

1                                   A bill to be entitled  
 2           An act relating to tobacco education and prevention;  
 3           amending s. 381.84, F.S.; providing an additional purpose  
 4           in implementing the Comprehensive Statewide Tobacco  
 5           Education and Use Prevention Program; expanding the  
 6           counter-marketing and advertising campaign component to  
 7           include utilization of innovative communication  
 8           strategies, including the use of physicians and dentists;  
 9           expanding the cessation programs, counseling, and  
 10          treatment component to include the use of physicians and  
 11          dentists; substituting the term "tobacco-use cessation"  
 12          for "smoking cessation"; expanding the community programs  
 13          and chronic disease prevention component to include  
 14          statewide programs; deleting county health department  
 15          funding eligibility; specifying purposes for the use of  
 16          funds distributed under the program; revising membership  
 17          of the Tobacco Education and Use Prevention Advisory  
 18          Council; requiring the Department of Health to award  
 19          contracts and grants for certain purposes; deleting  
 20          obsolete language; providing an effective date.

21  
 22   Be It Enacted by the Legislature of the State of Florida:

23  
 24           Section 1.   Section 381.84, Florida Statutes, is amended to  
 25   read:

26           381.84   Comprehensive Statewide Tobacco Education and Use  
 27   Prevention Program.--

28           (1)   DEFINITIONS.--As used in this section and for purposes

29 | of the provisions of s. 27, Art. X of the State Constitution,  
 30 | the term:

31 |       (a) "AHEC network" means an area health education center  
 32 | network established under s. 381.0402.

33 |       (b) "CDC" means the United States Centers for Disease  
 34 | Control and Prevention.

35 |       (c) "Council" means the Tobacco Education and Use  
 36 | Prevention Advisory Council.

37 |       (d) "Department" means the Department of Health.

38 |       (e) "Tobacco" means, without limitation, tobacco itself  
 39 | and tobacco products that include tobacco and are intended or  
 40 | expected for human use or consumption, including, but not  
 41 | limited to, cigarettes, cigars, pipe tobacco, and smokeless  
 42 | tobacco.

43 |       (f) "Youth" means minors and young adults.

44 |       (2) PURPOSE, FINDINGS, AND INTENT.--It is the purpose of  
 45 | this section to implement s. 27, Art. X of the State  
 46 | Constitution. The Legislature finds that s. 27, Art. X of the  
 47 | State Constitution requires the funding of a statewide tobacco  
 48 | education and use prevention program that focuses on tobacco use  
 49 | by youth. The Legislature further finds that the primary goals  
 50 | of the program are to reduce the prevalence of tobacco use among  
 51 | youth, adults, and pregnant women; reduce per capita tobacco  
 52 | consumption; implement interventions to detect, prevent, and  
 53 | treat tobacco-related chronic diseases; and reduce exposure to  
 54 | environmental tobacco smoke. Further, it is the intent of the  
 55 | Legislature to base increases in funding for individual  
 56 | components of the program on the results of assessments and

57 | evaluations. Recognizing that some components will need to grow  
 58 | faster than inflation, it is the intent of the Legislature to  
 59 | fund portions of the program on a nonrecurring basis in the  
 60 | early years so that those components that are most effective can  
 61 | be supported as the program matures.

62 | (3) PROGRAM COMPONENTS AND REQUIREMENTS.--The department  
 63 | shall conduct a comprehensive, statewide tobacco education and  
 64 | use prevention program consistent with the recommendations for  
 65 | effective program components contained in the 1999 Best  
 66 | Practices for Comprehensive Tobacco Control Programs of the CDC,  
 67 | as amended by the CDC. The program shall include the following  
 68 | components, each of which shall focus on educating people,  
 69 | particularly youth and their parents, about the health hazards  
 70 | of tobacco and discouraging the use of tobacco:

71 | (a) Counter-marketing and advertising; Internet cyberspace  
 72 | resource center.--The counter-marketing and advertising campaign  
 73 | shall include, at a minimum, Internet, print, radio, and  
 74 | television advertising and shall be funded with a minimum of  
 75 | one-third of the total annual appropriation required by s. 27,  
 76 | Art. X of the State Constitution.

77 | 1. The campaign shall include an Internet A cyberspace  
 78 | resource center for copyrighted materials and information  
 79 | concerning tobacco education and use prevention, including  
 80 | cessation, ~~shall be maintained by the program.~~ Such resource  
 81 | center must be accessible to the public, including parents,  
 82 | teachers, and students, at each level of public and private  
 83 | schools, universities, and colleges in the state and shall  
 84 | provide links to other relevant resources. The Internet address

85 for the resource center must be incorporated in all advertising.  
 86 The information maintained in the resource center shall be used  
 87 by the other components of the program.

