By the Committee on Health Policy; and Senator Bean

588-00037-15A 20152Ac1

1 A bill to be entitled
2 An act relating to the health insurance affordability
3 exchange; providing a directive to the Division of Law
4 Revision and Information; creating s. 409.72, F.S.;
5 providing a short title; creating s. 409.721, F.S.;
6 creating the Florida Health Insurance Affordability
7 Exchange Program (FHIX) within the Agency for Health
8 Care Administration; providing program authority and
9 principles; creating s. 409.722, F.S.; defining terms;
10 creating s. 409.723, F.S.; providing eligibility and
11 enrollment criteria; providing patient rights and
12 responsibilities; defining the term “disabled”
13 providing premium levels; creating s. 409.724, F.S.;
14 providing for premium credits and choice counseling;
15 establishing an education campaign; providing for
16 customer support and disenrollment; creating s.
17 409.725, F.S.; providing for available products and
18 services; creating s. 409.726, F.S.; requiring the
19 department to develop accountability measures and
20 performance standards governing the administration of
21 the program; creating s. 409.727, F.S.; providing for
22 a readiness review and a two-phase implementation
23 schedule; creating s. 409.728, F.S.; providing program
24 operation and management duties; creating s. 409.729,
25 F.S.; providing for the development of a long-term
26 reorganization plan and the formation of the FHIX
27 Workgroup; creating s. 409.73, F.S.; authorizing the
28 agency to seek federal approval; prohibiting the
29 agency from implementing the FHIX waiver under certain

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30 circumstances; creating s. 409.731, F.S.; providing
31 for program expiration; repealing s. 408.70, F.S.,
32 relating to legislative findings regarding access to
33 affordable health care; amending s. 408.910, F.S.;
34 revising legislative intent; redefining terms;
35 revising the scope of the Florida Health Choices
36 Program and the pricing of services under the program;
37 providing requirements for operation of the
38 marketplace; providing additional duties for the
39 corporation to perform; requiring an annual report to
40 the Governor and the Legislature; amending s. 409.904,
41 F.S.; limiting eligible persons in the Medically Needy
42 program to those under the age of 21 and pregnant
43 women, and specifying an effective date; providing an
44 expiration date for the program; amending s. 624.91,
45 F.S.; revising eligibility requirements for state-
46 funded assistance; revising the duties and powers of
47 the Florida Healthy Kids Corporation; revising
48 provisions for the appointment of members of the board
49 of the Florida Healthy Kids Corporation; requiring
50 transition plans; repealing s. 624.915, F.S., relating
51 to the operating fund of the Florida Healthy Kids
52 Corporation; providing a directive to the Division of
53 Law Revision and Information; providing for
54 construction of the act in pari materia with laws
55 enacted during the 2015 Regular Session of the
56 Legislature; providing an effective date.
57
58 Be It Enacted by the Legislature of the State of Florida:

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59

60 Section 1. The Division of Law Revision and Information is
61 directed to rename part II of chapter 409, Florida Statutes, as
62 “Insurance Affordability Programs” and to incorporate ss.
63 409.72-409.731, Florida Statutes, under this part.
64 Section 2. Section 409.72, Florida Statutes, is created to
65 read:
66 409.72 Short title.—Sections 409.72-409.731 may be cited as
67 the “Florida Health Insurance Affordability Exchange Program”
68 (“FHIX”).
69 Section 3. Section 409.721, Florida Statutes, is created to
70 read:
71 409.721 Program authority.—The Florida Health Insurance
72 Affordability Exchange Program (FHIX) is created within the
73 Agency for Health Care Administration to assist Floridians in
74 purchasing health benefits coverage and gaining access to health
75 services. The products and services offered by FHIX are based on
76 the following principles:
77 (1) FAIR VALUE.—Financial assistance will be rationally
78 allocated regardless of differences in categorical eligibility.
79 (2) CONSUMER CHOICE.—Participants will be offered
80 meaningful choices in the way the participants can redeem the
81 value of the available assistance.
82 (3) SIMPLICITY.—Obtaining assistance will be consumer-
83 friendly, and customer support will be available when needed.
84 (4) PORTABILITY.—Participants can continue to access the
85 FHIX services and products despite changes in their
86 circumstances.
87 (5) EMPLOYMENT.—Assistance will be offered in a way that

