

CHAMBER ACTION

1 The Education Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to charter schools; creating s. 1002.335,
7 F.S.; providing findings and intent; establishing the
8 Florida Schools of Excellence Commission as a charter
9 school authorizing entity; providing for startup funds;
10 providing for membership of the commission; providing
11 powers and duties of the commission, including serving as
12 a sponsor of charter schools, approving certain entities
13 to act as cosponsors, approving or denying applications
14 for Florida Schools of Excellence (FSE) charter schools,
15 and developing standards for and evaluating the
16 performance of cosponsors and charter schools; requiring
17 collaboration with municipalities, state universities,
18 community colleges, and regional educational consortia as
19 cosponsors for FSE charter schools; providing requirements
20 for approval of cosponsors by the commission; providing
21 components of required cosponsor agreements; providing
22 causes for revocation of approval of a cosponsor;
23 providing for FSE charter school application and review

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24 | procedures; authorizing existing charter schools to apply
 25 | as FSE charter schools; providing for application of
 26 | specified provisions of law; requiring access to
 27 | information by parents; requiring the commission to submit
 28 | an annual report; requiring rulemaking; amending s.
 29 | 1002.33, F.S.; providing that the sponsor of a charter
 30 | school shall not be liable for civil damages for certain
 31 | actions; providing that the duty to monitor a charter
 32 | school shall not be the basis for a private cause of
 33 | action; prescribing limits on immunities of a charter
 34 | school sponsor; providing requirements with respect to the
 35 | right to appeal the denial of a charter school
 36 | application; expanding a school district's immunity from
 37 | assumption of contractual debts; revising provisions
 38 | relating to reporting of charter school student enrollment
 39 | for purposes of funding; providing appropriations and
 40 | authorizing positions; providing an effective date.

41 |
 42 | Be It Enacted by the Legislature of the State of Florida:

43 |
 44 | Section 1. Section 1002.335, Florida Statutes, is created
 45 | to read:

46 | 1002.335 Florida Schools of Excellence Commission.--

47 | (1) FINDINGS.--The Legislature finds that:

48 | (a) Charter schools are a critical component in the
 49 | state's efforts to provide efficient and high-quality schools
 50 | within the state's uniform system of public education.

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51 (b) Charter schools provide valuable educational options
52 and innovative learning opportunities while expanding the
53 capacity of the state's system of public education and
54 empowering parents with the ability to make choices that best
55 fit the individual needs of their children.

56 (c) The growth of charter schools in the state has
57 contributed to enhanced student performance, greater efficiency,
58 and the improvement of all public schools.

59 (2) INTENT.--It is the intent of the Legislature that:

60 (a) There be established an independent, state-level
61 commission whose primary focus is the development and support of
62 charter schools in order to better meet the growing and diverse
63 needs of some of the increasing number and array of charter
64 schools in the state and to further ensure that charter schools
65 of the highest academic quality are approved and supported
66 throughout the state in an efficient manner.

67 (b) New sources of community support in the form of
68 municipalities with knowledge of the unique needs of a
69 particular community or state universities, community colleges,
70 or regional educational consortia with special education
71 expertise should be authorized to participate in developing and
72 supporting charter schools that maximize access to a wide
73 variety of high-quality educational options for all students
74 regardless of disability, race, or socioeconomic status.

75 (3) FLORIDA SCHOOLS OF EXCELLENCE COMMISSION.--

76 (a) The Florida Schools of Excellence Commission is
77 established as an independent, state-level charter school
78 authorizing entity working in collaboration with the Department

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79 | of Education and under the supervision of the State Board of
80 | Education. Startup funds necessary to establish and operate the
81 | commission may be received through private contributions and
82 | federal and other institutional grants through the Grants and
83 | Donations Trust Fund and the Educational Aids Trust Fund housed
84 | within the department in addition to funds provided in the
85 | General Appropriations Act. The department shall assist in
86 | securing federal and other institutional grant funds to
87 | establish the commission.