88 2. The campaign shall utilize innovative communication  
 89 strategies, such as targeting specific audiences through  
 90 personal communication devices and online networking  
 91 environments. The campaign shall specifically employ innovative  
 92 channels to disseminate the campaign message, including  
 93 utilizing physicians licensed under chapter 458 or chapter 459  
 94 and dentists licensed under chapter 466 to target specific  
 95 audiences and provide brief advice to quit the use of tobacco.

96 (b) Cessation programs, counseling, and treatment.--This  
 97 program component shall include three ~~two~~ subcomponents:

98 1. A statewide toll-free cessation service, which may  
 99 include counseling, referrals to other local resources and  
 100 support services, and treatment to the extent funds are  
 101 available for treatment services, ~~and~~

102 2. A ~~local~~ community-based program to disseminate  
 103 information about tobacco-use ~~smoking~~ cessation, how tobacco-use  
 104 ~~smoking~~ cessation relates to prenatal care and obesity  
 105 prevention, and other chronic tobacco-related diseases.

106 3. A statewide program that utilizes physicians licensed  
 107 under chapter 458 or chapter 459 and dentists licensed under  
 108 chapter 466 to deliver brief advice to quit the use of tobacco.

109 (c) Surveillance and evaluation.--The program shall  
 110 conduct ongoing epidemiological surveillance and shall contract  
 111 for annual independent evaluations of the effectiveness of the

112 various components of the program in meeting the goals as set  
 113 forth in subsection (2).

114 (d) Youth school programs.--School and after-school  
 115 programs shall use current evidence-based curricula and programs  
 116 that involve youth to educate youth about the health hazards of  
 117 tobacco, help youth develop skills to refuse tobacco, and  
 118 demonstrate to youth how to stop using tobacco.

119 (e) Statewide and community programs ~~and chronic disease~~  
 120 ~~prevention~~.--The department shall promote and support statewide  
 121 and local community-based partnerships that encourage and  
 122 support individuals, especially youth, to make behavior choices  
 123 consistent with tobacco-free norms. In addition, the department  
 124 shall promote and support statewide and community ~~emphasize~~  
 125 ~~programs involving youth, including~~ programs for the prevention,  
 126 detection, and treatment ~~early intervention~~ of tobacco-related  
 127 ~~smoking-related~~ chronic diseases, such as cancer, chronic lung  
 128 and respiratory diseases, and heart disease.

129 (f) Training.--The program shall include the training of  
 130 health care practitioners, tobacco-use cessation ~~smoking-~~  
 131 ~~cessation~~ counselors, and teachers by health professional  
 132 students and other tobacco-use prevention specialists who are  
 133 trained in preventing tobacco use and health education. Tobacco-  
 134 use cessation ~~Smoking-cessation~~ counselors shall be trained by  
 135 specialists who are certified in tobacco-use cessation.

136 (g) Administration and management.--The department shall  
 137 administer the program within the expenditure limit established  
 138 in subsection (8). As part of this component, the department  
 139 shall coordinate the activities of the state and local tobacco

140 control community. In addition, ~~statewide programs, and county~~  
 141 ~~health departments. Each county health department is eligible~~  
 142 ~~to receive a portion of the annual appropriation, on a per~~  
 143 ~~capita basis, for coordinating tobacco education and use~~  
 144 ~~prevention programs within that county. Appropriated funds may~~  
 145 ~~be used to improve the infrastructure of the county health~~  
 146 ~~department to implement the comprehensive, statewide tobacco~~  
 147 ~~education and use prevention program.~~ each county health  
 148 department shall prominently display in all treatment rooms and  
 149 waiting rooms, counter-marketing and advertisement materials in  
 150 the form of wall posters, brochures, television advertising if  
 151 televisions are used in the lobby or waiting room, and  
 152 screensavers and Internet advertising if computer kiosks are  
 153 available for use or viewing by people at the county health  
 154 department.

155 (h) Enforcement and awareness of related laws.--In  
 156 coordination with the Department of Business and Professional  
 157 Regulation, the program shall monitor the enforcement of laws,  
 158 rules, and policies prohibiting the sale or other provision of  
 159 tobacco to minors, as well as the continued enforcement of the  
 160 Clean Indoor Air Act prescribed in chapter 386. The  
 161 advertisements produced in accordance with paragraph (a) may  
 162 also include information designed to make the public aware of  
 163 these related laws and rules. The departments may enter into  
 164 interagency agreements to carry out this program component.

165 (i) AHEC tobacco-use cessation ~~smoking cessation~~  
 166 initiative.--For the ~~2007-2008~~ and 2008-2009 fiscal year ~~years~~  
 167 only, the AHEC network shall expand the AHEC tobacco-use

168 cessation ~~smoking-cessation~~ initiative to each county within the  
 169 state and perform other activities as determined by the  
 170 department.