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88 incentivizes employment.
89 (6) CONSUMER EMPOWERMENT.—Assistance will be offered in a
90 manner that maximizes individual control over available
91 resources.
92 (7) RISK ADJUSTMENT.—The amount of assistance will reflect
93 participants’ medical risk.
94 Section 4. Section 409.722, Florida Statutes, is created to
95 read:
96 409.722 Definitions.—As used in ss. 409.72-409.731, the
97 term:
98 (1) “Agency” means the Agency for Health Care
99 Administration.
100 (2) “Applicant” means an individual who applies for
101 determination of eligibility for health benefits coverage under
102 this part.
103 (3) “Corporation” means Florida Health Choices, Inc., as
104 established under s. 408.910.
105 (4) “Enrollee” means a participant who has been determined
106 eligible for and is receiving health benefits coverage under
107 this part.
108 (5) “Federal exchange” or “exchange” means an insurance
109 platform regulated by the Federal Government which offers tiers
110 of health plans from the least comprehensive plan to the most
111 comprehensive plan.
112 (6) “FHIX marketplace” or “marketplace” means the single,
113 centralized market established under s. 408.910 which
114 facilitates health benefits coverage.
115 (7) “Florida Health Insurance Affordability Exchange
116 Program” or “FHIX” means the program created under ss. 409.72-

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117 409.731.
118 (8) "Florida Healthy Kids Corporation" means the entity
119 created under s. 624.91.
120 (9) "Florida Kidcare program" or "Kidcare program" means
121 the health benefits coverage administered through ss. 409.810-
122 409.821.
123 (10) "Health benefits coverage" means the payment of
124 benefits for covered health care services or the availability,
125 directly or through arrangements with other persons, of covered
126 health care services on a prepaid per capita basis or on a
127 prepaid aggregate fixed-sum basis.
128 (11) "Inactive status" means the enrollment status of a
129 participant previously enrolled in health benefits coverage
130 through FHIX who lost coverage for noncompliance pursuant to s.
131 409.723, but who maintains access to his or her balance in a
132 health savings account or health reimbursement account.
133 (12) "Medicaid" means the medical assistance program
134 authorized by Title XIX of the Social Security Act, and
135 regulations thereunder, and parts III and IV of this chapter, as
136 administered in this state by the agency.
137 (13) "Modified adjusted gross income" means the
138 individual's or household's annual adjusted gross income, as
139 defined in s. 36B(d)(2) of the Internal Revenue Code of 1986,
140 which is used to determine eligibility for FHIX.
141 (14) "Patient Protection and Affordable Care Act" or
142 "Affordable Care Act" means Pub. L. No. 111-148, as amended by
143 the Health Care and Education Reconciliation Act of 2010, Pub.
144 L. No. 111-152, and regulations adopted pursuant to those acts.
145 (15) "Premium credit" means the monthly amount paid by the

146 agency per enrollee in the Florida Health Insurance
147 Affordability Exchange Program toward health benefits coverage.
148 (16) “Qualified alien” means an alien as defined in 8
149 U.S.C. s. 1641(b) or (c).
150 (17) “Resident” means a United States citizen or qualified
151 alien who is domiciled in this state.
152 Section 5. Section 409.723, Florida Statutes, is created to
153 read:
154 409.723 Participation.—
155 (1) ELIGIBILITY.—To participate in FHIX, an individual must
156 be a resident and meet the following requirements, as
157 applicable:
158 (a) Qualify as a newly eligible enrollee, and be an
159 individual as described in s. 1902(a)(10)(A)(i)(VIII) of the
160 Social Security Act or s. 2001 of the Affordable Care Act and as
161 may be further defined by federal regulation.
162 (b) Meet and maintain the responsibilities under subsection
163 (4).
164 (c) Qualify for participation in the Florida Healthy Kids
165 program under s. 624.91, subject to the implementation of Phase
166 Two under s. 409.727.
167 (2) ENROLLMENT.—To enroll in FHIX, an applicant must submit
168 an application to the department for an eligibility
169 determination.
170 (a) Applications may be submitted online, or by mail,
171 facsimile, or any other method permitted by law or regulation.
172 (b) The department is responsible for any eligibility
173 correspondence and status updates to the participant and other
174 agencies.

