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HB 7037

2010 Legislature

1                   A bill to be entitled  
2           An act relating to education; amending s. 413.20, F.S.;  
3           redefining and deleting terms relating to vocational  
4           rehabilitation programs; replacing an obsolete term;  
5           amending s. 413.30, F.S.; revising provisions relating to  
6           eligibility for vocational rehabilitation services;  
7           providing for an individualized plan for employment;  
8           requiring the Division of Vocational Rehabilitation in the  
9           Department of Education to conduct trial work experiences  
10          before determining that an individual is incapable of  
11          benefiting from services; requiring the division to refer  
12          an individual to other services if the division determines  
13          that the individual is ineligible for vocational  
14          rehabilitation services; requiring the division to serve  
15          those having the most significant disabilities first under  
16          specified circumstances; conforming provisions to changes  
17          made by the act; amending s. 413.341, F.S.; allowing  
18          confidential records to be released for audit, program  
19          evaluation, or research purposes; amending s. 413.371,  
20          F.S.; requiring the division to administer an independent  
21          living program; conforming provisions to changes made by  
22          the act; repealing the division's authority to contract  
23          for specified services; amending s. 413.393, F.S.;  
24          correcting references and conforming provisions to changes  
25          made by the act; amending s. 413.40, F.S.; revising the  
26          division's powers to administer the independent living  
27          program; authorizing the division to employ specified  
28          jindividuals and to contract for services in accordance

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

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29 | with the state plan for independent living; conforming  
 30 | provisions to changes made by the act; amending s.  
 31 | 413.405, F.S.; revising the membership of the Florida  
 32 | Rehabilitation Council; providing that Department of  
 33 | Education employees may serve only as nonvoting members;  
 34 | revising provisions relating to terms of office; revising  
 35 | council functions; correcting references and replacing  
 36 | obsolete cross-references; amending s. 413.407, F.S.;  
 37 | correcting a reference; repealing s. 413.206, F.S.,  
 38 | relating to a 5-year plan for the division; repealing s.  
 39 | 413.39, F.S., relating to administration of the  
 40 | independent living program; repealing ss. 413.70 and  
 41 | 413.72, F.S., relating to the limiting disabilities  
 42 | program; repealing s. 413.73, F.S., relating to the  
 43 | disability assistance program; repealing s. 1013.05, F.S.,  
 44 | relating to the Office of Educational Facilities and SMART  
 45 | Schools Clearinghouse; amending ss. 163.31777, 1001.20,  
 46 | and 1013.04, F.S.; deleting obsolete references; amending  
 47 | s. 1013.21, F.S.; deleting obsolete references; requiring  
 48 | the Office of Educational Facilities in the Department of  
 49 | Education to monitor district facilities work programs;  
 50 | amending ss. 1013.33 and 1013.35, F.S.; deleting obsolete  
 51 | references; amending s. 1013.41, F.S.; deleting obsolete  
 52 | references; requiring the Office of Educational Facilities  
 53 | to assist school districts in building SMART schools;  
 54 | amending s. 1013.42, F.S.; deleting obsolete references;  
 55 | specifying criteria for the prioritization of School  
 56 | Infrastructure Thrift Program awards; amending s. 1013.72,

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57 F.S.; revising the cost per student station for purposes  
58 of School Infrastructure Thrift Program awards; deleting  
59 obsolete references; amending s. 1013.73, F.S.; deleting  
60 an obsolete reference; requiring the Division of Statutory  
61 Revision of the Office of Legislative Services to prepare  
62 a reviser's bill to make conforming changes to address  
63 past legislation amending terminology relating to the  
64 Florida College System; repealing s. 1004.87, F.S.,  
65 relating to Florida College System Task Force; repealing  
66 s. 1002.335, F.S., relating to the Florida Schools of  
67 Excellence Commission; amending s. 1002.33, F.S.;  
68 conforming provisions to changes made by the act;  
69 repealing s. 1003.413(5), F.S., relating to the Secondary  
70 School Improvement Award Program; repealing s. 1003.62,  
71 F.S., relating to academic performance-based charter  
72 school districts; amending ss. 1011.69 and 1013.64, F.S.;  
73 conforming provisions to changes made by the act;  
74 repealing ss. 1003.63 and 1008.345(7), F.S., relating to  
75 the deregulated public schools pilot program; amending s.  
76 1004.68, F.S.; conforming a cross-reference; repealing s.  
77 1006.67, F.S., relating to the reporting of campus crime  
78 statistics; amending s. 1013.11, F.S.; conforming  
79 provisions to changes made by the act; repealing ss.  
80 1009.63 and 1009.631, F.S., relating to the occupational  
81 therapist or physical therapist critical shortage program;  
82 repealing s. 1009.632, F.S., relating to the Critical  
83 Occupational Therapist or Physical Therapist Shortage  
84 Student Loan Forgiveness Program; repealing s. 1009.633,

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85 F.S., relating to the Critical Occupational Therapist or  
86 Physical Therapist Shortage Scholarship Loan Program;  
87 repealing s. 1009.634, F.S., relating to the Critical  
88 Occupational Therapist or Physical Therapist Shortage  
89 Tuition Reimbursement Program; repealing s. 1009.64, F.S.,  
90 relating to the Certified Education Paraprofessional  
91 Welfare Transition Program; amending ss. 1009.40 and  
92 1009.94, F.S.; conforming provisions to changes made by  
93 the act; providing an effective date.

94

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

96

97 Section 1. Subsections (12) through (33) of section  
98 413.20, Florida Statutes, are amended to read:

99 413.20 Definitions.—As used in this part, the term:

100 (12) "Independent living services" means any appropriate  
101 rehabilitation service that will enhance the ability of a person  
102 who has a significant ~~severe~~ disability to live independently,  
103 to function within her or his family and community and, if  
104 appropriate, to secure and maintain employment. Services may  
105 include, but are not limited to, psychological counseling and  
106 psychotherapeutic counseling; independent living care services;  
107 community education and related services; housing assistance;  
108 physical and mental restoration; personal attendant care;  
109 transportation; personal assistance services; interpretive  
110 services for persons who are deaf; recreational activities;  
111 services to family members of persons who have significant  
112 ~~severe~~ disabilities; vocational and other training services;

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113 telecommunications services; sensory and other technological  
114 aids and devices; appropriate preventive services to decrease  
115 the needs of persons assisted under the program; and other  
116 rehabilitation services appropriate for the independent living  
117 needs of a person who has a significant severe disability.

118 ~~(13) "Limiting disability" means a physical condition that~~  
119 ~~constitutes, contributes to, or, if not corrected, will result~~  
120 ~~in an impairment of one or more activities of daily living but~~  
121 ~~does not result in an individual qualifying as a person who has~~  
122 ~~a disability.~~

123 (13) ~~(14)~~ "Occupational license" means any license, permit,  
124 or other written authority required by any governmental unit to  
125 be obtained in order to engage in an occupation.

126 (14) ~~(15)~~ "Ongoing support services" means services  
127 provided at a twice-monthly minimum to persons who have a most  
128 significant disability, to:

129 (a) Make an assessment regarding the employment situation  
130 at the worksite of each individual in supported employment or,  
131 under special circumstances at the request of the individual,  
132 offsite.

133 (b) Based upon the assessment, provide for the  
134 coordination or provision of specific intensive services, at or  
135 away from the worksite, that are needed to maintain the  
136 individual's employment stability.

137  
138 The ongoing support services may consist of, but are not limited  
139 to, the provision of skilled job trainers who accompany the  
140 individual for intensive job-skill training at the worksite, job

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141 development and placement, social skills training, followup  
 142 services, and facilitation of natural supports at the worksite.

143 (15)~~(16)~~ "Person who has a disability" means an individual  
 144 who has a physical or mental impairment that, for the  
 145 individual, constitutes or results in a substantial impediment  
 146 to employment and who can ~~therefore~~ benefit in terms of an  
 147 employment outcome from vocational rehabilitation services. The  
 148 term encompasses the terms "person who has a significant  
 149 disability" and "person who has a most significant disability."

150 (16)~~(17)~~ "Person who has a significant disability" means  
 151 an individual who has a disability that is a severe physical or  
 152 mental impairment that seriously limits one or more functional  
 153 capacities, such as mobility, communication, self-care, self-  
 154 direction, interpersonal skills, work tolerance, or work skills,  
 155 in terms of an employment outcome; whose vocational  
 156 rehabilitation may be expected to require multiple vocational  
 157 rehabilitation services over an extended period of time; and who  
 158 has one or more physical or mental disabilities resulting from  
 159 amputation, arthritis, autism, blindness, burn injury, cancer,  
 160 cerebral palsy, cystic fibrosis, deafness, head injury, heart  
 161 disease, hemiplegia, hemophilia, respiratory or pulmonary  
 162 dysfunction, mental retardation, mental illness, multiple  
 163 sclerosis, muscular dystrophy, musculoskeletal disorder,  
 164 neurological disorder, including stroke and epilepsy,  
 165 paraplegia, quadriplegia, or other spinal cord condition,  
 166 sickle-cell anemia, specific learning disability, end-stage  
 167 renal disease, or another disability or a combination of  
 168 disabilities that is determined, after an assessment for

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169 determining eligibility and vocational rehabilitation needs, to  
 170 cause comparable substantial functional limitation.

171 (17)~~(18)~~ "Person who has a most significant disability"  
 172 means a person who has a significant disability who meets the  
 173 designated administrative unit's criteria for a person who has a  
 174 most significant disability.