88 | (b) The commission shall be appointed by the State Board
89 | of Education and shall be composed of three appointees
90 | recommended by the Governor, two appointees recommended by the
91 | President of the Senate, and two appointees recommended by the
92 | Speaker of the House of Representatives. The Governor, the
93 | President of the Senate, and the Speaker of the House of
94 | Representatives shall each recommend a list of no fewer than two
95 | nominees for any appointment to the commission. The appointments
96 | shall be made as soon as feasible but no later than September 1,
97 | 2006. Each member shall serve a term of 2 years; however, for
98 | the purpose of providing staggered terms, of the initial
99 | appointments, three members shall be appointed to 1-year terms
100 | and four members shall be appointed to 2-year terms. Thereafter,
101 | each appointee shall serve a 2-year term unless the State Board
102 | of Education, after review, extends the appointment. If a
103 | vacancy occurs on the commission, it shall be filled by the
104 | State Board of Education from a recommendation by the
105 | appropriate authority according to the procedure set forth in

106 this paragraph. The members of the commission shall annually
 107 vote to appoint a chair and a vice chair.

108 (c) The commission is encouraged to convene its first
 109 meeting no later than October 1, 2006, and, thereafter, shall
 110 meet each month at the call of the chair or upon the request of
 111 four members of the commission. Four members of the commission
 112 shall constitute a quorum.

113 (d) The commission shall appoint an executive director who
 114 shall employ such staff as is necessary to perform the
 115 administrative duties and responsibilities of the commission.

116 (e) The members of the commission shall not be compensated
 117 for their services on the commission but may be reimbursed for
 118 per diem and travel expenses pursuant to s. 112.061.

119 (4) POWERS AND DUTIES.--

120 (a) The commission shall have the power to:

121 1. Authorize and act as a sponsor of charter schools,
 122 including the approval or denial of charter school applications
 123 pursuant to subsection (8) and the nonrenewal or termination of
 124 charter schools pursuant to s. 1002.33(8).

125 2. Authorize municipalities, state universities, community
 126 colleges, and regional educational consortia to act as
 127 cosponsors of charter schools, including the approval or denial
 128 of cosponsor applications pursuant to State Board of Education
 129 rule and subsection (5) and the revocation of approval of
 130 cosponsors pursuant to State Board of Education rule and
 131 subsection (7).

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132 3. Approve or deny Florida Schools of Excellence (FSE)
133 charter school applications and renew or terminate charters of
134 FSE charter schools.

135 4. Conduct facility and curriculum reviews of charter
136 schools approved by the commission or one of its cosponsors.

137 (b) The commission shall have the following duties:

138 1. Review charter school applications and assist in the
139 establishment of Florida Schools of Excellence (FSE) charter
140 schools throughout the state. An FSE charter school shall exist
141 as a public school within the state as a component of the
142 delivery of public education within Florida's K-20 education
143 system.

144 2. Develop, promote, and disseminate best practices for
145 charter schools and charter school sponsors in order to ensure
146 that high-quality charter schools are developed and
147 incentivized. At a minimum, the best practices shall encourage
148 the development and replication of academically and financially
149 proven charter school programs.

150 3. Develop, promote, and require high standards of
151 accountability for any school that applies for and is granted a
152 charter under this section.

153 4. Monitor and annually review the performance of
154 cosponsors approved pursuant to this section and hold the
155 cosponsors accountable for their performance pursuant to the
156 provisions of paragraph (5) (c). The commission shall annually
157 review and evaluate the performance of each cosponsor based upon
158 the financial and administrative support provided to the
159 cosponsor's charter schools and the quality of charter schools

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160 approved by the cosponsor, including the academic performance of
161 the students that attend those schools.

162 5. Monitor and annually review and evaluate the academic
163 and financial performance of the charter schools it sponsors and
164 hold the schools accountable for their performance pursuant to
165 the provisions of chapter 1008.

166 6. Report the student enrollment in each of its sponsored
167 charter schools to the district school board of the county in
168 which the school is located.

169 7. Work with its cosponsors to monitor the financial
170 management of each FSE charter school.