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

174 (a) The council shall consist of 24 ~~23~~ members, including:

175 1. The State Surgeon General, who shall serve as the  
 176 chairperson.

177 2. One county health department director, appointed by the  
 178 State Surgeon General.

179 3. Two members appointed by the Commissioner of Education,  
 180 of whom one must be a school district superintendent.

181 4. The chief executive officer of the Florida Division of  
 182 the American Cancer Society, or his or her designee.

183 5. The chief executive officer of the Greater Southeast  
 184 Affiliate of the American Heart Association, or his or her  
 185 designee.

186 6. The chief executive officer of the American Lung  
 187 Association of Florida, or his or her designee.

188 7. The dean of the University of Miami School of Medicine,  
 189 or his or her designee.

190 8. The dean of the University of Florida College of  
 191 Medicine, or his or her designee.

192 9. The dean of the University of South Florida College of  
 193 Medicine, or his or her designee.

194 10. The dean of the Florida State University College of  
 195 Medicine, or his or her designee.

196           11. The dean of Nova Southeastern College of Osteopathic  
197 Medicine, or his or her designee.

198           12. The dean of the Lake Erie College of Osteopathic  
199 Medicine in Bradenton, Florida, or his or her designee.

200           13. The chief executive officer of the Campaign for  
201 Tobacco Free Kids, or his or her designee.

202           14. The chief executive officer of the Legacy Foundation,  
203 or his or her designee.

204           15. Four members appointed by the Governor, of whom two  
205 must have expertise in the field of tobacco-use prevention and  
206 education or tobacco-use ~~smoking~~ cessation and one individual  
207 who shall be between the ages of 16 and 21 at the time of his or  
208 her appointment.

209           16. Two members appointed by the President of the Senate,  
210 of whom one must have expertise in the field of tobacco-use  
211 prevention and education or tobacco-use ~~smoking~~ cessation.

212           17. Two members appointed by the Speaker of the House of  
213 Representatives, of whom one must have expertise in the field of  
214 tobacco-use prevention and education or tobacco-use ~~smoking~~  
215 cessation.

216           18. The dean of a School of Nursing, Health and Natural  
217 Sciences, or Allied Health Sciences academic program at a  
218 historically black college or university, or his or her  
219 designee. This member shall be selected from a different college  
220 or university every 3 years.

221           (b) The appointments shall be for 3-year terms and shall  
222 reflect the diversity of the state's population. A vacancy shall



223 be filled by appointment by the original appointing authority  
 224 for the unexpired portion of the term.

225 (c) An appointed member may not serve more than two  
 226 consecutive terms.

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

230 (e) Members of the council shall serve without  
 231 compensation, but are entitled to reimbursement for per diem and  
 232 travel expenses pursuant to s. 112.061. Members who are state  
 233 officers or employees or who are appointed by state officers or  
 234 employees shall be reimbursed for per diem and travel expenses  
 235 pursuant to s. 112.061 from the state agency through which they  
 236 serve.

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

240 (5) COUNCIL DUTIES AND RESPONSIBILITIES.--The council  
 241 shall advise the State Surgeon General as to the direction and  
 242 scope of the Comprehensive Statewide Tobacco Education and Use  
 243 Prevention Program. The responsibilities of the council include,  
 244 but are not limited to:

245 (a) Providing advice on program priorities and emphases.

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

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

250 (d) Reviewing broadcast material prepared for the

251 Internet, portable media players, radio, and television as it  
 252 relates to the advertising component of the tobacco education  
 253 and use prevention program.

254 (e) Participating in periodic program evaluation.

255 (f) Assisting in the development of guidelines to ensure  
 256 fairness, neutrality, and adherence to the principles of merit  
 257 and quality in the conduct of the program.

258 (g) Assisting in the development of administrative  
 259 procedures relating to solicitation, review, and award of  
 260 contracts and grants in order to ensure an impartial, high-  
 261 quality peer review system.

262 (h) Assisting in the development and supervision of peer  
 263 review panels.

264 (i) Reviewing reports of peer review panels and making  
 265 recommendations for contracts and grants.

266 (j) Reviewing the activities and evaluating the  
 267 performance of the AHEC network to avoid duplicative efforts  
 268 using state funds.

269 (k) Recommending meaningful outcome measures through a  
 270 regular review of tobacco-use prevention and education  
 271 strategies and programs of other states and the Federal  
 272 Government.

273 (l) Recommending policies to encourage a coordinated  
 274 response to tobacco use in this state, focusing specifically on  
 275 creating partnerships within and between the public and private  
 276 sectors.