175 (18)~~(19)~~ "Personal assistance services" means a range of  
 176 services, provided by one or more individuals ~~persons~~, designed  
 177 to assist a person who has a disability to perform daily living  
 178 activities, on or off the job, that the person ~~individual~~ would  
 179 typically perform if the person ~~individual~~ did not have a  
 180 disability. Such services shall be designed to increase the  
 181 person's ~~individual's~~ control in life and ability to perform  
 182 everyday activities on or off the job. The services must be  
 183 necessary for achieving an employment outcome and may be  
 184 provided only if the person who has a disability is receiving  
 185 other vocational rehabilitation services. The services may  
 186 include training in managing, supervising, and directing  
 187 personal assistance services.

188 (19)~~(20)~~ "Physical and mental restoration" means any  
 189 medical, surgical, or therapeutic treatment necessary to correct  
 190 or substantially modify a physical or mental condition that is  
 191 stable or slowly progressive and constitutes an impediment to  
 192 employment, but is of such nature that the treatment can  
 193 reasonably be expected to correct or modify such impediment to  
 194 employment within a reasonable length of time, including, but  
 195 not limited to, medical, psychiatric, dental, and surgical  
 196 treatment, nursing services, hospital care in connection with

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197 surgery or treatment, convalescent home care, drugs, medical and  
198 surgical supplies, and prosthetic and orthotic devices.

199 ~~(21) "Program" means an agency, organization, or~~  
200 ~~institution, or a unit of an agency, organization, or~~  
201 ~~institution, that provides directly or facilitates the provision~~  
202 ~~of vocational rehabilitation services as one of its major~~  
203 ~~functions.~~

204 ~~(22) "Rehabilitation" means those events and processes~~  
205 ~~occurring after injury and progressing to ultimate stabilization~~  
206 ~~and maximum possible recovery.~~

207 ~~(23) "Rehabilitation service" means any service, provided~~  
208 ~~directly or indirectly through public or private agencies, found~~  
209 ~~by the division to be necessary to enable a person who has a~~  
210 ~~limiting disability to engage in competitive employment.~~

211 ~~(24) "Rules" means rules adopted by the department in the~~  
212 ~~manner prescribed by law.~~

213 (20)~~(25)~~ "State plan" means the state plan approved by the  
214 Federal Government as qualifying for federal funds under the  
215 Rehabilitation Act of 1973, as amended. However, the term "state  
216 plan," as used in ss. 413.393-413.401 ~~413.39-413.401~~, means the  
217 state plan for independent living ~~Rehabilitative Services~~ under  
218 Title VII(A) of the Rehabilitation Act of 1973, as amended.

219 (21)~~(26)~~ "Supported employment" means competitive work in  
220 integrated working settings for persons who have most  
221 significant ~~severe~~ disabilities and for whom competitive  
222 employment has not traditionally occurred or for whom  
223 competitive employment has been interrupted or is intermittent  
224 as a result of such a ~~severe~~ disability. Persons who have most



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225 significant ~~severe~~ disabilities requiring supported employment  
226 need intensive supported employment services or extended  
227 services in order to perform such work.

228 ~~(22)-(27)~~ "Supported employment services" means ongoing  
229 support services and other appropriate services needed to  
230 support and maintain a person who has a most significant ~~severe~~  
231 disability in supported employment. Supported employment  
232 services are based upon a determination of the needs of the  
233 eligible individual as specified in the person's individualized  
234 plan for employment ~~written rehabilitation program~~. The services  
235 are provided singly or in combination and are organized and made  
236 available in such a way as to assist eligible individuals in  
237 entering or maintaining integrated, competitive employment. The  
238 services are provided for a period of time not to extend beyond  
239 18 months, but can be extended under special circumstances with  
240 the consent of the individual in order to achieve the objectives  
241 of the rehabilitation plan.

242 ~~(23)-(28)~~ "Third-party coverage" means any claim for, right  
243 to receive payment for or any coverage for, the payment of any  
244 vocational rehabilitation and related services.

245 ~~(24)-(29)~~ "Third-party payment" means any and all payments  
246 received or due as a result of any third-party coverage.

247 ~~(25)-(30)~~ "Transition services" means a coordinated set of  
248 activities for a student, designed within an outcome-oriented  
249 process, that promote movement from school to postschool  
250 activities, including postsecondary education; vocational  
251 training; integrated employment; ~~including~~ supported employment;  
252 continuing and adult education; adult services; independent

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253 living; or community participation. The coordinated set of  
254 activities must be based upon the individual student's needs,  
255 taking into account the student's preferences and interests, and  
256 must include instruction, community experiences, the development  
257 of employment and other postschool adult living objectives, and,  
258 if ~~when~~ appropriate, acquisition of daily living skills and  
259 functional vocational evaluation.

260 ~~(31) "Transitional living facility" means a state-approved~~  
261 ~~facility as defined and licensed pursuant to chapter 400 and~~  
262 ~~division approved in accord with this part.~~

263 (26) ~~(32)~~ "Vocational rehabilitation" and "vocational  
264 rehabilitation services" mean any service, provided directly or  
265 through public or private entities ~~instrumentalities~~, to enable  
266 an individual or group of individuals to achieve an employment  
267 outcome, including, but not limited to, medical and vocational  
268 diagnosis, an assessment for determining eligibility and  
269 vocational rehabilitation needs by qualified personnel;  
270 counseling, guidance, and work-related placement services;  
271 vocational and other training services; physical and mental  
272 restoration services; maintenance for additional costs incurred  
273 while participating in rehabilitation; interpreter services for  
274 individuals who are deaf; recruitment and training services to  
275 provide new employment opportunities in the fields of  
276 rehabilitation, health, welfare, public safety, law enforcement,  
277 and other appropriate service employment; occupational licenses;  
278 tools, equipment, and initial stocks and supplies;  
279 transportation; telecommunications, sensory, and other  
280 technological aids and devices; rehabilitation technology

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281 services; referral services designed to secure needed services  
282 from other agencies; transition services; on-the-job or other  
283 related personal assistance services; and supported employment  
284 services.

285 ~~(33) "Vocational rehabilitation and related services"~~  
286 ~~means any services that are provided or paid for by the~~  
287 ~~division.~~

288 Section 2. Section 413.30, Florida Statutes, is amended to  
289 read:

290 413.30 Eligibility for vocational rehabilitation  
291 services.—

292 (1) A person is eligible for vocational rehabilitation  
293 services if the person has a disability and requires vocational  
294 rehabilitation services to prepare for, enter, engage in, or  
295 retain gainful employment.

296 (2) Determinations by other state or federal agencies  
297 regarding whether an individual satisfies one or more factors  
298 relating to the determination that an individual has a  
299 disability may be used. Individuals determined to have a  
300 disability pursuant to Title II or Title XVI of the Social  
301 Security Act shall be considered to have a physical or mental  
302 impairment that constitutes or results in a substantial  
303 impediment to employment and a significant disability ~~severe~~  
304 ~~physical or mental impairment that seriously limits one or more~~  
305 ~~functional capacities in terms of an employment outcome.~~

306 (3) An individual is ~~shall be~~ presumed to benefit in terms  
307 of an employment outcome from vocational rehabilitation services  
308 under this part unless the division can demonstrate by clear and

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309 | convincing evidence that the individual is incapable of  
 310 | benefiting from vocational rehabilitation services in terms of  
 311 | an employment outcome. Before making such a determination, the  
 312 | division must consider the individual's abilities, capabilities,  
 313 | and capacity to perform in a work situation through the use of  
 314 | trial work experiences. Trial work experiences include supported  
 315 | employment, on-the-job training, or other work experiences using  
 316 | realistic work settings. Under limited circumstances, if an  
 317 | individual cannot take advantage of trial work experiences or if  
 318 | options for trial work experiences have been exhausted ~~To~~  
 319 | ~~demonstrate that an individual cannot benefit from vocational~~  
 320 | ~~rehabilitation services due to the severity of the individual's~~  
 321 | ~~disability,~~ the division shall conduct an extended evaluation,  
 322 | not to exceed 18 months. The evaluation must determine the  
 323 | eligibility of the individual and the nature and scope of needed  
 324 | vocational rehabilitation services. The extended evaluation must  
 325 | be reviewed once every 90 days to determine whether the  
 326 | individual is eligible for vocational rehabilitation services.

327 | (4) The division shall determine the eligibility of an  
 328 | individual for vocational rehabilitation services within a  
 329 | reasonable period of time, not to exceed 60 days after the  
 330 | individual has submitted an application to receive vocational  
 331 | rehabilitation services, unless ~~the division notifies the~~  
 332 | ~~individual that exceptional and~~ unforeseen circumstances beyond  
 333 | the control of the division prevent the division from completing  
 334 | the determination within the prescribed time and the division  
 335 | and the individual agree ~~agrees~~ that an extension of time is  
 336 | warranted ~~or that an extended evaluation is required.~~

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337           (5) When the division determines ~~As soon as a~~  
338 ~~determination has been made~~ that an individual is eligible for  
339 vocational rehabilitation services, the division must complete  
340 an assessment for determining eligibility and vocational  
341 rehabilitation needs and ensure that an individualized plan for  
342 employment ~~written rehabilitation program~~ is prepared.

343           (a) Each ~~The~~ individualized plan for employment ~~written~~  
344 ~~rehabilitation program~~ must be jointly developed, agreed upon,  
345 and signed by the vocational rehabilitation counselor or  
346 coordinator and the eligible individual or, in an appropriate  
347 case, a parent, family member, guardian, advocate, or authorized  
348 representative, of the ~~such~~ individual.