171 8. Direct charter schools and persons seeking to establish
172 charter schools to sources of private funding and support.

173 9. Actively seek, with the assistance of the department,
174 supplemental revenue from federal grant funds, institutional
175 grant funds, and philanthropic organizations. The commission
176 may, through the department's Grants and Donations Trust Fund,
177 receive and expend gifts, grants, and donations of any kind from
178 any public or private entity to carry out the purposes of this
179 section.

180 10. Review and recommend to the Legislature any necessary
181 revisions to statutory requirements regarding the qualification
182 and approval of municipalities, state universities, community
183 colleges, and regional educational consortia as cosponsors for
184 FSE charter schools.

185 11. Review and recommend to the Legislature any necessary
186 revisions to statutory requirements regarding the standards for

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187 accountability and criteria for revocation of approval of
188 cosponsors of FSE charter schools.

189 12. Act as liaison for cosponsors and FSE charter schools
190 in cooperating with district school boards that may choose to
191 allow charter schools to utilize excess space within district
192 public school facilities.

193 13. Collaborate with municipalities, state universities,
194 community colleges, and regional educational consortia as
195 cosponsors for FSE charter schools for the purpose of providing
196 the highest level of public education to low-income, low-
197 performing, gifted, or underserved student populations. Such
198 collaborations shall:

199 a. Allow state universities and community colleges that
200 cosponsor FSE charter schools to enable students attending a
201 charter school to take college courses and receive high school
202 and college credit for such courses.

203 b. Be used to determine the feasibility of opening charter
204 schools for students with disabilities, including, but not
205 limited to, charter schools for children with autism that work
206 with and utilize the specialized expertise of the Centers for
207 Autism and Related Disabilities established and operated
208 pursuant to s. 1004.55.

209 14. Support municipalities when the mayor or chief
210 executive, through resolution passed by the governing body of
211 the municipality, expresses an intent to cosponsor and establish
212 charter schools within the municipal boundaries.

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213 15. Meet the needs of charter schools and school districts
214 by uniformly administering high-quality charter schools, thereby
215 removing administrative burdens from the school districts.

216 16. Assist FSE charter schools in negotiating and
217 contracting with district school boards that choose to provide
218 certain administrative or transportation services to the charter
219 schools on a contractual basis.

220 17. Provide training for members of FSE charter school
221 governing bodies within 90 days after approval of the charter
222 school. The training shall include, but not be limited to, best
223 practices on charter school governance, the constitutional and
224 statutory requirements relating to public records and meetings,
225 and the requirements of applicable statutes and State Board of
226 Education rules.

227 18. Perform all of the duties of sponsors set forth in s.
228 1002.33 (5) (b) and (20).

229 (5) APPROVAL OF COSPONSORS.--

230 (a) The commission shall begin accepting applications by
231 municipalities, state universities, community colleges, and
232 regional educational consortia no later than January 31, 2007.
233 The commission shall review and evaluate all applications for
234 compliance with the provisions of paragraph (c) and shall have
235 90 days after receipt of an application to approve or deny the
236 application unless the 90-day period is waived by the applicant.

237 (b) The commission shall limit the number of charter
238 schools that a cosponsor may approve pursuant to its review of
239 the cosponsor's application under paragraph (c). Upon
240 application by the cosponsor and review by the commission of the

241 performance of a cosponsor's current charter schools, the
242 commission may approve a cosponsor's application to raise the
243 limit previously set by the commission.

244 (c) Any entity set forth in paragraph (a) that is
245 interested in becoming a cosponsor pursuant to this section
246 shall prepare and submit an application to the commission that
247 provides evidence that the entity:

248 1. Has the necessary staff and infrastructure or has
249 established the necessary contractual or interagency
250 relationships to ensure its ability to handle all of the
251 administrative responsibilities required of a charter school
252 sponsor as set forth in s. 1002.33(20).

253 2. Has the necessary staff expertise and infrastructure or
254 has established the necessary contractual or interagency
255 relationships to ensure that it will approve and is able to
256 develop and maintain charter schools of the highest academic
257 quality.