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175 (c) The department shall review a participant’s eligibility
176 at least every 12 months.
177 (d) An application or renewal is deemed complete when the
178 participant has met all the requirements under subsection (4),
179 as applicable.
180 (3) PARTICIPANT RIGHTS.—A participant has all of the
181 following rights:
182 (a) Access to the FHIX marketplace or federal exchange to
183 select the scope, amount, and type of health care coverage and
184 other services to be purchased.
185 (b) Continuity and portability of coverage to avoid
186 disruption of coverage and other health care services when the
187 participant’s economic circumstances change.
188 (c) Retention of applicable unspent credits in the
189 participant’s health savings or health reimbursement account
190 following a change in the participant’s eligibility status.
191 Credits are valid for a participant in an inactive status for up
192 to 5 years after the participant’s status first becomes
193 inactive.
194 (d) Ability to select more than one product or plan on the
195 FHIX marketplace or federal exchange.
196 (e) Choice of at least two health benefits products that
197 meet the requirements of the Affordable Care Act.
198 (4) PARTICIPANT RESPONSIBILITIES.—A participant must:
199 (a) Complete an initial application for health benefits
200 coverage and the annual renewal process.
201 (b) Provide evidence of participation in one or more of the
202 following activities at the levels required under paragraph (c):
203 1. Paid employment.

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204 2. On the job training or job placement activities that are
205 validated through registration with CareerSource Florida.
206 3. Educational pursuits.
207
208 A participant who is a disabled adult or the caregiver of a
209 disabled child or adult may submit a request to the department
210 for an exception to the requirements in this paragraph. Such
211 participant shall annually submit to the department a request to
212 renew the exception. The term "disabled" means any person who
213 has one or more permanent physical or mental impairments that
214 substantially limit his or her ability to perform one or more
215 major life activities of daily living, as defined by the
216 Americans with Disabilities Act, without receiving more than 8
217 hours of assistance per day.
218 (c) Engage in the activities required under paragraph (b)
219 at the following minimum levels:
220 1. For a parent of a child younger than 18 years of age, a
221 minimum of 20 hours weekly.
222 2. For a childless adult, a minimum of 30 hours weekly.
223 (d) Learn and remain informed about the choices available
224 in the FHIX marketplace or the federal exchange and the
225 allowable uses of credits in the individual accounts.
226 (e) Execute a contract with the department which
227 acknowledges that:
228 1. FHIX is not an entitlement and state and federal funding
229 may end at any time;
230 2. Failure to pay required premiums or cost sharing will
231 result in a transition to inactive status; and
232 3. Noncompliance with the participation requirements as

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233 established under s. 409.723 will result in a transition to
234 inactive status.
235 (f) Select plans and other products in a timely manner.
236 (g) Comply with program rules and the prohibitions against
237 fraud, as described in s. 414.39.
238 (h) Timely make monthly premium and any other cost-sharing
239 payments.
240 (i) Meet minimum coverage requirements by selecting either
241 a high-deductible health plan combined with a health savings or
242 a reimbursement account or a combination of plans or products
243 with an actuarial value that meets or exceeds benefits available
244 under the federal exchange.
245 (5) COST SHARING.—
246 (a) Enrollees are assessed monthly premiums based on their
247 modified adjusted gross income. The maximum monthly premium
248 payments are set at the following income levels:
249 1. At or below 22 percent of the federal poverty level: $3.
250 2. Greater than 22 percent, but at or below 50 percent, of
251 the federal poverty level: $8.
252 3. Greater than 50 percent, but at or below 75 percent, of
253 the federal poverty level: $15.
254 4. Greater than 75 percent, but at or below 100 percent, of
255 the federal poverty level: $20.
256 5. Greater than 100 percent of the federal poverty level:
257 $25.
258 (b) Depending on the products and services selected by the
259 enrollee, the enrollee may also incur additional cost sharing,
260 such as copayments, deductibles, or other out-of-pocket costs.
261 (c) An enrollee may be subject to charge for an

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262 inappropriate emergency room visit of up to $8 for the first
263 visit and up to $25 for any subsequent visit, based on the
264 enrollee’s benefit plan, to discourage inappropriate use of the
265 emergency room.
266 (d) Cumulative annual cost sharing per enrollee may not
267 exceed 5 percent of an enrollee’s annual modified adjusted gross
268 income.
269 (e) If, after a 30-day grace period, a full premium payment
270 has not been received, the enrollee shall be transitioned from
271 coverage to inactive status and may not reenroll for a minimum
272 of 6 months, unless a hardship exception has been granted.
273 Enrollees may seek a hardship exception under the Medicaid Fair
274 Hearing Process.
275 Section 6. Section 409.724, Florida Statutes, is created to
276 read:
277 409.724 Available assistance.—
278 (1) PREMIUM CREDITS.—
279 (a) Standard amount.—The standard monthly premium credit is
280 equivalent to the applicable risk-adjusted capitation rate paid
281 to Medicaid managed care plans under part IV of this chapter.
282 (b) Supplemental funding.—Subject to federal approval,
283 additional resources may be made available to enrollees and
284 incorporated into FHIX.
285 (c) Savings accounts.—In addition to the benefits provided
286 under this section, the corporation must offer each enrollee
287 access to an individual account that qualifies as a health
288 reimbursement account or a health savings account.
289 1. Unexpended Funds.—Eligible unexpended funds from the
290 monthly premium credit must be deposited into each enrollee’s