349           (b) The division must ensure that each individualized plan  
350 for employment ~~written rehabilitation program~~ is designed to  
351 achieve the specific employment outcome ~~objective~~ of the  
352 individual, consistent with the unique strengths, resources,  
353 priorities, concerns, abilities, and capabilities of the  
354 individual, and otherwise meets the content requirements for an  
355 individualized plan for employment ~~written rehabilitation~~  
356 ~~programs~~ as set out in federal law or regulation.

357           (c) Each individualized plan for employment ~~written~~  
358 ~~rehabilitation program~~ shall be reviewed annually, at which time  
359 the individual, or the individual's parent, guardian, advocate,  
360 or authorized representative, shall be afforded an opportunity  
361 to review the plan ~~program~~ and jointly redevelop and agree to  
362 its terms. Each plan ~~individualized written rehabilitation~~  
363 ~~program~~ shall be revised as needed.

364           (6) The division must ensure that a determination of

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365 | ineligibility made with respect to an individual before ~~prior to~~  
 366 | the initiation of an individualized plan for employment ~~written~~  
 367 | ~~rehabilitation program~~, based upon the review, and, to the  
 368 | extent necessary, upon the preliminary assessment, includes  
 369 | specification of the reasons for such a determination; the  
 370 | rights and remedies available to the individual, including, if  
 371 | appropriate, recourse to administrative remedies; and the  
 372 | availability of services provided by the client assistance  
 373 | program to the individual. If there is a determination of  
 374 | ineligibility, the division must refer the individual to other  
 375 | services that are part of the one-stop delivery system under s.  
 376 | 445.009 that address the individual's training or employment-  
 377 | related needs or to local extended employment providers if the  
 378 | determination is based on a finding that the individual is  
 379 | incapable of achieving an employment outcome.

380 |         (7) If the division provides an eligible individual ~~person~~  
 381 | with vocational rehabilitation services in the form of vehicle  
 382 | modifications, the division shall consider all options  
 383 | available, including the purchase of a new, original equipment  
 384 | manufacturer vehicle that complies with the Americans with  
 385 | Disabilities Act for transportation vehicles. The division shall  
 386 | make the decision on vocational rehabilitation services based on  
 387 | the best interest of the eligible individual ~~client~~ and cost-  
 388 | effectiveness.

389 |         (8) If ~~In the event~~ the division is unable to provide  
 390 | services to all eligible individuals, the division shall  
 391 | establish an order of selection and serve ~~first~~ those persons  
 392 | who have the most significant ~~severe~~ disabilities first.

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393 Section 3. Subsection (1) of section 413.341, Florida  
394 Statutes, is amended to read:

395 413.341 Applicant and eligible individual ~~client~~ records;  
396 confidential and privileged.—

397 (1) All oral and written records, information, letters,  
398 and reports received, made, or maintained by the division  
399 relative to any ~~client~~ or applicant or eligible individual are  
400 privileged, confidential, and exempt from the provisions of s.  
401 119.07(1). Any person who discloses or releases such records,  
402 information, or communications in violation of this section  
403 commits a misdemeanor of the second degree, punishable as  
404 provided in s. 775.082 or s. 775.083. Such records may not be  
405 released except that:

406 (a) Records may be released to the ~~client~~ or applicant or  
407 eligible individual or his or her representative upon receipt of  
408 a written waiver from the ~~client~~ or applicant or eligible  
409 individual. Medical, psychological, or other information that  
410 the division believes may be harmful to an ~~a client~~ or applicant  
411 or eligible individual may not be released directly to him or  
412 her, but must be provided through his or her designated  
413 representative.

414 (b) Records ~~that do not identify clients or applicants~~ may  
415 be released to an entity or individual officially engaged in an  
416 audit, a program evaluation, or ~~for the purpose of research,~~  
417 ~~when the research is approved by the division director.~~  
418 Personally identifying information released under this paragraph  
419 remains privileged, confidential, and exempt under this section  
420 and may not be disclosed to third parties.

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421 (c) Records used in administering the program may be  
422 released as required to administer the program or as required by  
423 an agency or political subdivision of the state in the  
424 performance of its duties. Any agency or political subdivision  
425 to which records are released under this paragraph may not  
426 disclose the records to third parties.

427 (d) Records may be released upon the order of an  
428 administrative law judge, a hearing officer, a judge of  
429 compensation claims, an agency head exercising quasi-judicial  
430 authority, or a judge of a court of competent jurisdiction  
431 following a finding in an in camera proceeding that the records  
432 are relevant to the inquiry before the court and should be  
433 released. The in camera proceeding and all records relating  
434 thereto are confidential and exempt from the provisions of s.  
435 119.07(1).

436 (e) Whenever an applicant or eligible individual receiving  
437 services has declared any intention to harm other persons or  
438 property, such declaration may be disclosed.

439 (f) The division may also release personal information  
440 about an applicant or eligible individual receiving services in  
441 order to protect him or her or others when he or she poses a  
442 threat to his or her own safety or to the safety of others and  
443 shall, upon official request, release such information to law  
444 enforcement agencies investigating the commission of a crime.

445 Section 4. Section 413.371, Florida Statutes, is amended  
446 to read:

447 413.371 Independent living program; establishment and  
448 administration ~~maintenance~~.—The division shall establish and



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449 administer ~~maintain~~ an independent living program that will  
 450 provide any appropriate rehabilitation services or other  
 451 services to enhance the ability of persons who have significant  
 452 ~~severe~~ disabilities to live independently and function within  
 453 their communities and, if appropriate, to secure and maintain  
 454 employment. ~~The division, at its sole discretion and within the~~  
 455 ~~constraints of its funding, may contract with centers for~~  
 456 ~~independent living to provide such services.~~

457 Section 5. Subsection (1) of section 413.393, Florida  
 458 Statutes, is amended to read:

459 413.393 State plan for independent living.—

460 (1) The state plan for independent living shall be jointly  
 461 developed and submitted by the Florida Independent Living  
 462 Council and the division, and the plan must:

463 (a) Include the existence of appropriate planning,  
 464 financial support and coordination, and other assistance to  
 465 appropriately address, on a statewide and comprehensive basis,  
 466 needs in the state for the provision of state independent living  
 467 services; the development and support of a statewide network of  
 468 centers for independent living; and working relationships  
 469 between programs providing independent living services and  
 470 independent living centers and the vocational rehabilitation  
 471 program established to provide services for persons who have  
 472 disabilities.

473 (b) Specify the objectives to be achieved under the plan,  
 474 establish time periods for the achievement of the objectives,  
 475 and explain how such objectives are consistent with and further  
 476 the purpose of this part.

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477 (c) Specify that the state will provide independent living  
478 services under this part to persons who have significant ~~severe~~  
479 disabilities and will provide the services in accordance with an  
480 independent living plan mutually agreed upon by an appropriate  
481 staff member of the service provider and the individual, unless  
482 the individual signs a waiver stating that such a plan is  
483 unnecessary.

484 (d) Describe the extent and scope of independent living  
485 services to be provided under this part to meet such objectives.  
486 If the state makes arrangements, by grant or contract, for  
487 providing such services, such arrangements shall be described in  
488 the plan.

489 (e) Set forth a design for the establishment of a  
490 statewide network of centers for independent living that comply  
491 with the standards and assurances set forth in federal law.

492 (f) Set forth the steps that will be taken to maximize the  
493 cooperation, coordination, and working relationships among the  
494 independent living rehabilitation service program, the Florida  
495 Independent Living Council, centers for independent living, the  
496 division, other agencies represented on such council, other  
497 councils that address the needs of specific disability  
498 populations and issues, and other public and private entities  
499 determined to be appropriate by the council.

500 (g) Describe how services funded under this part will be  
501 coordinated with, and complement, other services in order to  
502 avoid unnecessary duplication with other federal and state  
503 funding for centers for independent living and independent  
504 living services.

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505 (h) Set forth steps to be taken regarding outreach to  
506 populations that are not served or that are underserved by  
507 programs under the act, including minority groups and urban and  
508 rural populations.

509 (i) Provide satisfactory assurances that all entities  
510 receiving financial assistance funds under this part will notify  
511 all individuals seeking or receiving services under this part  
512 about the availability of the client-assistance program, the  
513 purposes of the services provided under such program, and how to  
514 contact such program; take affirmative action to employ and  
515 advance in employment qualified persons who have disabilities on  
516 the same terms and conditions required with respect to the  
517 employment of such persons; adopt such fiscal control and fund-  
518 accounting procedures as may be necessary to ensure the proper  
519 disbursement of and accounting for funds paid to the state under  
520 this part and meet all the other requirements of federal law or  
521 regulation.

522 (j) Establish a method for the periodic evaluation of the  
523 effectiveness of the state plan in meeting the objectives of the  
524 state plan, including evaluation of satisfaction by persons who  
525 have disabilities.