258 3. Is able to provide the necessary public and private
259 financial resources and staff to ensure that it can monitor and
260 support charter schools that are economically efficient and
261 fiscally sound.

262 4. Is committed to providing equal access to all students
263 and to maintaining a diverse student population within its
264 charter schools, including compliance with all applicable
265 requirements of federal law.

266 5. Is committed to serving low-income, low-performing,
267 gifted, or underserved student populations.

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268 6. Has articulated annual academic and financial goals and
269 expected outcomes for its charter schools as well as the methods
270 and plans by which it will measure and achieve those goals and
271 outcomes.

272 7. Has policies in place to protect its cosponsoring
273 practices from conflicts of interest.

274 (d) The commission's decision to deny an application or to
275 revoke approval of a cosponsor pursuant to subsection (7) is not
276 subject to chapter 120 and may be appealed to the State Board of
277 Education pursuant to s. 1002.33(6).

278 (6) COSPONSOR AGREEMENT.--

279 (a) Upon approval of a cosponsor, the commission and the
280 cosponsor shall enter into an agreement that defines the
281 cosponsor's rights and obligations and includes the following:

282 1. An explanation of the personnel, contractual and
283 interagency relationships, and potential revenue sources
284 referenced in the application as required in paragraph (5)(c).

285 2. Incorporation of the requirements of equal access for
286 all students, including any plans to provide food service or
287 transportation reasonably necessary to provide access to as many
288 students as possible.

289 3. Incorporation of the requirement to serve low-income,
290 low-performing, gifted, or underserved student populations.

291 4. An explanation of the academic and financial goals and
292 expected outcomes for the cosponsor's charter schools and the
293 method and plans by which they will be measured and achieved as
294 referenced in the application.

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295 5. The conflict-of-interest policies referenced in the
296 application.

297 6. An explanation of the disposition of facilities and
298 assets upon termination and dissolution of a charter school
299 approved by the cosponsor.

300 7. A provision requiring the cosponsor to annually appear
301 before the commission and provide a report as to the information
302 provided pursuant to s. 1002.33(9)(1) for each of its charter
303 schools.

304 8. A provision requiring that the cosponsor report the
305 student enrollment in each of its sponsored charter schools to
306 the district school board of the county in which the school is
307 located.

308 9. A provision requiring that the cosponsor work with the
309 commission to provide the necessary reports to the State Board
310 of Education.

311 10. Any other reasonable terms deemed appropriate by the
312 commission given the unique characteristics of the cosponsor.

313 (b) No cosponsor may receive applications for charter
314 schools until a cosponsor agreement with the commission has been
315 approved and signed by the commission and the appropriate
316 individuals or governing bodies of the cosponsor.

317 (c) The cosponsor agreement shall be proposed and
318 negotiated pursuant to the timeframes set forth in s.
319 1002.33(6)(i).

320 (d) The cosponsor agreement shall be attached to and shall
321 govern all charter school contracts entered into by the
322 cosponsor.

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323 (7) CAUSES FOR REVOCATION OF APPROVAL OF A COSPONSOR.--If
324 at any time the commission finds that a cosponsor is not in
325 compliance, or is no longer willing to comply, with its contract
326 with a charter school or with its cosponsor agreement with the
327 commission, the commission shall provide notice and a hearing in
328 accordance with State Board of Education rule. If after a
329 hearing the commission confirms its initial finding, the
330 commission shall revoke the cosponsor's approval. The commission
331 shall assume temporary sponsorship over any charter school
332 sponsored by the cosponsor at the time of revocation.
333 Thereafter, the commission may assume permanent sponsorship over
334 such school or allow the school's governing body to apply to
335 another sponsor or cosponsor.

336 (8) CHARTER SCHOOL APPLICATION AND REVIEW.--Charter school
337 applications submitted to the commission or to a cosponsor
338 approved by the commission pursuant to subsection (5) shall be
339 subject to the same requirements set forth in s. 1002.33(6). The
340 commission or cosponsor shall receive and review all
341 applications for FSE charter schools according to the provisions
342 for review of charter school applications under s.
343 1002.33(6)(b).