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291 individual account in a timely manner. Funds deposited into
292 these individual accounts may be used to pay cost-sharing
293 obligations or to purchase other health-related items to the
294 extent permitted under federal and state law.
295 2. Healthy Behaviors.—Enrollees may receive credits to
296 their individual accounts for healthy behaviors, adherence to
297 wellness programs, and other activities that demonstrate
298 compliance with prevention or disease management guidelines.
299 3. Enrollee contributions.—The enrollee may make deposits
300 to his or her account at any time to supplement the premium
301 credit, to purchase additional FHIX products, or to offset other
302 cost-sharing obligations.
303 4. Third parties.—Third parties, including, but not limited
304 to, an employer or relative, may also make deposits on behalf of
305 the enrollee into the enrollee's FHIX marketplace account. The
306 enrollee may not withdraw any funds as a refund, except those
307 funds the enrollee has deposited into his or her account.
308 (2) CHOICE COUNSELING.—The agency, in consultation with the
309 Florida Healthy Kids Corporation and the corporation, shall
310 develop a choice counseling program for FHIX. The choice
311 counseling program must ensure that participants have
312 information about the FHIX marketplace program, the federal
313 exchange, products, and services and that participants know
314 where and whom to call for questions or to make their plan
315 selections. The choice counseling program must provide
316 culturally sensitive materials and must take into consideration
317 the demographics of the projected population.
318 (3) EDUCATION CAMPAIGN.—The agency, the corporation, and
319 the Florida Healthy Kids Corporation must coordinate in advance

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320 of Phase One an ongoing education campaign to inform
321 participants, at a minimum, of the following:
322 (a) How the FHIX marketplace operates and the timeline for
323 enrollment.
324 (b) Plans that are available and how to find information
325 about these plans.
326 (c) Information about other available insurance
327 affordability programs for the participant and his or her
328 family.
329 (d) Information about health benefits coverage, provider
330 networks, and cost sharing for available plans in each region.
331 (e) Information on how to complete the required annual
332 renewal process, including renewal dates and deadlines.
333 (f) Information on how to update eligibility if the
334 participant's data have changed since his or her last renewal or
335 application date.
336 (4) CUSTOMER SUPPORT.—The Florida Healthy Kids Corporation
337 shall provide customer support for FHIX, including, but not
338 limited to, general program information, financial information,
339 and enrollee payments. Customer support must also provide a
340 toll-free telephone number and maintain a website that is
341 available in multiple languages and that meets the needs of the
342 enrollee population.
343 (5) INACTIVE PARTICIPANTS.—The corporation must inform the
344 inactive participant about other insurance affordability
345 programs and electronically refer the participant to the federal
346 exchange or other insurance affordability programs, as
347 appropriate.
348 Section 7. Section 409.725, Florida Statutes, is created to

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349 read:
350 409.725 Available products and services.—The FHIX
351 marketplace shall offer the following products and services:
352 (1) Products and services authorized pursuant to s.
353 408.910.
354 (2) Products authorized by the federal exchange.
355 (3) Products authorized by the Florida Healthy Kids
356 Corporation pursuant to s. 624.91.
357 (4) Premium credits for participation in employer-sponsored
358 plans.
359 Section 8. Section 409.726, Florida Statutes, is created to
360 read:
361 409.726 Program accountability.—
362 (1) All managed care plans that participate in FHIX must
363 collect and maintain encounter level data in accordance with the
364 encounter data requirements under s. 409.967(2)(d) and are
365 subject to the accompanying penalties under s. 409.967(2)(h)2.
366 The agency is responsible for the collection and maintenance of
367 the encounter level data.
368 (2) The corporation, in consultation with the agency, shall
369 establish access and network standards for contracts on the FHIX
370 marketplace, shall ensure that contracted plans have sufficient
371 providers to meet enrollee needs, and shall develop quality of
372 coverage and provider standards specific to the adult
373 population.
374 (3) The department shall develop accountability measures
375 and performance standards to be applied to initial and renewal
376 FHIX applications that are submitted online, by mail, by
377 facsimile, or through referrals from a third party. The minimum