526 Section 6. Section 413.40, Florida Statutes, is amended to  
527 read:

528 413.40 Powers of division; independent living program.—The  
529 division, in administering ~~carrying out~~ a program to provide ~~of~~  
530 ~~providing~~ independent living ~~rehabilitation~~ services to persons  
531 who have significant ~~severe~~ disabilities, shall be authorized,  
532 contingent upon available funding, to:

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533           (1) Employ necessary personnel and—  
 534           ~~(2) Employ consultants.~~  
 535           ~~(3) Provide diagnostic, medical, and psychological and~~  
 536 ~~other evaluation services.~~  
 537           ~~(4) Provide training necessary for rehabilitation.~~  
 538           ~~(5) Provide for persons found to require financial~~  
 539 ~~assistance with respect thereto and provide maintenance,~~  
 540 ~~including:~~  
 541           ~~(a) Personal care attendant services while undergoing~~  
 542 ~~rehabilitation.~~  
 543           ~~(b) Transportation incident to necessary rehabilitation~~  
 544 ~~services.~~  
 545           ~~(c) Physical and mental restoration services, prosthetic~~  
 546 ~~appliances, and other equipment determined to be necessary for~~  
 547 ~~rehabilitation.~~  
 548           ~~(6) Provide rehabilitation facilities necessary for the~~  
 549 ~~rehabilitation of persons who have severe disabilities or~~  
 550 ~~contract with facilities such as centers for independent living~~  
 551 ~~for necessary services. The division shall not, however, assume~~  
 552 ~~responsibility for permanent custodial care of any individual~~  
 553 ~~and shall provide rehabilitation services only for a period long~~  
 554 ~~enough to accomplish the rehabilitation objective or to~~  
 555 ~~determine that rehabilitation is not feasible through the~~  
 556 ~~services available under this section.~~  
 557           (2)(7) Contract with any entity, public or private entity,  
 558 including centers for independent living, to provide independent  
 559 living services in accordance with the state plan for  
 560 independent living.

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561 Section 7. Subsections (1), (2), (7), (9), (10), and (11)  
562 of section 413.405, Florida Statutes, are amended to read:

563 413.405 Florida Rehabilitation Council.—There is created  
564 the Florida Rehabilitation Council to assist the division in the  
565 planning and development of statewide rehabilitation programs  
566 and services, to recommend improvements to such programs and  
567 services, and to perform the functions listed in this section.

568 (1) The council shall be composed of:

569 (a) At least one representative of the Florida Independent  
570 Living Council, one of whom must ~~which representative may~~ be the  
571 chairperson or other designee of the Florida Independent Living  
572 Council.

573 (b) At least one representative of a parent training and  
574 information center established pursuant to s. 671 ~~631(e)(9)~~ of  
575 the Individuals with Disabilities Education Act, 20 U.S.C. s.  
576 1471 ~~1431(e)(9)~~.

577 (c) At least one representative of the client assistance  
578 program established under s. 112 of the act, one of whom must be  
579 the director of the program or other individual recommended by  
580 the program.

581 (d) At least one qualified vocational rehabilitation  
582 counselor who has knowledge of and experience in vocational  
583 rehabilitation programs ~~services~~, who shall serve as an ex  
584 officio, nonvoting member of the council if the counselor is an  
585 employee of the department.

586 (e) At least one representative of community  
587 rehabilitation program service providers.

588 (f) ~~At least~~ Four representatives of business, industry,

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589 and labor.

590 (g) Representatives of disability ~~advocacy~~ groups that  
591 include representing a cross-section of:

592 1. Individuals ~~Persons~~ who have physical, cognitive,  
593 sensory, or mental disabilities.

594 2. ~~Parents, family members, guardians, advocates, or~~  
595 ~~authorized~~ Representatives of individuals with ~~persons who have~~  
596 ~~disabilities and who~~ have difficulty representing themselves  
597 ~~find it difficult to~~ or are unable due to their disabilities to  
598 represent themselves.

599 (h) Current or former applicants for, or recipients of,  
600 vocational rehabilitation services.

601 (i) The director of the division, who shall be an ex  
602 officio member of the council.

603 (j) At least one representative of the state educational  
604 agency responsible for the public education of students with  
605 disabilities ~~who have a disability and~~ who are eligible to  
606 receive vocational rehabilitation services and services under  
607 the Individuals with Disabilities Education Act.

608 (k) At least one representative of the board of directors  
609 of Workforce Florida, Inc.

610 (l) At least one representative who is a director of a  
611 Vocational Rehabilitation Services Project for American Indians  
612 with Disabilities under s. 121 of the act, if this state  
613 participates in one or more such projects.

614 (2) Employees of the department may serve only as  
615 nonvoting members of the council. ~~Other persons who have~~  
616 ~~disabilities, representatives of state and local government,~~

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617 ~~employers, community organizations, and members of the former~~  
618 ~~Occupational Access and Opportunity Commission may be considered~~  
619 ~~for council membership.~~

620 (7) (a) Each member of the council shall serve for a term  
621 of not more than 3 years, except that:

622 1.(a) A member appointed to fill a vacancy occurring prior  
623 to the expiration of the term for which a predecessor was  
624 appointed shall be appointed for the remainder of such term.

625 2.(b) The terms of service of the members initially  
626 appointed shall be, as specified by the Governor, for such fewer  
627 number of years as will provide for the expiration of terms on a  
628 staggered basis.

629 (b) ~~A~~ No member of the council may not serve more than two  
630 consecutive full terms; however, this provision does not apply  
631 to a member appointed under paragraph (1) (c) or paragraph  
632 (1) (1).

633 (9) In addition to the other functions specified in this  
634 section, the council shall, after consulting with the board of  
635 directors of Workforce Florida, Inc.:

636 (a) Review, analyze, and advise the division regarding the  
637 performance of the responsibilities of the division under Title  
638 I of the act, particularly responsibilities relating to:

639 1. Eligibility, including order of selection.

640 2. The extent, scope, and effectiveness of services  
641 provided.

642 3. Functions performed by state agencies that affect or  
643 potentially affect the ability of individuals with ~~who have~~  
644 disabilities in achieving employment outcomes ~~to achieve~~

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645 ~~rehabilitation goals and objectives~~ under Title I.

646 (b) In partnership with the division:

647 1. Develop, agree to, and review state goals and  
648 priorities in accordance with 34 C.F.R. 361.29(c); and

649 2. Evaluate the effectiveness of the vocational  
650 rehabilitation program and submit reports of progress to the  
651 Governor, the President of the Senate, the Speaker of the House  
652 of Representatives, and the United States Secretary of Education  
653 in accordance with 34 C.F.R. 361.29(e).

654 (c) Advise the department and the division and assist in  
655 the preparation of the state plan and amendments to the plan,  
656 applications, reports, needs assessments, and evaluations  
657 required by Title I.

658 (d) To the extent feasible, conduct a review and analysis  
659 of the effectiveness of, and consumer satisfaction with:

660 1. The functions performed by state agencies and other  
661 public and private entities responsible for performing functions  
662 for individuals who have disabilities.

663 2. Vocational rehabilitation services:

664 a. Provided or paid for from funds made available under  
665 the act or through other public or private sources.

666 b. Provided by state agencies and other public and private  
667 entities responsible for providing vocational rehabilitation  
668 services to individuals who have disabilities.

669 3. The employment outcomes achieved by eligible  
670 individuals receiving services under this part, including the  
671 availability of health or other employment benefits in  
672 connection with those employment outcomes.



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673 (e) Prepare and submit an annual report on the status of  
674 vocational rehabilitation programs ~~services~~ in the state to the  
675 Governor, the President of the Senate, the Speaker of the House  
676 of Representatives, and the United States Secretary of Education  
677 and make the report available to the public.

678 (f) Coordinate with other councils within Florida,  
679 including the Florida Independent Living Council, the advisory  
680 panel established under s. 612(a)(21) ~~613(a)(12)~~ of the  
681 Individuals with Disabilities Education Act, 20 U.S.C. s.  
682 1412(a)(21) ~~1413(a)(12)~~, the State Planning Council described in  
683 s. 124 of the Developmental Disabilities Assistance and Bill of  
684 Rights Act, 42 U.S.C. s. 15024 ~~6024~~, the state mental health  
685 planning council established under s. 1914 ~~1916(e)~~ of the Public  
686 Health Service Act, 42 U.S.C. s. 300x-3 ~~300x-4(e)~~, and the board  
687 of directors of Workforce Florida, Inc.

688 (g) Advise the department and division and provide for  
689 coordination and the establishment of working relationships  
690 among the department, the division, the Florida Independent  
691 Living Council, and centers for independent living in the state.

692 (h) Perform ~~such~~ other functions that are consistent with  
693 the duties and responsibilities of ~~as the council determines to~~  
694 ~~be appropriate that are comparable to functions performed by the~~  
695 council under this section.

696 (10) (a) The council shall prepare, in conjunction with the  
697 division, a plan for the provision of such resources, including  
698 at least four staff persons, as may be necessary to carry out  
699 the functions of the council. The resource plan shall, to the  
700 maximum extent possible, rely on the use of resources in

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701 existence during the period of implementation of the plan.

702 (b) ~~If there is~~ A disagreement between the council and the  
703 division regarding ~~in regard to~~ the amount of resources  
704 necessary to carry out the functions of the council as set forth  
705 in this section, ~~the disagreement~~ shall be resolved by the  
706 Governor.

707 (c) The council shall, consistent with law, supervise and  
708 evaluate such staff and other personnel as may be necessary to  
709 carry out its functions.

710 (d) While assisting the council in carrying out its  
711 duties, staff and other personnel may ~~shall~~ not be assigned  
712 duties by the division or any other state agency or office that  
713 would create a conflict of interest.