277 (6) CONTRACT REQUIREMENTS.--Contracts or grants for the  
 278 program components or subcomponents described in paragraphs

279 (3) (a) - (f) shall be awarded by the State Surgeon General, after  
 280 consultation with the council, on the basis of merit, as  
 281 determined by an open, competitive, peer-reviewed process that  
 282 ensures objectivity, consistency, and high quality. The  
 283 department shall award such grants or contracts no later than  
 284 October 1 for each fiscal year. A recipient of a contract or  
 285 grant for the program component described in paragraph (3) (c) is  
 286 not eligible for a contract or grant award for any other program  
 287 component described in subsection (3) in the same state fiscal  
 288 year. A school or college of medicine that is represented on the  
 289 council is not eligible to receive a contract or grant under  
 290 this section. ~~For the 2007-2008 and 2008-2009 fiscal years only,~~  
 291 ~~the department shall award a contract or grant in the amount of~~  
 292 ~~\$10 million to the AHEC network for the purpose of developing~~  
 293 ~~the components described in paragraph (3) (i). The AHEC network~~  
 294 ~~may apply for a competitive contract or grant after the 2008-~~  
 295 ~~2009 fiscal year.~~

296 (a) In order to ensure that all proposals for funding are  
 297 appropriate and are evaluated fairly on the basis of merit, the  
 298 State Surgeon General, in consultation with the council, shall  
 299 appoint a peer review panel of independent, qualified experts in  
 300 the field of tobacco control to review the content of each  
 301 proposal and establish its priority score. The priority scores  
 302 shall be forwarded to the council and must be considered in  
 303 determining which proposals will be recommended for funding.

304 (b) The council and the peer review panel shall establish  
 305 and follow rigorous guidelines for ethical conduct and adhere to  
 306 a strict policy with regard to conflicts of interest. A member

307 of the council or panel may not participate in any discussion or  
308 decision with respect to a research proposal by any firm,  
309 entity, or agency with which the member is associated as a  
310 member of the governing body or as an employee or with which the  
311 member has entered into a contractual arrangement. Meetings of  
312 the council and the peer review panels are subject to chapter  
313 119, s. 286.011, and s. 24, Art. I of the State Constitution.

314 (c) In each contract or grant agreement, the department  
315 shall limit the use of food and promotional items to no more  
316 than 2.5 percent of the total amount of the contract or grant  
317 and limit overhead or indirect costs to no more than 7.5 percent  
318 of the total amount of the contract or grant. The department, in  
319 consultation with the Department of Financial Services, shall  
320 publish guidelines for appropriate food and promotional items.

321 (d) In each advertising contract, the department shall  
322 limit the total of production fees, buyer commissions, and  
323 related costs to no more than 10 percent of the total contract  
324 amount.

325 (e) Notwithstanding the competitive process for contracts  
326 prescribed in this subsection:

327 1. For the 2008-2009 fiscal year only, the department  
328 shall award a contract or grant in the amount of \$6 million to  
329 the AHEC network for the purpose of developing the component  
330 described in paragraph (3)(i).

331 2. For the 2008-2009 fiscal year only, the department  
332 shall equally award contracts or grants totaling \$4 million to  
333 each medical school in this state recognized and approved by an  
334 accrediting agency recognized by the United States Office of

335 Education for the purpose of implementing the component  
 336 described in paragraph (3)(i).

337 3. Beginning with the 2008-2009 fiscal year and continuing  
 338 thereafter, the department shall award contracts or grants in  
 339 the amount of \$10 million to the H. Lee Moffitt Cancer Center  
 340 and Research Institute and \$1 million to the University of  
 341 Florida Shands Cancer Center for the purpose of implementing  
 342 chronic disease prevention, detection, and treatment programs in  
 343 accordance with paragraph (3)(e), ~~each county health department~~  
 344 ~~is eligible for core funding, on a per capita basis, to~~  
 345 ~~implement tobacco education and use prevention activities within~~  
 346 ~~that county.~~

347 (7) ANNUAL REPORT REQUIRED.--By January 31 of each year,  
 348 the department shall provide to the Governor, the President of  
 349 the Senate, and the Speaker of the House of Representatives a  
 350 report that evaluates the program's effectiveness in reducing  
 351 and preventing tobacco use and that recommends improvements to  
 352 enhance the program's effectiveness. The report must contain, at  
 353 a minimum, an annual survey of youth attitudes and behavior  
 354 toward tobacco, as well as a description of the progress in  
 355 reducing the prevalence of tobacco use among youth, adults, and  
 356 pregnant women; reducing per capita tobacco consumption; and  
 357 reducing exposure to environmental tobacco smoke.

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

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363           (9) RULEMAKING AUTHORIZED. ~~By January 1, 2008,~~ The  
364 department shall adopt rules pursuant to ss. 120.536(1) and  
365 120.54 to administer this section.

366           Section 2. This act shall take effect July 1, 2008.