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378 performance standards are:
379 (a) Application processing speed.—Ninety percent of all
380 applications, regardless of the method of submission, must be
381 processed within 45 days.
382 (b) Application processing speed from online sources.—
383 Ninety-five percent of all applications received from online
384 sources must be processed within 45 days.
385 (c) Renewal application processing speed.—Ninety percent of
386 all renewals, regardless of the method of submission, must be
387 processed within 45 days.
388 (d) Renewal application processing speed from online
389 sources.—Ninety-five percent of all applications received from
390 online sources must be processed within 45 days.
391 (4) The agency, the department, and the Florida Healthy
392 Kids Corporation must meet the following standards for their
393 respective roles in the program:
394 (a) Eighty-five percent of calls must be answered in 20
395 seconds or less.
396 (b) All contacts, including, but not limited to, telephone
397 calls, faxed documents and requests, and e-mails, must be
398 handled within 2 business days.
399 (c) Any self-service tools available to participants, such
400 as interactive voice response systems, must be operational 7
401 days a week, 24 hours a day, at least 98 percent of each month.
402 (5) The agency, the department, and the Florida Healthy
403 Kids Corporation shall conduct an annual satisfaction survey to
404 address all measures that require participant input specific to
405 the FHIX marketplace program. The parties may elect to
406 incorporate these elements into the annual report required under

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407 subsection (7).
408 (6) The agency and the corporation shall post online
409 monthly enrollment reports for FHIX.
410 (7) Beginning in 2016, an annual report is due no later
411 than July 1 to the Governor, the President of the Senate, and
412 the Speaker of the House of Representatives. The annual report
413 must be coordinated by the agency and the corporation and must
414 include at least the following:
415 (a) Enrollment and application trends and issues.
416 (b) Utilization and cost data.
417 (c) Customer satisfaction.
418 (d) Funding sources in health savings accounts or health
419 reimbursement accounts.
420 (e) Enrollee use of funds in health savings accounts or
421 health reimbursement accounts.
422 (f) Types of products and plans purchased.
423 (g) Movement of enrollees across different insurance
424 affordability programs.
425 (h) Recommendations for program improvement.
426 Section 9. Section 409.727, Florida Statutes, is created to
427 read:
428 409.727 Readiness review and implementation schedule.—The
429 agency, the corporation, the department, and the Florida Healthy
430 Kids Corporation shall begin implementation of FHIX on the
431 effective date of this act, with enrollment for Phase One
432 beginning by January 1, 2016.
433 (1) READINESS REVIEW.—Before implementation of any phase
434 under this part or in any region, the agency shall conduct a
435 readiness review in consultation with the FHIX Workgroup

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436 established pursuant to s. 409.729. The agency shall determine,
437 at a minimum, the following readiness milestones:
438 (a) Functional readiness of the service delivery platform.
439 (b) Plan availability and presence of plan choice.
440 (c) Provider network capacity and adequacy of the available
441 plans.
442 (d) Availability of customer support.
443 (e) Other factors critical to the success of FHIX.
444 (2) PHASE ONE.—The agency, the corporation, and the Florida
445 Healthy Kids Corporation shall coordinate implementation
446 activities to ensure that enrollment begins by January 1, 2016,
447 and is available in all regions by July 1, 2016.
448 (a) Beginning no later than January 1, 2016, and contingent
449 upon federal approval, participants may enroll in health
450 benefits coverage under the FHIX marketplace or the federal
451 exchange, if eligible.
452 (b) To be eligible for enrollment during this phase, a
453 participant must meet the requirements under s. 409.723(1)(a)
454 and (b).
455 (c) An enrollee may select any benefit, service, or product
456 available in the region.
457 (d) The corporation shall notify an enrollee of his or her
458 premium credit amount and how to access the FHIX marketplace
459 selection process or the federal exchange.
460 (e) An enrollee must have a choice of at least two managed
461 care plans in each region which meet or exceed the Affordable
462 Care Act's requirements and which qualify for a premium credit
463 on the FHIX marketplace or federal exchange.
464 (f) Choice counseling and customer service must be provided