714 (11) The council shall convene at least four meetings each  
715 year in locations determined by. ~~These meetings shall occur in~~  
716 ~~such places as~~ the council to be ~~deems~~ necessary to conduct  
717 council business. The council may conduct such forums or  
718 hearings as the council considers appropriate. The meetings,  
719 hearings, and forums shall be publicly announced. The meetings  
720 shall be open and accessible to the public unless there is a  
721 valid reason for an executive session. The council shall make a  
722 report of each meeting which shall include a record of its  
723 discussions and recommendations, all of which reports shall be  
724 made available to the public.

725 Section 8. Paragraph (a) of subsection (1) of section  
726 413.407, Florida Statutes, is amended to read:

727 413.407 Assistive Technology Advisory Council.—There is  
728 created the Assistive Technology Advisory Council, responsible

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729 for ensuring consumer involvement in the creation, application,  
730 and distribution of technology-related assistance to and for  
731 persons who have disabilities. The council shall fulfill its  
732 responsibilities through statewide policy development, both  
733 state and federal legislative initiatives, advocacy at both the  
734 state and federal level, planning of statewide resource  
735 allocations, policy-level management, reviews of both consumer  
736 responsiveness and the adequacy of program service delivery, and  
737 by performing the functions listed in this section.

738 (1) (a) The council shall be composed of:

739 1. Individuals who have disabilities and who are assistive  
740 technology consumers or family members or guardians of those  
741 individuals.

742 2. Representatives of consumer organizations concerned  
743 with assistive technology.

744 3. Representatives of business and industry, including the  
745 insurance industry, concerned with assistive technology.

746 4. A representative of the Division of Vocational  
747 Rehabilitation.

748 5. A representative of the Division of Blind Services.

749 6. A representative of the Florida Independent Living  
750 Council.

751 7. A representative of Workforce Florida, Inc.

752 8. A representative of the Department of Education.

753 9. Representatives of other state agencies that provide or  
754 coordinate services for persons with disabilities.

755

756 Total membership on the council shall not exceed 27 at any one

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757 time. A majority of the members shall be appointed in accordance  
758 with subparagraph 1.

759 Section 9. Sections 413.206, 413.39, 413.70, 413.72, and  
760 413.73, Florida Statutes, are repealed.

761 Section 10. Section 1013.05, Florida Statutes, is  
762 repealed.

763 Section 11. Paragraph (a) of subsection (1) and paragraph  
764 (a) of subsection (3) of section 163.31777, Florida Statutes,  
765 are amended to read:

766 163.31777 Public schools interlocal agreement.—

767 (1) (a) The county and municipalities located within the  
768 geographic area of a school district shall enter into an  
769 interlocal agreement with the district school board which  
770 jointly establishes the specific ways in which the plans and  
771 processes of the district school board and the local governments  
772 are to be coordinated. The interlocal agreements shall be  
773 submitted to the state land planning agency and the Office of  
774 Educational Facilities ~~and the SMART Schools Clearinghouse~~ in  
775 accordance with a schedule published by the state land planning  
776 agency.

777 (3) (a) The Office of Educational Facilities ~~and SMART~~  
778 ~~Schools Clearinghouse~~ shall submit any comments or concerns  
779 regarding the executed interlocal agreement to the state land  
780 planning agency within 30 days after receipt of the executed  
781 interlocal agreement. The state land planning agency shall  
782 review the executed interlocal agreement to determine whether it  
783 is consistent with the requirements of subsection (2), the  
784 adopted local government comprehensive plan, and other

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785 requirements of law. Within 60 days after receipt of an executed  
786 interlocal agreement, the state land planning agency shall  
787 publish a notice of intent in the Florida Administrative Weekly  
788 and shall post a copy of the notice on the agency's Internet  
789 site. The notice of intent must state whether the interlocal  
790 agreement is consistent or inconsistent with the requirements of  
791 subsection (2) and this subsection, as appropriate.

792 Section 12. Paragraph (c) of subsection (4) of section  
793 1001.20, Florida Statutes, is amended to read:

794 1001.20 Department under direction of state board.—

795 (4) The Department of Education shall establish the  
796 following offices within the Office of the Commissioner of  
797 Education which shall coordinate their activities with all other  
798 divisions and offices:

799 (c) Office of Educational Facilities ~~and SMART Schools~~  
800 ~~Clearinghouse~~.—Responsible for validating all educational plant  
801 surveys and verifying Florida Inventory of School Houses (FISH)  
802 data. The office shall provide technical assistance to public  
803 school districts when requested.

804 Section 13. Subsection (1) of section 1013.04, Florida  
805 Statutes, is amended to read:

806 1013.04 School district educational facilities plan  
807 performance and productivity standards; development;  
808 measurement; application.—

809 (1) The Office of Educational Facilities ~~and SMART Schools~~  
810 ~~Clearinghouse~~ shall develop and adopt measures for evaluating  
811 the performance and productivity of school district educational  
812 facilities plans. The measures may be both quantitative and

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813 qualitative and must, to the maximum extent practical, assess  
814 those factors that are within the districts' control. The  
815 measures must, at a minimum, assess performance in the following  
816 areas:

- 817 (a) Frugal production of high-quality projects.
- 818 (b) Efficient finance and administration.
- 819 (c) Optimal school and classroom size and utilization  
820 rate.
- 821 (d) Safety.
- 822 (e) Core facility space needs and cost-effective capacity  
823 improvements that consider demographic projections.
- 824 (f) Level of district local effort.

825 Section 14. Paragraph (a) of subsection (1) of section  
826 1013.21, Florida Statutes, is amended to read:

827 1013.21 Reduction of relocatable facilities in use.—

828 (1)(a) It is a goal of the Legislature that all school  
829 districts shall provide a quality educational environment for  
830 their students such that, by July 1, 2003, student stations in  
831 relocatable facilities exceeding 20 years of age and in use by a  
832 district during the 1998-1999 fiscal year shall be removed and  
833 the number of all other relocatable student stations at over-  
834 capacity schools during that fiscal year shall be decreased by  
835 half. The Legislature finds, however, that necessary maintenance  
836 of existing facilities and public school enrollment growth  
837 impair the ability of some districts to achieve the goal of this  
838 section within 5 years. Therefore, the Legislature is increasing  
839 its commitment to school funding in this act, in part to help  
840 districts reduce the number of temporary, relocatable student

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841 stations at over-capacity schools. The Legislature intends that  
842 local school districts also increase their investment toward  
843 meeting this goal. Each district's progress toward meeting this  
844 goal shall be measured annually by comparing district facilities  
845 work programs for replacing relocatables with the state capital  
846 outlay projections for education prepared by the Office of  
847 Educational Facilities ~~and SMART Schools Clearinghouse~~. District  
848 facilities work programs shall be monitored by the Office of  
849 Educational Facilities ~~SMART Schools Clearinghouse~~ to measure  
850 the commitment of local school districts toward this goal.

851 Section 15. Paragraph (a) of subsection (2), paragraph (a)  
852 of subsection (4), and subsection (9) of section 1013.33,  
853 Florida Statutes, are amended to read:

854 1013.33 Coordination of planning with local governing  
855 bodies.—

856 (2) (a) The school board, county, and nonexempt  
857 municipalities located within the geographic area of a school  
858 district shall enter into an interlocal agreement that jointly  
859 establishes the specific ways in which the plans and processes  
860 of the district school board and the local governments are to be  
861 coordinated. The interlocal agreements shall be submitted to the  
862 state land planning agency and the Office of Educational  
863 Facilities ~~and the SMART Schools Clearinghouse~~ in accordance  
864 with a schedule published by the state land planning agency.

865 (4) (a) The Office of Educational Facilities ~~and SMART~~  
866 ~~Schools Clearinghouse~~ shall submit any comments or concerns  
867 regarding the executed interlocal agreement to the state land  
868 planning agency within 30 days after receipt of the executed

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869 interlocal agreement. The state land planning agency shall  
 870 review the executed interlocal agreement to determine whether it  
 871 is consistent with the requirements of subsection (3), the  
 872 adopted local government comprehensive plan, and other  
 873 requirements of law. Within 60 days after receipt of an executed  
 874 interlocal agreement, the state land planning agency shall  
 875 publish a notice of intent in the Florida Administrative Weekly  
 876 and shall post a copy of the notice on the agency's Internet  
 877 site. The notice of intent must state that the interlocal  
 878 agreement is consistent or inconsistent with the requirements of  
 879 subsection (3) and this subsection as appropriate.

880 (9) A board and the local governing body must share and  
 881 coordinate information related to existing and planned school  
 882 facilities; proposals for development, redevelopment, or  
 883 additional development; and infrastructure required to support  
 884 the school facilities, concurrent with proposed development. A  
 885 school board shall use information produced by the demographic,  
 886 revenue, and education estimating conferences pursuant to s.  
 887 216.136 when preparing the district educational facilities plan  
 888 pursuant to s. 1013.35, as modified and agreed to by the local  
 889 governments, when provided by interlocal agreement, and the  
 890 Office of Educational Facilities ~~and SMART Schools~~  
 891 ~~Clearinghouse~~, in consideration of local governments' population  
 892 projections, to ensure that the district educational facilities  
 893 plan not only reflects enrollment projections but also considers  
 894 applicable municipal and county growth and development  
 895 projections. The projections must be apportioned geographically  
 896 with assistance from the local governments using local



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897 government trend data and the school district student enrollment  
898 data. A school board is precluded from siting a new school in a  
899 jurisdiction where the school board has failed to provide the  
900 annual educational facilities plan for the prior year required  
901 pursuant to s. 1013.35 unless the failure is corrected.

