

1                                   A bill to be entitled  
2           An act relating to tobacco education and  
3           prevention; creating s. 381.84, F.S.; requiring  
4           the Department of Health to conduct a statewide  
5           tobacco education and use prevention program;  
6           providing definitions; providing legislative  
7           purpose and findings; establishing components  
8           of the program; creating the Tobacco Education  
9           and Use Prevention Advisory Council; providing  
10          membership and duties of the council; providing  
11          reimbursement for travel and other expenses for  
12          council members; requiring the Secretary of  
13          Health to award contracts in consultation with  
14          the council; providing for the appointment of a  
15          peer-review panel to review proposals for  
16          funding; specifying the use of funds  
17          appropriated under the program; requiring an  
18          annual report by the department to the Governor  
19          and the Legislature; providing rulemaking  
20          authority; providing an effective date.

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

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24           Section 1. Section 381.84, Florida Statutes, is  
25   created to read:  
26           381.84 Comprehensive Statewide Tobacco Education and  
27   Use Prevention Program.--  
28           (1) DEFINITIONS.--As used in this section and for  
29   purposes of the provisions of s. 27, Art. X of the State  
30   Constitution, the term:  
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1           (a) "AHEC network" means an area health education  
2 center network established under s. 381.0402.

3           (b) "CDC" means the United States Centers for Disease  
4 Control and Prevention.

5           (c) "Council" means the Tobacco Education and Use  
6 Prevention Advisory Council.

7           (d) "Department" means the Department of Health.

8           (e) "Tobacco" means, without limitation, tobacco  
9 itself and tobacco products that include tobacco and are  
10 intended or expected for human use or consumption, including,  
11 but not limited to, cigarettes, cigars, pipe tobacco, and  
12 smokeless tobacco.

13           (f) "Youth" means minors and young adults.

14           (2) PURPOSE, FINDINGS, AND INTENT.--It is the purpose  
15 of this section to implement s. 27, Art. X of the State  
16 Constitution. The Legislature finds that s. 27, Art. X of the  
17 State Constitution requires the funding of a statewide tobacco  
18 education and use prevention program that focuses on tobacco  
19 use by youth. The Legislature further finds that the primary  
20 goals of the program are to reduce the prevalence of tobacco  
21 use among youth, adults, and pregnant women; reduce per capita  
22 tobacco consumption; and reduce exposure to environmental  
23 tobacco smoke. Further, it is the intent of the Legislature to  
24 base increases in funding for individual components of the  
25 program on the results of assessments and evaluations.  
26 Recognizing that some components will need to grow faster than  
27 inflation, it is the intent of the Legislature to fund  
28 portions of the program on a nonrecurring basis in the early  
29 years so that those components that are most effective can be  
30 supported as the program matures.

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1           (3) PROGRAM COMPONENTS AND REQUIREMENTS.--The  
2 department shall conduct a comprehensive, statewide tobacco  
3 education and use prevention program consistent with the  
4 recommendations for effective program components contained in  
5 the 1999 Best Practices for Comprehensive Tobacco Control  
6 Programs of the CDC, as amended by the CDC. The program shall  
7 include the following components, each of which shall focus on  
8 educating people, particularly youth and their parents, about  
9 the health hazards of tobacco and discouraging the use of  
10 tobacco:

11           (a) Counter-marketing and advertising; cyberspace  
12 resource center.--The counter-marketing and advertising  
13 campaign shall include, at a minimum, Internet, print, radio,  
14 and television advertising and shall be funded with a minimum  
15 of one-third of the total annual appropriation required by s.  
16 27, Art. X of the State Constitution. A cyberspace resource  
17 center for copyrighted materials and information concerning  
18 tobacco education and use prevention, including cessation,  
19 shall be maintained by the program. Such resource center must  
20 be accessible to the public, including parents, teachers, and  
21 students, at each level of public and private schools,  
22 universities, and colleges in the state and shall provide  
23 links to other relevant resources. The Internet address for  
24 the resource center must be incorporated in all advertising.  
25 The information maintained in the resource center shall be  
26 used by the other components of the program.