344 (9) APPLICATIONS OF EXISTING CHARTER SCHOOLS.--

345 (a) An application may be submitted pursuant to this
346 section by an existing charter school approved by a district
347 school board provided that the obligations of its charter
348 contract with the district school board will expire prior to
349 entering into a new charter contract with the commission or one
350 of its cosponsors. A district school board may agree to rescind

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351 or waive the obligations of a current charter contract to allow
352 an application to be submitted by an existing charter school
353 pursuant to this section. A charter school that changes sponsors
354 pursuant to this subsection shall be allowed to continue the use
355 of all facilities, equipment, and other assets it owned or
356 leased prior to the expiration or rescission of its contract
357 with a district school board sponsor.

358 (b) An application to the commission or one of its
359 cosponsors by a conversion charter school may only be submitted
360 upon consent of the district school board. In such instance, the
361 district school board may retain the facilities, equipment, and
362 other assets of the conversion charter school for its own use or
363 agree to reasonable terms for their continued use by the
364 conversion charter school.

365 (10) APPLICATION OF CHARTER SCHOOL STATUTE.--

366 (a) The provisions of s. 1002.33(7)-(12), (14), and (16)-
367 (19) shall apply to the commission and the cosponsors and
368 charter schools approved pursuant to this section.

369 (b) The provisions of s. 1002.33(20) shall apply to the
370 commission and the cosponsors and charter schools approved
371 pursuant to this section with the exception that the commission
372 or a cosponsor of a charter school approved pursuant to this
373 section may retain no more than the actual cost of its
374 administrative overhead costs expended to sponsor the charter
375 school not to exceed 5 percent of the funding provided to the
376 charter school.

377 (11) ACCESS TO INFORMATION.--The commission shall provide
378 maximum access to information to all parents in the state. It

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379 shall maintain information systems, including, but not limited
380 to, a user-friendly Internet website, that will provide
381 information and data necessary for parents to make informed
382 decisions. At a minimum, the commission must provide parents
383 with information on its accountability standards, links to
384 schools of excellence throughout the state, and public education
385 programs available in the state.

386 (12) ANNUAL REPORT.--Each year, the chair of the
387 commission shall appear before the State Board of Education and
388 submit a report regarding the academic performance and fiscal
389 responsibility of all charter schools and cosponsors approved
390 under this section.

391 (13) IMPLEMENTATION.--The State Board of Education shall
392 adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to
393 facilitate the implementation of this section.

394 Section 2. Paragraphs (d) through (h) of subsection (6) of
395 section 1002.33, Florida Statutes, are redesignated as
396 paragraphs (e) through (i), respectively, a new paragraph (d) is
397 added to that subsection, and paragraph (b) of subsection (5),
398 paragraph (f) of subsection (8), and paragraph (a) of subsection
399 (17) of that section are amended, to read:

400 1002.33 Charter schools.--

401 (5) SPONSOR; DUTIES.--

402 (b) Sponsor duties.--

403 1.a. The sponsor shall monitor and review the charter
404 school in its progress toward the goals established in the
405 charter.

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406 ~~b.2.~~ The sponsor shall monitor the revenues and
407 expenditures of the charter school.

408 ~~c.3.~~ The sponsor may approve a charter for a charter
409 school before the applicant has secured space, equipment, or
410 personnel, if the applicant indicates approval is necessary for
411 it to raise working capital.

412 ~~d.4.~~ The sponsor's policies shall not apply to a charter
413 school.

414 ~~e.5.~~ The sponsor shall ensure that the charter is
415 innovative and consistent with the state education goals
416 established by s. 1000.03(5).

417 ~~f.6.~~ The sponsor shall ensure that the charter school
418 participates in the state's education accountability system. If
419 a charter school falls short of performance measures included in
420 the approved charter, the sponsor shall report such shortcomings
421 to the Department of Education.

422 g. The sponsor shall not be liable for civil damages under
423 state law for personal injury, property damage, or death
424 resulting from an act or omission of an officer, employee,
425 agent, or governing body of the charter school.