902 Section 16. Paragraph (c) of subsection (1) and paragraph  
903 (a) of subsection (2) of section 1013.35, Florida Statutes, are  
904 amended to read:

905 1013.35 School district educational facilities plan;  
906 definitions; preparation, adoption, and amendment; long-term  
907 work programs.—

908 (1) DEFINITIONS.—As used in this section, the term:

909 (c) "Tentative educational facilities plan" means the  
910 comprehensive planning document prepared annually by the  
911 district school board and submitted to the Office of Educational  
912 Facilities ~~and SMART Schools Clearinghouse~~ and the affected  
913 general-purpose local governments.

914 (2) PREPARATION OF TENTATIVE DISTRICT EDUCATIONAL  
915 FACILITIES PLAN.—

916 (a) Annually, prior to the adoption of the district school  
917 budget, each district school board shall prepare a tentative  
918 district educational facilities plan that includes long-range  
919 planning for facilities needs over 5-year, 10-year, and 20-year  
920 periods. The plan must be developed in coordination with the  
921 general-purpose local governments and be consistent with the  
922 local government comprehensive plans. The school board's plan  
923 for provision of new schools must meet the needs of all growing  
924 communities in the district, ranging from small rural

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925 communities to large urban cities. The plan must include:  
926 1. Projected student populations apportioned  
927 geographically at the local level. The projections must be based  
928 on information produced by the demographic, revenue, and  
929 education estimating conferences pursuant to s. 216.136, where  
930 available, as modified by the district based on development data  
931 and agreement with the local governments and the Office of  
932 Educational Facilities ~~and SMART Schools Clearinghouse~~. The  
933 projections must be apportioned geographically with assistance  
934 from the local governments using local development trend data  
935 and the school district student enrollment data.  
936 2. An inventory of existing school facilities. Any  
937 anticipated expansions or closures of existing school sites over  
938 the 5-year, 10-year, and 20-year periods must be identified. The  
939 inventory must include an assessment of areas proximate to  
940 existing schools and identification of the need for improvements  
941 to infrastructure, safety, including safe access routes, and  
942 conditions in the community. The plan must also provide a  
943 listing of major repairs and renovation projects anticipated  
944 over the period of the plan.  
945 3. Projections of facilities space needs, which may not  
946 exceed the norm space and occupant design criteria established  
947 in the State Requirements for Educational Facilities.  
948 4. Information on leased, loaned, and donated space and  
949 relocatables used for conducting the district's instructional  
950 programs.  
951 5. The general location of public schools proposed to be  
952 constructed over the 5-year, 10-year, and 20-year time periods,

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953 including a listing of the proposed schools' site acreage needs  
954 and anticipated capacity and maps showing the general locations.  
955 The school board's identification of general locations of future  
956 school sites must be based on the school siting requirements of  
957 s. 163.3177(6) (a) and policies in the comprehensive plan which  
958 provide guidance for appropriate locations for school sites.

959 6. The identification of options deemed reasonable and  
960 approved by the school board which reduce the need for  
961 additional permanent student stations. Such options may include,  
962 but need not be limited to:

- 963 a. Acceptable capacity;
- 964 b. Redistricting;
- 965 c. Busing;
- 966 d. Year-round schools;
- 967 e. Charter schools;
- 968 f. Magnet schools; and
- 969 g. Public-private partnerships.

970 7. The criteria and method, jointly determined by the  
971 local government and the school board, for determining the  
972 impact of proposed development to public school capacity.

973 Section 17. Subsections (3) and (4) of section 1013.41,  
974 Florida Statutes, are amended to read:

975 1013.41 SMART schools; Classrooms First; legislative  
976 purpose.—

977 (3) SCHOOL DISTRICT EDUCATIONAL FACILITIES PLAN.—It is the  
978 purpose of the Legislature to create s. 1013.35, requiring each  
979 school district annually to adopt an educational facilities plan  
980 that provides an integrated long-range facilities plan,

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981 including the survey of projected needs and the 5-year work  
982 program. The purpose of the educational facilities plan is to  
983 keep the district school board, local governments, and the  
984 public fully informed as to whether the district is using sound  
985 policies and practices that meet the essential needs of students  
986 and that warrant public confidence in district operations. The  
987 educational facilities plan will be monitored by the Office of  
988 Educational Facilities ~~and SMART Schools Clearinghouse~~, which  
989 will also apply performance standards pursuant to s. 1013.04.

990 (4) OFFICE OF EDUCATIONAL FACILITIES ~~AND SMART SCHOOLS~~  
991 ~~CLEARINGHOUSE~~.—It is the purpose of the Legislature to require  
992 ~~create s. 1013.05, establishing~~ the Office of Educational  
993 Facilities ~~and SMART Schools Clearinghouse~~ to assist the school  
994 districts in building SMART schools utilizing functional and  
995 frugal practices. The Office of Educational Facilities ~~and SMART~~  
996 ~~Schools Clearinghouse~~ must review district facilities work  
997 programs and projects and identify districts qualified for  
998 incentive funding available through School Infrastructure Thrift  
999 Program awards; identify opportunities to maximize design and  
1000 construction savings; develop school district facilities work  
1001 program performance standards; and provide for review and  
1002 recommendations to the Governor, the Legislature, and the State  
1003 Board of Education.

1004 Section 18. Paragraphs (a) and (b) of subsection (6) of  
1005 section 1013.42, Florida Statutes, are amended to read:

1006 1013.42 School Infrastructure Thrift (SIT) Program Act.—

1007 (6) (a) Each school district may submit to the Office of  
1008 Educational Facilities ~~and SMART Schools Clearinghouse~~, with

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1009 supporting data, its request, based on eligibility pursuant to  
1010 s. 1013.72 for an award of SIT Program dollars.

1011 (b) The Office of Educational Facilities ~~and SMART Schools~~  
1012 ~~Clearinghouse~~ shall examine the supporting data from each school  
1013 district and shall report to the commissioner each district's  
1014 eligibility pursuant to s. 1013.72. ~~Based on the office's report~~  
1015 ~~and pursuant to ss. 1013.04 and 1013.05,~~ The office shall make  
1016 recommendations, ranked in order of priority, for SIT Program  
1017 awards to eligible districts. Priority shall be based on a  
1018 review of the evaluations conducted under s. 1013.04, district  
1019 facilities work programs, and proposed construction projects.

1020 Section 19. Section 1013.72, Florida Statutes, is amended  
1021 to read:

1022 1013.72 SIT Program award eligibility; maximum cost per  
1023 student station of educational facilities; frugality incentives;  
1024 recognition awards.—

1025 (1) It is the intent of the Legislature that district  
1026 school boards that seek awards of SIT Program funds use due  
1027 diligence and sound business practices in the design,  
1028 construction, and use of educational facilities.

1029 (2) A school district may seek an award from the SIT  
1030 Program, pursuant to this section and s. 1013.42, based on the  
1031 district's new construction of educational facilities if the  
1032 cost per student station is less than:

- 1033 (a) \$17,952 ~~\$11,600~~ for an elementary school,
- 1034 (b) \$19,386 ~~\$13,300~~ for a middle school, or
- 1035 (c) \$25,181 ~~\$17,600~~ for a high school,

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1037 (January 2006) ~~(1997)~~ as adjusted annually by the Consumer Price  
1038 Index. The award shall be up to 50 percent of such savings, as  
1039 recommended by the Office of Educational Facilities ~~and SMART~~  
1040 ~~Schools Clearinghouse~~.

1041 (3) A school district may seek a SMART school of the year  
1042 recognition award for building the highest quality functional,  
1043 frugal school. The commissioner may present a trophy or plaque  
1044 and a cash award to the school recommended by the Office of  
1045 Educational Facilities ~~and SMART Schools Clearinghouse~~ for a  
1046 SMART school of the year recognition award.

1047 Section 20. Subsection (1) of section 1013.73, Florida  
1048 Statutes, is amended to read:

1049 1013.73 Effort index grants for school district  
1050 facilities.—

1051 (1) The Legislature hereby allocates for effort index  
1052 grants the sum of \$300 million from the funds appropriated from  
1053 the Educational Enhancement Trust Fund by s. 46, chapter 97-384,  
1054 Laws of Florida, contingent upon the sale of school capital  
1055 outlay bonds. From these funds, the Commissioner of Education  
1056 shall allocate to the four school districts deemed eligible for  
1057 an effort index grant ~~by the SMART Schools Clearinghouse~~ the  
1058 sums of \$7,442,890 to the Clay County School District,  
1059 \$62,755,920 to the Miami-Dade County Public Schools, \$1,628,590  
1060 to the Hendry County School District, and \$414,950 to the  
1061 Madison County School District. The remaining funds shall be  
1062 allocated among the remaining district school boards that  
1063 qualify for an effort index grant by meeting the local capital  
1064 outlay effort criteria in paragraph (a) or paragraph (b).

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1065 (a) Between July 1, 1995, and June 30, 1999, the school  
1066 district received direct proceeds from the one-half-cent sales  
1067 surtax for public school capital outlay authorized by s.  
1068 212.055(6) or from the local government infrastructure sales  
1069 surtax authorized by s. 212.055(2).

1070 (b) The school district met two of the following criteria:

1071 1. Levied the full 2 mills of nonvoted discretionary  
1072 capital outlay authorized by s. 1011.71(2) during 1995-1996,  
1073 1996-1997, 1997-1998, and 1998-1999.