465 in accordance with s. 409.724(2) and (4).
466 (3) PHASE TWO.—
467 (a) No later than July 1, 2016, the corporation and the
468 Florida Healthy Kids Corporation shall begin the transition of
469 enrollees under s. 624.91 to the FHIX marketplace.
470 (b) Eligibility during this phase is based on meeting the
471 requirements of s. 409.723(1)(c) and (4).
472 (c) An enrollee may select any available benefit, service,
473 or product available under s. 409.725.
474 (d) A Florida Healthy Kids enrollee who selects a FHIX
475 marketplace plan or federal exchange plan shall be provided a
476 premium credit equivalent to the average capitation rate paid in
477 his or her county of residence under Florida Healthy Kids as of
478 June 30, 2016. The enrollee is responsible for any difference in
479 costs and may use any unexpended funds deposited in his or her
480 savings account under s. 409.724(1)(c) for supplemental benefits
481 on the FHIX marketplace or federal exchange.
482 (e) The corporation shall notify an enrollee of his or her
483 premium credit amount and how to access the FHIX marketplace
484 selection process or federal exchange.
485 (f) Choice counseling and customer service must be provided
486 in accordance with s. 409.724(2) and (4).
487 (g) Enrollees under s. 624.91 must transition to the FHIX
488 marketplace and coverage under s. 409.725 by September 30, 2016.
489 Section 10. Section 409.728, Florida Statutes, is created
490 to read:
491 409.728 Program operation and management.—In order to
492 implement ss. 409.72-409.731:
493 (1) The agency shall do all of the following:

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494 (a) Contract with the corporation for the development,
495 implementation, and administration of the Florida Health
496 Insurance Affordability Exchange Program and for the release of
497 any federal, state, or other funds appropriated to the
498 corporation.
499 (b) Provide administrative support to the FHIX Workgroup
500 established pursuant to s. 409.729.
501 (c) Consult with stakeholders that serve low-income
502 individuals and families during implementation, using a public
503 input process.
504 (d) Timely transmit enrollee information to the
505 corporation.
506 (e) Annually determine the risk-adjusted rate to be paid
507 per month based on historical utilization and spending data for
508 the medical and behavioral health of enrollee population,
509 projected forward, and adjusted to reflect the eligibility
510 category, medical and dental trends, geographic areas, and the
511 clinical risk profile of the enrollees.
512 (f) Transfer funds allocated for premium credits by General
513 Appropriations Act to the corporation.
514 (g) Adopt rules in coordination with the corporation and
515 the Florida Healthy Kids Corporation in order to implement FHIX,
516 including modifying existing rules implementing the Children's
517 Health Insurance Program and adapting adult focused provisions
518 for children to accommodate the seamless transition of Healthy
519 Kids enrollees to FHIX.
520 (2) The department shall, in coordination with the
521 corporation, the agency, and the Florida Healthy Kids
522 Corporation, determine eligibility of applications and

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523 application renewals for FHIX in accordance with s. 409.902 and
524 shall transmit eligibility determination information on a timely
525 basis to the agency and corporation.
526 (3) The Florida Healthy Kids Corporation shall do all of
527 the following:
528 (a) Retain its duties and responsibilities under s. 624.91
529 during Phase One of the program.
530 (b) In coordination with the agency and the corporation,
531 provide customer service for the FHIX marketplace.
532 (c) Transfer funds and provide financial support to the
533 FHIX marketplace, including the collection of monthly cost-
534 sharing payments.
535 (d) Conduct financial reporting related to such activities,
536 in coordination with the corporation and the agency.
537 (e) Coordinate program activities with the agency, the
538 department, and the corporation.
539 (4) Florida Health Choices, Inc., shall do all of the
540 following:
541 (a) Develop and maintain the FHIX marketplace.
542 (b) Implement and administer Phase One and Phase Two of the
543 FHIX marketplace and the ongoing operations of the program.
544 (c) Offer health benefits coverage packages on the FHIX
545 marketplace, including plans compliant with the Affordable Care
546 Act.
547 (d) Offer FHIX enrollees a choice of at least two plans per
548 county at each benefit level which meet the requirements under
549 the Affordable Care Act.
550 (e) Offer the opportunity to participate in the federal
551 exchange.