426 h. The sponsor shall not be liable for civil damages under
427 state law for any employment actions taken by an officer,
428 employee, agent, or governing body of the charter school.

429 i. The sponsor's duties to monitor the charter school
430 shall not constitute the basis for a private cause of action.

431 2. Immunity for the sponsor of a charter school under
432 subparagraph 1. applies only with respect to acts or omissions

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433 not under the sponsor's direct authority as described in this
434 section.

435 3. Nothing contained in this paragraph shall be considered
436 a waiver of sovereign immunity by a district school board.

437 4. A community college may work with the school district
438 or school districts in its designated service area to develop
439 charter schools that offer secondary education. These charter
440 schools must include an option for students to receive an
441 associate degree upon high school graduation. District school
442 boards shall cooperate with and assist the community college on
443 the charter application. Community college applications for
444 charter schools are not subject to the time deadlines outlined
445 in subsection (6) and may be approved by the district school
446 board at any time during the year. Community colleges shall not
447 report FTE for any students who receive FTE funding through the
448 Florida Education Finance Program.

449 (6) APPLICATION PROCESS AND REVIEW.--Beginning September
450 1, 2003, applications are subject to the following requirements:

451 (d) The right to appeal an application denial under
452 paragraph (c) shall be contingent on the applicant having
453 submitted the same or a substantially similar application to the
454 Florida Schools of Excellence Commission or one of its
455 cosponsors. Any such applicant whose application is denied by
456 the commission or one of its cosponsors subsequent to its denial
457 by the district school board may exercise its right to appeal
458 the district school board's denial under paragraph (c) within 30
459 days after receipt of the commission's or cosponsor's denial or
460 failure to act on the application. However, the applicant

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461 forfeits its right to appeal under paragraph (c) if it fails to
 462 submit its application to the commission or one of its
 463 cosponsors by August 1 of the school year immediately following
 464 the district school board's denial of the application.

465 (8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.--

466 (f) If a charter is not renewed or is terminated, the
 467 charter school is responsible for all debts of the charter
 468 school. The district may not assume the debt from any contract
 469 ~~for services~~ made between the governing body of the school and a
 470 third party, except for a debt that is previously detailed and
 471 agreed upon in writing by both the district and the governing
 472 body of the school and that may not reasonably be assumed to
 473 have been satisfied by the district.

474 (17) FUNDING.--Students enrolled in a charter school,
 475 regardless of the sponsorship, shall be funded as if they are in
 476 a basic program or a special program, the same as students
 477 enrolled in other public schools in the school district. Funding
 478 for a charter lab school shall be as provided in s. 1002.32.

479 (a) Each charter school shall report its student
 480 enrollment to the sponsor ~~district school board~~ as required in
 481 s. 1011.62, and in accordance with the definitions in s.
 482 1011.61. The sponsor ~~district school board~~ shall include each
 483 charter school's enrollment in the district's report of student
 484 enrollment. All charter schools submitting student record
 485 information required by the Department of Education shall comply
 486 with the Department of Education's guidelines for electronic
 487 data formats for such data, and all districts shall accept

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488 | electronic data that complies with the Department of Education's
489 | electronic format.

490 | Section 3. The following sums of money and full-time
491 | equivalent positions are appropriated from general revenue to
492 | the State Board of Education for the 2006-2007 fiscal year for
493 | the purpose of administering this act:

494 | (1) Three full-time equivalent positions and 165,000 in
495 | approved annual salary rate.

496 | (2) The sum of \$214,630 from recurring general revenue
497 | funds for salaries and benefits.

498 | (3) The sum of \$199,238 from recurring general revenue
499 | funds for expenses.

500 | (4) The sum of \$5,700 from nonrecurring general revenue
501 | funds for operating capital outlay.

502 | (5) The sum of \$1,179 from recurring general revenue funds
503 | for transfer to the Department of Management Services for the
504 | Human Resource Services Statewide Contract.

505 | Section 4. This act shall take effect July 1, 2006.