27           (b) Cessation programs, counseling, and  
28 treatment.--This program component shall include two  
29 subcomponents:

30           1. A statewide toll-free cessation service, which may  
31 include counseling, referrals to other local resources and

1 support services, and treatment to the extent funds are  
2 available for treatment services; and

3 2. A local community-based program to disseminate  
4 information about smoking cessation, how smoking cessation  
5 relates to prenatal care and obesity prevention, and other  
6 chronic tobacco-related diseases.

7 (c) Surveillance and evaluation.--The program shall  
8 conduct ongoing epidemiological surveillance and shall  
9 contract for annual independent evaluations of the  
10 effectiveness of the various components of the program in  
11 meeting the goals as set forth in subsection (2).

12 (d) Youth school programs.--School and after-school  
13 programs shall use current evidence-based curricula and  
14 programs that involve youth to educate youth about the health  
15 hazards of tobacco, help youth develop skills to refuse  
16 tobacco, and demonstrate to youth how to stop using tobacco.

17 (e) Community programs and chronic disease  
18 prevention.--The department shall promote and support local  
19 community-based partnerships that emphasize programs involving  
20 youth, including programs for the prevention, detection, and  
21 early intervention of smoking-related chronic diseases.

22 (f) Training.--The program shall include the training  
23 of health care practitioners, smoking-cessation counselors,  
24 and teachers by health professional students and other  
25 tobacco-use prevention specialists who are trained in  
26 preventing tobacco use and health education. Smoking-cessation  
27 counselors shall be trained by specialists who are certified  
28 in tobacco-use cessation.

29 (g) Administration, statewide programs, and county  
30 health departments.--Each county health department is eligible  
31 to receive a portion of the annual appropriation, on a per

1 capita basis, for coordinating tobacco education and use  
2 prevention programs within that county. Appropriated funds may  
3 be used to improve the infrastructure of the county health  
4 department to implement the comprehensive, statewide tobacco  
5 education and use prevention program. Each county health  
6 department shall prominently display in all treatment rooms  
7 and waiting rooms, counter-marketing and advertisement  
8 materials in the form of wall posters, brochures, television  
9 advertising if televisions are used in the lobby or waiting  
10 room, and screensavers and Internet advertising if computer  
11 kiosks are available for use or viewing by people at the  
12 county health department.

13 (h) Enforcement and awareness of related laws.--In  
14 coordination with the Department of Business and Professional  
15 Regulation, the program shall monitor the enforcement of laws,  
16 rules, and policies prohibiting the sale or other provision of  
17 tobacco to minors, as well as the continued enforcement of the  
18 Clean Indoor Air Act prescribed in chapter 386. The  
19 advertisements produced in accordance with paragraph (a) may  
20 also include information designed to make the public aware of  
21 these related laws and rules. The departments may enter into  
22 interagency agreements to carry out this program component.

23 (i) AHEC smoking-cessation initiative.--For the  
24 2007-2008 and 2008-2009 fiscal years only, the AHEC network  
25 shall expand the AHEC smoking-cessation initiative to each  
26 county within the state and perform other activities as  
27 determined by the department.

28 (4) ADVISORY COUNCIL; MEMBERS, APPOINTMENTS, AND  
29 MEETINGS.--The Tobacco Education and Use Prevention Advisory  
30 Council is created within the department.