1074 2. Levied a cumulative voted millage for capital outlay  
1075 and debt service equal to 2.5 mills for fiscal years 1995  
1076 through 1999.

1077 3. Received proceeds of school impact fees greater than  
1078 \$500 per dwelling unit which were in effect on July 1, 1998.

1079 4. Received direct proceeds from either the one-half-cent  
1080 sales surtax for public school capital outlay authorized by s.  
1081 212.055(6) or from the local government infrastructure sales  
1082 surtax authorized by s. 212.055(2).

1083 Section 21. The Legislature recognizes that there is a  
1084 need to conform the Florida K-20 Education Code to changes in  
1085 terminology relating to community colleges that were enacted by  
1086 chapter 2008-52, Laws of Florida, establishing the Florida  
1087 College System, and chapter 2009-228, Laws of Florida, renaming  
1088 the "Division of Community Colleges" as the "Division of Florida  
1089 Colleges" and defining the term "Florida college." Therefore, in  
1090 the interim between this act becoming a law and the 2011 Regular  
1091 Session of the Legislature, the Division of Statutory Revision  
1092 of the Office of Legislative Services shall prepare a reviser's

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1093 bill to substitute the term "Florida College System institution"  
 1094 for the terms "Florida college," "community college," and  
 1095 "junior college" where those terms appear in the Florida K-20  
 1096 Education Code.

1097 Section 22. Section 1004.87, Florida Statutes, is  
 1098 repealed.

1099 Section 23. Section 1002.335, Florida Statutes, is  
 1100 repealed.

1101 Section 24. Paragraphs (a) and (d) through (i) of  
 1102 subsection (6) of section 1002.33, Florida Statutes, are amended  
 1103 to read:

1104 1002.33 Charter schools.—

1105 (6) APPLICATION PROCESS AND REVIEW.—Charter school  
 1106 applications are subject to the following requirements:

1107 (a) A person or entity wishing to open a charter school  
 1108 shall prepare and submit an application on a model application  
 1109 form prepared by the Department of Education which:

1110 1. Demonstrates how the school will use the guiding  
 1111 principles and meet the statutorily defined purpose of a charter  
 1112 school.

1113 2. Provides a detailed curriculum plan that illustrates  
 1114 how students will be provided services to attain the Sunshine  
 1115 State Standards.

1116 3. Contains goals and objectives for improving student  
 1117 learning and measuring that improvement. These goals and  
 1118 objectives must indicate how much academic improvement students  
 1119 are expected to show each year, how success will be evaluated,  
 1120 and the specific results to be attained through instruction.



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1121 4. Describes the reading curriculum and differentiated  
1122 strategies that will be used for students reading at grade level  
1123 or higher and a separate curriculum and strategies for students  
1124 who are reading below grade level. A sponsor shall deny a  
1125 charter if the school does not propose a reading curriculum that  
1126 is consistent with effective teaching strategies that are  
1127 grounded in scientifically based reading research.

1128 5. Contains an annual financial plan for each year  
1129 requested by the charter for operation of the school for up to 5  
1130 years. This plan must contain anticipated fund balances based on  
1131 revenue projections, a spending plan based on projected revenues  
1132 and expenses, and a description of controls that will safeguard  
1133 finances and projected enrollment trends.

1134 6. Documents that the applicant has participated in the  
1135 training required in subparagraph (f)~~(g)~~2. A sponsor may require  
1136 an applicant to provide additional information as an addendum to  
1137 the charter school application described in this paragraph.

1138 ~~(d) For charter school applications in school districts~~  
1139 ~~that have not been granted exclusive authority to sponsor~~  
1140 ~~charter schools pursuant to s. 1002.335(5), the right to appeal~~  
1141 ~~an application denial under paragraph (c) shall be contingent on~~  
1142 ~~the applicant having submitted the same or a substantially~~  
1143 ~~similar application to the Florida Schools of Excellence~~  
1144 ~~Commission or one of its cosponsors. Any such applicant whose~~  
1145 ~~application is denied by the commission or one of its cosponsors~~  
1146 ~~subsequent to its denial by the district school board may~~  
1147 ~~exercise its right to appeal the district school board's denial~~  
1148 ~~under paragraph (c) within 30 days after receipt of the~~

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1149 ~~commission's or cosponsor's denial or failure to act on the~~  
1150 ~~application. However, the applicant forfeits its right to appeal~~  
1151 ~~under paragraph (c) if it fails to submit its application to the~~  
1152 ~~commission or one of its cosponsors by August 1 of the school~~  
1153 ~~year immediately following the district school board's denial of~~  
1154 ~~the application.~~

1155 (d) ~~(e)~~ The sponsor shall act upon the decision of the  
1156 State Board of Education within 30 calendar days after it is  
1157 received. The State Board of Education's decision is a final  
1158 action subject to judicial review in the district court of  
1159 appeal.

1160 (e) ~~(f)~~ 1. A Charter School Appeal Commission is established  
1161 to assist the commissioner and the State Board of Education with  
1162 a fair and impartial review of appeals by applicants whose  
1163 charter applications have been denied, whose charter contracts  
1164 have not been renewed, or whose charter contracts have been  
1165 terminated by their sponsors.

1166 2. The Charter School Appeal Commission may receive copies  
1167 of the appeal documents forwarded to the State Board of  
1168 Education, review the documents, gather other applicable  
1169 information regarding the appeal, and make a written  
1170 recommendation to the commissioner. The recommendation must  
1171 state whether the appeal should be upheld or denied and include  
1172 the reasons for the recommendation being offered. The  
1173 commissioner shall forward the recommendation to the State Board  
1174 of Education no later than 7 calendar days prior to the date on  
1175 which the appeal is to be heard. The state board must consider  
1176 the commission's recommendation in making its decision, but is

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1177 not bound by the recommendation. The decision of the Charter  
1178 School Appeal Commission is not subject to the provisions of the  
1179 Administrative Procedure Act, chapter 120.

1180 3. The commissioner shall appoint the members of the  
1181 Charter School Appeal Commission. Members shall serve without  
1182 compensation but may be reimbursed for travel and per diem  
1183 expenses in conjunction with their service. One-half of the  
1184 members must represent currently operating charter schools, and  
1185 one-half of the members must represent sponsors. The  
1186 commissioner or a named designee shall chair the Charter School  
1187 Appeal Commission.

1188 4. The chair shall convene meetings of the commission and  
1189 shall ensure that the written recommendations are completed and  
1190 forwarded in a timely manner. In cases where the commission  
1191 cannot reach a decision, the chair shall make the written  
1192 recommendation with justification, noting that the decision was  
1193 rendered by the chair.

1194 5. Commission members shall thoroughly review the  
1195 materials presented to them from the appellant and the sponsor.  
1196 The commission may request information to clarify the  
1197 documentation presented to it. In the course of its review, the  
1198 commission may facilitate the postponement of an appeal in those  
1199 cases where additional time and communication may negate the  
1200 need for a formal appeal and both parties agree, in writing, to  
1201 postpone the appeal to the State Board of Education. A new date  
1202 certain for the appeal shall then be set based upon the rules  
1203 and procedures of the State Board of Education. Commission  
1204 members shall provide a written recommendation to the state

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1205 board as to whether the appeal should be upheld or denied. A  
 1206 fact-based justification for the recommendation must be  
 1207 included. The chair must ensure that the written recommendation  
 1208 is submitted to the State Board of Education members no later  
 1209 than 7 calendar days prior to the date on which the appeal is to  
 1210 be heard. Both parties in the case shall also be provided a copy  
 1211 of the recommendation.

1212 (f)~~(g)~~1. The Department of Education shall offer or  
 1213 arrange for training and technical assistance to charter school  
 1214 applicants in developing business plans and estimating costs and  
 1215 income. This assistance shall address estimating startup costs,  
 1216 projecting enrollment, and identifying the types and amounts of  
 1217 state and federal financial assistance the charter school may be  
 1218 eligible to receive. The department may provide other technical  
 1219 assistance to an applicant upon written request.

1220 2. A charter school applicant must participate in the  
 1221 training provided by the Department of Education before filing  
 1222 an application. However, a sponsor may require the charter  
 1223 school applicant to attend training provided by the sponsor in  
 1224 lieu of the department's training if the sponsor's training  
 1225 standards meet or exceed the standards developed by the  
 1226 Department of Education. The training shall include instruction  
 1227 in accurate financial planning and good business practices. If  
 1228 the applicant is a management company or other nonprofit  
 1229 organization, the charter school principal and the chief  
 1230 financial officer or his or her equivalent must also participate  
 1231 in the training.

1232 (g)~~(h)~~ In considering charter applications for a lab

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1233 school, a state university shall consult with the district  
1234 school board of the county in which the lab school is located.  
1235 The decision of a state university may be appealed pursuant to  
1236 the procedure established in this subsection.

