statutory or regulatory violations, to severe
 333 | disciplinary sanctions for actions that jeopardize the health
 334 | and safety of children, such as for the deliberate misuse of
 335 | medications. The department shall implement this subparagraph on
 336 | January 1, 2006, and the implementation is not contingent upon a
 337 | specific appropriation.

338 | (d) The disciplinary sanctions set forth in this section
 339 | apply to licensed child care facilities, licensed large family
 340 | child care homes, and licensed or registered family day care
 341 | homes.

342 | (2) When the department has reasonable cause to believe
 343 | that grounds exist for the denial, suspension, or revocation of
 344 | a license or registration; the conversion of a license or
 345 | registration to probation status; or the imposition of an
 346 | administrative fine ~~exist~~, it shall determine the matter in
 347 | accordance with procedures prescribed in chapter 120. When the
 348 | local licensing agency has reasonable cause to believe that
 349 | grounds exist for the denial, suspension, or revocation of a
 350 | license or registration; the conversion of a license or
 351 | registration to probation status; or the imposition of an
 352 | administrative fine ~~exist~~, it shall notify the applicant,
 353 | registrant, or licensee in writing, stating the grounds upon
 354 | which the license or registration is being denied, suspended, or
 355 | revoked or an administrative fine is being imposed. If the

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356 | applicant, registrant, or licensee makes no written request for
 357 | a hearing to the local licensing agency within 15 days after
 358 | ~~from~~ receipt of the such notice, the license or registration
 359 | shall be deemed denied, suspended, or revoked; the license or
 360 | registration shall be converted to probation status; or an
 361 | administrative fine shall be imposed.

362 | (3) If a request for a hearing is made to the local
 363 | licensing agency, a hearing shall be held within 30 days and
 364 | shall be conducted by an individual designated by the county
 365 | commission.

366 | (4) An applicant, registrant, or licensee has ~~shall have~~
 367 | the right to appeal a decision of the local licensing agency to
 368 | a representative of the department. Any required hearing shall
 369 | be held in the county in which the child care facility, family
 370 | day care home, or large family child care home is being operated
 371 | or is to be established. The hearing shall be conducted in
 372 | accordance with ~~the provisions of~~ chapter 120.

373 | Section 7. Section 402.3105, Florida Statutes, is created
 374 | to read:

375 | 402.3105 Central database on violations, citations, and
 376 | penalties imposed against child care facilities, family day care
 377 | homes, and large family child care homes.--

378 | (1) The department, in consultation with the State
 379 | Technology Office, shall establish and maintain a central
 380 | database to record and compile all information from the service
 381 | districts and local licensing agencies concerning violations,
 382 | citations, and penalties imposed against child care facilities,
 383 | family day care homes, and large family child care homes

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384 regulated by or registered with the department or local
 385 licensing agency. The department shall develop the central
 386 database under chapter 282 and shall administer, operate, and
 387 maintain the database following the policies and procedures of
 388 the State Technology Office.

389 (2) The department shall retain information in the
 390 database in order to monitor and evaluate the consistency and
 391 effectiveness of the service districts' and local licensing
 392 agencies' investigations and the enforcement of compliance with
 393 licensing and registration requirements by child care
 394 facilities, family day care homes, and large family child care
 395 homes. The database must have the capability to produce
 396 statistical reports of patterns of violations, citations, and
 397 penalties, including the classes and types of violations, and
 398 any actions taken to suspend or revoke the license or
 399 registration of a child care facility, family day care home, or
 400 large family child care home.

401 (3) The central database shall be an informational
 402 resource for evaluating child care facilities, family day care
 403 homes, and large family child care homes for license or
 404 registration renewals but may not be used for employment
 405 screening. The database information is open to the public and is
 406 subject to chapter 119.

407 (4) The department shall implement this section beginning
 408 on July 1, 2005, and the implementation is not contingent upon a
 409 specific appropriation.

410 Section 8. Subsections (1) and (13) of section 402.313,
 411 Florida Statutes, are amended to read:

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412 402.313 Family day care homes.--

413 (1) Family day care homes shall be licensed under this act
 414 if they are presently being licensed under an existing county
 415 licensing ordinance, ~~if they are participating in the subsidized~~
 416 ~~child care program,~~ or if the board of county commissioners
 417 passes a resolution that family day care homes be licensed. ~~If~~
 418 ~~no county authority exists for the licensing of a family day~~
 419 ~~care home, the department shall have the authority to license~~
 420 ~~family day care homes under contract for the purchase of service~~
 421 ~~system in the subsidized child care program.~~

422 (a) If not subject to license, family day care homes shall
 423 register annually with the department, providing the following
 424 information:

- 425 1. The name and address of the home.
- 426 2. The name of the operator.
- 427 3. The number of children served.
- 428 4. Proof of a written plan to provide at least one other
 429 competent adult to be available to substitute for the operator
 430 in an emergency. This plan shall include the name, address, and
 431 telephone number of the designated substitute.
- 432 5. Proof of screening and background checks.
- 433 6. Proof of successful completion of the 30-hour training
 434 course, as evidenced by passage of a competency examination,
 435 which shall include:
 - 436 a. State and local rules and regulations that govern child
 437 care.
 - 438 b. Health, safety, and nutrition.
 - 439 c. Identifying and reporting child abuse and neglect.

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440 d. Child development, including typical and atypical
441 language development; and cognitive, motor, social, and self-
442 help skills development.

443 e. Observation of developmental behaviors, including using
444 a checklist or other similar observation tools and techniques to
445 determine a child's developmental level.

446 f. Specialized areas, including early literacy and
447 language development of children from birth to 5 years of age,
448 as determined by the department, for owner-operators of family
449 day care homes.

450 7. Proof that immunization records are kept current.

451 8. Proof of completion of the required continuing
452 education units or clock hours.

453 ~~(b) The department or local licensing agency may impose an~~
454 ~~administrative fine, not to exceed \$100, for failure to comply~~
455 ~~with licensure or registration requirements.~~

456 (b)(e) A family day care home that is not required to be
457 licensed under this subsection ~~participating in the subsidized~~
458 ~~child care program~~ may volunteer to be licensed ~~under the~~
459 ~~provisions of this act.~~

460 (c)(d) The department may provide technical assistance to
461 counties and family day care home providers to enable counties
462 and family day care providers to achieve compliance with family
463 day care homes standards.

464 (13) The department shall adopt a rule establishing, ~~by~~
465 ~~rule, establish~~ minimum standards for family day care homes that
466 are required to be licensed by county licensing ordinance or
467 county licensing resolution or that voluntarily choose to be

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468 | licensed. The standards should include requirements for
469 | staffing, training, maintenance of immunization records, minimum
470 | health and safety standards, reduced standards for the
471 | regulation of child care during evening hours by municipalities
472 | and counties, and enforcement of standards.

473 | Section 9. Paragraph (a) of subsection (1) of section
474 | 402.3131, Florida Statutes, is repealed.

475 | Section 10. This act shall take effect July 1, 2005.