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552 (f) Offer enhanced or customized benefits to FHIX
553 marketplace enrollees.
554 (g) Provide sufficient staff and resources to meet the
555 program needs of enrollees.
556 (h) Provide an opportunity for plans contracted with or
557 previously contracted with the Florida Healthy Kids Corporation
558 under s. 624.91 to participate with FHIX if those plans meet the
559 requirements of the program.
560 (i) Encourage insurance agents licensed under chapter 626
561 to identify and assist enrollees. This act does not prohibit
562 these agents from receiving usual and customary commissions from
563 insurers and health maintenance organizations that offer plans
564 in the FHIX marketplace.
565 Section 11. Section 409.729, Florida Statutes, is created
566 to read:
567 409.729 Long-term reorganization.—The FHIX Workgroup is
568 created to facilitate the implementation of FHIX and to plan for
569 the reorganization of the state's insurance affordability
570 programs. The FHIX Workgroup consists of two representatives
571 each from the agency, the department, the Florida Healthy Kids
572 Corporation, and the corporation. An additional representative
573 of the agency serves as chair. The FHIX Workgroup must hold its
574 organizational meeting no later than 30 days after the effective
575 date of this act and must meet at least bimonthly. The role of
576 the FHIX Workgroup is to make recommendations to the agency. The
577 responsibilities of the workgroup include, but are not limited
578 to:
579 (1) Developing and presenting a final implementation plan
580 that meets the requirements of this part in a report submitted

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581 to the Governor, the President of the Senate, and the Speaker of
582 the House of Representatives no later than November 1, 2015.
583 (2) Reviewing network and access standards for plans and
584 products.
585 (3) Assessing readiness and recommending actions needed to
586 reorganize the state’s insurance affordability programs for each
587 phase or region. If a phase or region receives a nonreadiness
588 recommendation, the agency shall notify the Legislature of that
589 recommendation, the reasons for such a recommendation, and
590 proposed plans for achieving readiness.
591 (4) Recommending any proposed change to the Title XIX-
592 funded or Title XXI-funded programs based on the continued
593 availability and reauthorization of the Title XXI program and
594 its federal funding.
595 (5) Identifying duplication of services by the corporation,
596 the agency, and the Florida Healthy Kids Corporation currently
597 and under FHIX’s proposed Phase Two program.
598 (6) Evaluating any fiscal impacts based on the proposed
599 transition plan under Phase Two.
600 (7) Compiling a schedule of impacted contracts, leases, and
601 other assets.
602 (8) Determining staff requirements for Phase Two.
603 Section 12. Section 409.73, Florida Statutes, is created to
604 read:
605 409.73 Legislative Review.—The agency may seek federal
606 approval to implement FHIX as provided in ss. 409.72-409.731.
607 The agency is prohibited from implementing the FHIX waiver
608 without specific legislative approval unless the terms and
609 conditions of the approved waiver are substantially consistent

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610 with the statutory requirements for this program.
611 Section 13. Section 409.731, Florida Statutes, is created
612 to read:
613 409.731 Program expiration.—The Florida Health Insurance
614 Affordability Exchange Program expires at the end of the state
615 fiscal year in which any of these conditions occurs:
616 (1) The federal match contribution for the newly eligible
617 under the Affordable Care Act falls below 90 percent.
618 (2) The federal match contribution falls below the
619 increased Federal Medical Assistance Percentage for medical
620 assistance for newly eligible mandatory individuals as specified
621 in the Affordable Care Act.
622 (3) The federal match for the FHIX program and the Medicaid
623 program are blended under federal law or regulation in such a
624 manner that causes the overall federal contribution to diminish
625 when compared to separate, nonblended federal contributions.
626 Section 14. Section 408.70, Florida Statutes, is repealed.
627 Section 15. Section 408.910, Florida Statutes, is amended
628 to read:
629 408.910 Florida Health Choices Program.—
630 (1) LEGISLATIVE INTENT.—The Legislature finds that a
631 significant number of the residents of this state do not have
632 adequate access to affordable, quality health care. The
633 Legislature further finds that increasing access to affordable,
634 quality health care can be best accomplished by establishing a
635 competitive market for purchasing health insurance and health
636 services. It is therefore the intent of the Legislature to
637 create and expand the Florida Health Choices Program to:
638 (a) Expand opportunities for Floridians to purchase