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- 1           (a) The council shall consist of 23 members,  
2 including:  
3           1. The Secretary of Health, who shall serve as the  
4 chairperson.  
5           2. One county health department director, appointed by  
6 the Secretary of Health.  
7           3. Two members appointed by the Commissioner of  
8 Education, of whom one must be a school district  
9 superintendent.  
10           4. The chief executive officer of the Florida Division  
11 of the American Cancer Society, or his or her designee.  
12           5. The chief executive officer of the Greater  
13 Southeast Affiliate of the American Heart Association, or his  
14 or her designee.  
15           6. The chief executive officer of the American Lung  
16 Association of Florida, or his or her designee.  
17           7. The dean of the University of Miami School of  
18 Medicine, or his or her designee.  
19           8. The dean of the University of Florida College of  
20 Medicine, or his or her designee.  
21           9. The dean of the University of South Florida College  
22 of Medicine, or his or her designee.  
23           10. The dean of the Florida State University College  
24 of Medicine, or his or her designee.  
25           11. The dean of Nova Southeastern College of  
26 Osteopathic Medicine, or his or her designee.  
27           12. The dean of the Lake Erie College of Osteopathic  
28 Medicine in Bradenton, Florida, or his or her designee.  
29           13. The chief executive officer of the Campaign for  
30 Tobacco Free Kids, or his or her designee.  
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1           14. The chief executive officer of the Legacy  
2 Foundation, or his or her designee.

3           15. Four members appointed by the Governor, of whom  
4 two must have expertise in the field of tobacco-use prevention  
5 and education or smoking cessation and one individual who  
6 shall be between the ages of 16 and 21 at the time of his or  
7 her appointment.

8           16. Two members appointed by the President of the  
9 Senate, of whom one must have expertise in the field of  
10 tobacco-use prevention and education or smoking cessation.

11           17. Two members appointed by the Speaker of the House  
12 of Representatives, of whom one must have expertise in the  
13 field of tobacco-use prevention and education or smoking  
14 cessation.

15           (b) The appointments shall be for 3-year terms and  
16 shall reflect the diversity of the state's population. A  
17 vacancy shall be filled by appointment by the original  
18 appointing authority for the unexpired portion of the term.

19           (c) An appointed member may not serve more than two  
20 consecutive terms.

21           (d) The council shall meet at least quarterly and upon  
22 the call of the chairperson. Meetings may be held via  
23 teleconference or other electronic means.

24           (e) Members of the council shall serve without  
25 compensation, but are entitled to reimbursement for per diem  
26 and travel expenses pursuant to s. 112.061. Members who are  
27 state officers or employees or who are appointed by state  
28 officers or employees shall be reimbursed for per diem and  
29 travel expenses pursuant to s. 112.061 from the state agency  
30 through which they serve.

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1        (f) The department shall provide council members with  
2 information and other assistance as is reasonably necessary to  
3 assist the council in carrying out its responsibilities.

4        (5) COUNCIL DUTIES AND RESPONSIBILITIES.--The council  
5 shall advise the Secretary of Health as to the direction and  
6 scope of the Comprehensive Statewide Tobacco Education and Use  
7 Prevention Program. The responsibilities of the council  
8 include, but are not limited to:

9            (a) Providing advice on program priorities and  
10 emphases.

11           (b) Providing advice on the overall program budget.

12           (c) Providing advice on copyrighted material,  
13 trademark, and future transactions as they pertain to the  
14 tobacco education and use prevention program.

15           (d) Reviewing broadcast material prepared for the  
16 Internet, portable media players, radio, and television as it  
17 relates to the advertising component of the tobacco education  
18 and use prevention program.

19           (e) Participating in periodic program evaluation.

20           (f) Assisting in the development of guidelines to  
21 ensure fairness, neutrality, and adherence to the principles  
22 of merit and quality in the conduct of the program.

23           (g) Assisting in the development of administrative  
24 procedures relating to solicitation, review, and award of  
25 contracts and grants in order to ensure an impartial,  
26 high-quality peer-review system.

27           (h) Assisting in the development and supervision of  
28 peer-review panels.

29           (i) Reviewing reports of peer-review panels and making  
30 recommendations for contracts and grants.

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1        (j) Reviewing the activities and evaluating the  
2 performance of the AHEC network to avoid duplicative efforts  
3 using state funds.

4        (k) Recommending meaningful outcome measures through a  
5 regular review of tobacco-use prevention and education  
6 strategies and programs of other states and the Federal  
7 Government.

8        (l) Recommending policies to encourage a coordinated  
9 response to tobacco use in this state, focusing specifically  
10 on creating partnerships within and between the public and  
11 private sectors.