1237       ~~(h)(i)~~ The terms and conditions for the operation of a  
1238 charter school shall be set forth by the sponsor and the  
1239 applicant in a written contractual agreement, called a charter.  
1240 The sponsor shall not impose unreasonable rules or regulations  
1241 that violate the intent of giving charter schools greater  
1242 flexibility to meet educational goals. The sponsor shall have 60  
1243 days to provide an initial proposed charter contract to the  
1244 charter school. The applicant and the sponsor shall have 75 days  
1245 thereafter to negotiate and notice the charter contract for  
1246 final approval by the sponsor unless both parties agree to an  
1247 extension. The proposed charter contract shall be provided to  
1248 the charter school at least 7 calendar days prior to the date of  
1249 the meeting at which the charter is scheduled to be voted upon  
1250 by the sponsor. The Department of Education shall provide  
1251 mediation services for any dispute regarding this section  
1252 subsequent to the approval of a charter application and for any  
1253 dispute relating to the approved charter, except disputes  
1254 regarding charter school application denials. If the  
1255 Commissioner of Education determines that the dispute cannot be  
1256 settled through mediation, the dispute may be appealed to an  
1257 administrative law judge appointed by the Division of  
1258 Administrative Hearings. The administrative law judge may rule  
1259 on issues of equitable treatment of the charter school as a  
1260 public school, whether proposed provisions of the charter

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1261 violate the intended flexibility granted charter schools by  
 1262 statute, or on any other matter regarding this section except a  
 1263 charter school application denial, a charter termination, or a  
 1264 charter nonrenewal and shall award the prevailing party  
 1265 reasonable attorney's fees and costs incurred to be paid by the  
 1266 losing party. The costs of the administrative hearing shall be  
 1267 paid by the party whom the administrative law judge rules  
 1268 against.

1269       Section 25. Subsection (5) of section 1003.413, Florida  
 1270 Statutes, is repealed.

1271       Section 26. Section 1003.62, Florida Statutes, is  
 1272 repealed.

1273       Section 27. Subsection (2) of section 1011.69, Florida  
 1274 Statutes, is amended to read:

1275       1011.69 Equity in School-Level Funding Act.—

1276       (2) Beginning in the 2003-2004 fiscal year, district  
 1277 school boards shall allocate to schools within the district an  
 1278 average of 90 percent of the funds generated by all schools and  
 1279 guarantee that each school receives at least 80 percent of the  
 1280 funds generated by that school based upon the Florida Education  
 1281 Finance Program as provided in s. 1011.62 and the General  
 1282 Appropriations Act, including gross state and local funds,  
 1283 discretionary lottery funds, and funds from the school  
 1284 district's current operating discretionary millage levy. Total  
 1285 funding for each school shall be recalculated during the year to  
 1286 reflect the revised calculations under the Florida Education  
 1287 Finance Program by the state and the actual weighted full-time  
 1288 equivalent students reported by the school during the full-time

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1289 equivalent student survey periods designated by the Commissioner  
1290 of Education. If the district school board is providing programs  
1291 or services to students funded by federal funds, any eligible  
1292 students enrolled in the schools in the district shall be  
1293 provided federal funds. ~~Only academic performance-based charter~~  
1294 ~~school districts, pursuant to s. 1003.62, are exempt from the~~  
1295 ~~provisions of this section.~~

1296 Section 28. Paragraph (b) of subsection (6) of section  
1297 1013.64, Florida Statutes, is amended to read:

1298 1013.64 Funds for comprehensive educational plant needs;  
1299 construction cost maximums for school district capital  
1300 projects.—Allocations from the Public Education Capital Outlay  
1301 and Debt Service Trust Fund to the various boards for capital  
1302 outlay projects shall be determined as follows:

1303 (6)

1304 (b)1. A district school board, ~~including a district school~~  
1305 ~~board of an academic performance-based charter school district,~~  
1306 must not use funds from the following sources: Public Education  
1307 Capital Outlay and Debt Service Trust Fund; School District and  
1308 Community College District Capital Outlay and Debt Service Trust  
1309 Fund; Classrooms First Program funds provided in s. 1013.68;  
1310 effort index grant funds provided in s. 1013.73; nonvoted 1.5-  
1311 mill levy of ad valorem property taxes provided in s.  
1312 1011.71(2); Classrooms for Kids Program funds provided in s.  
1313 1013.735; District Effort Recognition Program funds provided in  
1314 s. 1013.736; or High Growth District Capital Outlay Assistance  
1315 Grant Program funds provided in s. 1013.738 for any new  
1316 construction of educational plant space with a total cost per

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1317 student station, including change orders, that equals more than:  
 1318 a. \$17,952 for an elementary school,  
 1319 b. \$19,386 for a middle school, or  
 1320 c. \$25,181 for a high school,

1321  
 1322 (January 2006) as adjusted annually to reflect increases or  
 1323 decreases in the Consumer Price Index.

1324 2. A district school board must not use funds from the  
 1325 Public Education Capital Outlay and Debt Service Trust Fund or  
 1326 the School District and Community College District Capital  
 1327 Outlay and Debt Service Trust Fund for any new construction of  
 1328 an ancillary plant that exceeds 70 percent of the average cost  
 1329 per square foot of new construction for all schools.

1330 Section 29. Section 1003.63 and subsection (7) of section  
 1331 1008.345, Florida Statutes, are repealed.

1332 Section 30. Subsection (2) of section 1004.68, Florida  
 1333 Statutes, is amended to read:

1334 1004.68 Community college; degrees and certificates; tests  
 1335 for certain skills.—

1336 (2) Each community college board of trustees shall require  
 1337 the use of scores on tests for college-level communication and  
 1338 computation skills provided in s. 1008.345 (7) ~~(8)~~ as a condition  
 1339 for graduation with an associate in arts degree.

1340 Section 31. Section 1006.67, Florida Statutes, is  
 1341 repealed.

1342 Section 32. Section 1013.11, Florida Statutes, is amended  
 1343 to read:

1344 1013.11 Postsecondary institutions assessment of physical



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1345 plant safety.—The president of each postsecondary institution  
 1346 shall conduct or cause to be conducted an annual assessment of  
 1347 physical plant safety. An annual report shall incorporate the  
 1348 findings obtained through such assessment and recommendations  
 1349 for the improvement of safety on each campus. The annual report  
 1350 shall be submitted to the respective governing or licensing  
 1351 board of jurisdiction no later than January 1 of each year. Each  
 1352 board shall compile the individual institutional reports and  
 1353 convey the aggregate institutional reports to the Commissioner  
 1354 of Education or the Chancellor of the State University System,  
 1355 as appropriate. The Commissioner of Education and the Chancellor  
 1356 of the State University System shall convey these reports ~~and~~  
 1357 ~~the reports required in s. 1006.67~~ to the President of the  
 1358 Senate and the Speaker of the House of Representatives no later  
 1359 than March 1 of each year.

1360 Section 33. Sections 1009.63, 1009.631, 1009.632,  
 1361 1009.633, 1009.634, and 1009.64, Florida Statutes, are repealed.

1362 Section 34. Paragraph (a) of subsection (1) of section  
 1363 1009.40, Florida Statutes, is amended to read:

1364 1009.40 General requirements for student eligibility for  
 1365 state financial aid awards and tuition assistance grants.—

1366 (1)(a) The general requirements for eligibility of  
 1367 students for state financial aid awards and tuition assistance  
 1368 grants consist of the following:

1369 1. Achievement of the academic requirements of and  
 1370 acceptance at a state university or community college; a nursing  
 1371 diploma school approved by the Florida Board of Nursing; a  
 1372 Florida college, university, or community college which is

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1373 accredited by an accrediting agency recognized by the State  
1374 Board of Education; any Florida institution the credits of which  
1375 are acceptable for transfer to state universities; any career  
1376 center; or any private career institution accredited by an  
1377 accrediting agency recognized by the State Board of Education.

1378 2. Residency in this state for no less than 1 year  
1379 preceding the award of aid or a tuition assistance grant for a  
1380 program established pursuant to s. 1009.50, s. 1009.505, s.  
1381 1009.51, s. 1009.52, s. 1009.53, s. 1009.54, s. 1009.56, s.  
1382 1009.57, s. 1009.60, s. 1009.62, ~~s. 1009.63~~, s. 1009.68, s.  
1383 1009.72, s. 1009.73, s. 1009.77, s. 1009.89, or s. 1009.891.

1384 Residency in this state must be for purposes other than to  
1385 obtain an education. Resident status for purposes of receiving  
1386 state financial aid awards shall be determined in the same  
1387 manner as resident status for tuition purposes pursuant to s.  
1388 1009.21.

1389 3. Submission of certification attesting to the accuracy,  
1390 completeness, and correctness of information provided to  
1391 demonstrate a student's eligibility to receive state financial  
1392 aid awards or tuition assistance grants. Falsification of such  
1393 information shall result in the denial of any pending  
1394 application and revocation of any award or grant currently held  
1395 to the extent that no further payments shall be made.  
1396 Additionally, students who knowingly make false statements in  
1397 order to receive state financial aid awards or tuition  
1398 assistance grants commit a misdemeanor of the second degree  
1399 subject to the provisions of s. 837.06 and shall be required to  
1400 return all state financial aid awards or tuition assistance

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1401 grants wrongfully obtained.  
 1402 Section 35. Paragraph (c) of subsection (2) of section  
 1403 1009.94, Florida Statutes, is amended to read:  
 1404 1009.94 Student financial assistance database.—  
 1405 (2) For purposes of this section, financial assistance  
 1406 includes:  
 1407 (c) Any financial assistance provided under s. 1009.50, s.  
 1408 1009.505, s. 1009.51, s. 1009.52, s. 1009.53, s. 1009.54, s.  
 1409 1009.55, s. 1009.56, s. 1009.57, s. 1009.60, s. 1009.62, ~~s.~~  
 1410 ~~1009.63~~, s. 1009.68, s. 1009.70, s. 1009.701, s. 1009.72, s.  
 1411 1009.73, s. 1009.74, s. 1009.77, s. 1009.89, or s. 1009.891.  
 1412 Section 36. This act shall take effect July 1, 2010.