12        (6) CONTRACT REQUIREMENTS.--Contracts or grants for  
13 the program components or subcomponents described in  
14 paragraphs (3)(a)-(f) shall be awarded by the Secretary of  
15 Health, after consultation with the council, on the basis of  
16 merit, as determined by an open, competitive, peer-reviewed  
17 process that ensures objectivity, consistency, and high  
18 quality. The department shall award such grants or contracts  
19 no later than October 1 for each fiscal year. A recipient of a  
20 contract or grant for the program component described in  
21 paragraph (3)(c) is not eligible for a contract or grant award  
22 for any other program component described in subsection (3) in  
23 the same state fiscal year. A school or college of medicine  
24 that is represented on the council is not eligible to receive  
25 a contract or grant under this section. For the 2007-2008 and  
26 2008-2009 fiscal years only, the department shall award a  
27 contract or grant in the amount of \$10 million to the AHEC  
28 network for the purpose of developing the components described  
29 in paragraph (3)(i). The AHEC network may apply for a  
30 competitive contract or grant after the 2008-2009 fiscal year.

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1       (a) In order to ensure that all proposals for funding  
2 are appropriate and are evaluated fairly on the basis of  
3 merit, the Secretary of Health, in consultation with the  
4 council, shall appoint a peer-review panel of independent,  
5 qualified experts in the field of tobacco control to review  
6 the content of each proposal and establish its priority score.  
7 The priority scores shall be forwarded to the council and must  
8 be considered in determining which proposals will be  
9 recommended for funding.

10       (b) The council and the peer-review panel shall  
11 establish and follow rigorous guidelines for ethical conduct  
12 and adhere to a strict policy with regard to conflicts of  
13 interest. A member of the council or panel may not participate  
14 in any discussion or decision with respect to a research  
15 proposal by any firm, entity, or agency with which the member  
16 is associated as a member of the governing body or as an  
17 employee or with which the member has entered into a  
18 contractual arrangement. Meetings of the council and the  
19 peer-review panels are subject to chapter 119, s. 286.011, and  
20 s. 24, Art. I of the State Constitution.

21       (c) In each contract or grant agreement, the  
22 department shall limit the use of food and promotional items  
23 to no more than 2.5 percent of the total amount of the  
24 contract or grant and limit overhead or indirect costs to no  
25 more than 7.5 percent of the total amount of the contract or  
26 grant. The department, in consultation with the Department of  
27 Financial Services, shall publish guidelines for appropriate  
28 food and promotional items.

29       (d) In each advertising contract, the department shall  
30 limit the total of production fees, buyer commissions, and  
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1 related costs to no more than 10 percent of the total contract  
2 amount.

3 (e) Notwithstanding the competitive process for  
4 contracts prescribed in this subsection, each county health  
5 department is eligible for core funding, on a per capita  
6 basis, to implement tobacco education and use prevention  
7 activities within that county.

8 (7) ANNUAL REPORT REQUIRED.--By January 31 of each  
9 year, the department shall provide to the Governor, the  
10 President of the Senate, and the Speaker of the House of  
11 Representatives a report that evaluates the program's  
12 effectiveness in reducing and preventing tobacco use and that  
13 recommends improvements to enhance the program's  
14 effectiveness. The report must contain, at a minimum, an  
15 annual survey of youth attitudes and behavior toward tobacco,  
16 as well as a description of the progress in reducing the  
17 prevalence of tobacco use among youth, adults, and pregnant  
18 women; reducing per capita tobacco consumption; and reducing  
19 exposure to environmental tobacco smoke.

20 (8) LIMITATION ON ADMINISTRATIVE EXPENSES.--From the  
21 total funds appropriated for the Comprehensive Statewide  
22 Tobacco Education and Use Prevention Program in the General  
23 Appropriations Act, an amount of up to 5 percent may be used  
24 by the department for administrative expenses.

25 (9) RULEMAKING AUTHORIZED.--By January 1, 2008, the  
26 department shall adopt rules pursuant to ss. 120.536(1) and  
27 120.54 to administer this section.

28 Section 2. This act shall take effect July 1, 2007.  
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