639 affordable health insurance and health services.
640 (b) Preserve the benefits of employment-sponsored insurance
641 while easing the administrative burden for employers who offer
642 these benefits.
643 (c) Enable individual choice in both the manner and amount
644 of health care purchased.
645 (d) Provide for the purchase of individual, portable health
646 care coverage.
647 (e) Disseminate information to consumers on the price and
648 quality of health services.
649 (f) Sponsor a competitive market that stimulates product
650 innovation, quality improvement, and efficiency in the
651 production and delivery of health services.
652 (2) DEFINITIONS.—As used in this section, the term:
653 (a) "Corporation" means the Florida Health Choices, Inc.,
654 established under this section.
655 (b) "Corporation's marketplace" means the single,
656 centralized market established by the program that facilitates
657 the purchase of products made available in the marketplace.
658 (c) "Florida Health Insurance Affordability Exchange
659 Program" or "FHIX" is the program created under ss. 409.72-
660 409.731 for low-income, uninsured residents of this state.
661 (d) ~~(c)~~ "Health insurance agent" means an agent licensed
662 under part IV of chapter 626.
663 (e) ~~(d)~~ "Insurer" means an entity licensed under chapter 624
664 which offers an individual health insurance policy or a group
665 health insurance policy, a preferred provider organization as
666 defined in s. 627.6471, an exclusive provider organization as
667 defined in s. 627.6472, ~~or~~ a health maintenance organization

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668 licensed under part I of chapter 641, ~~or~~ a prepaid limited
669 health service organization or discount medical plan
670 organization licensed under chapter 636.
671 (f) "Patient Protection and Affordable Care Act" or
672 "Affordable Care Act" means Pub. L. No. 111-148, as further
673 amended by the Health Care and Education Reconciliation Act of
674 2010, Pub. L. No. 111-152, and regulations adopted pursuant to
675 those acts.
676 (g) ~~(e)~~ "Program" means the Florida Health Choices Program
677 established by this section.
678 (3) PROGRAM PURPOSE AND COMPONENTS.—The Florida Health
679 Choices Program is created as a single, centralized market for
680 the sale and purchase of various products that enable
681 individuals to pay for health care. These products include, but
682 are not limited to, health insurance plans, health maintenance
683 organization plans, prepaid services, service contracts, and
684 flexible spending accounts. The components of the program
685 include:
686 (a) Enrollment of employers.
687 (b) Administrative services for participating employers,
688 including:
689 1. Assistance in seeking federal approval of cafeteria
690 plans.
691 2. Collection of premiums and other payments.
692 3. Management of individual benefit accounts.
693 4. Distribution of premiums to insurers and payments to
694 other eligible vendors.
695 5. Assistance for participants in complying with reporting
696 requirements.

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697 (c) Services to individual participants, including:
698 1. Information about available products and participating
699 vendors.
700 2. Assistance with assessing the benefits and limits of
701 each product, including information necessary to distinguish
702 between policies offering creditable coverage and other products
703 available through the program.
704 3. Account information to assist individual participants
705 with managing available resources.
706 4. Services that promote healthy behaviors.
707 5. Health benefits coverage information about health
708 insurance plans compliant with the Affordable Care Act.
709 6. Consumer assistance with web-based information services
710 for the Florida Health Insurance Affordability Exchange Program,
711 or (”FHIX”).
712 (d) Recruitment of vendors, including insurers, health
713 maintenance organizations, prepaid clinic service providers,
714 provider service networks, and other providers.
715 (e) Certification of vendors to ensure capability,
716 reliability, and validity of offerings.
717 (f) Collection of data, monitoring, assessment, and
718 reporting of vendor performance.
719 (g) Information services for individuals and employers.
720 (h) Program evaluation.
721 (4) ELIGIBILITY AND PARTICIPATION.—Participation in the
722 program is voluntary and shall be available to employers,
723 individuals, vendors, and health insurance agents as specified
724 in this subsection.
725 (a) Employers eligible to enroll in the program include

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726 those employers that meet criteria established by the
727 corporation and elect to make their employees eligible through
728 the program.
729 (b) Individuals eligible to participate in the program
730 include:
731 1. Individual employees of enrolled employers.
732 2. Other individuals that meet criteria established by the
733 corporation.
734 (c) Employers who choose to participate in the program may
735 enroll by complying with the procedures established by the
736 corporation. The procedures must include, but are not limited
737 to:
738 1. Submission of required information.
739 2. Compliance with federal tax requirements for the
740 establishment of a cafeteria plan, pursuant to s. 125 of the
741 Internal Revenue Code, including designation of the employer's
742 plan as a premium payment plan, a salary reduction plan that has
743 flexible spending arrangements, or a salary reduction plan that
744 has a premium payment and flexible spending arrangements.
745 3. Determination of the employer's contribution, if any,
746 per employee, provided that such contribution is equal for each
747 eligible employee.
748 4. Establishment of payroll deduction procedures, subject
749 to the agreement of each individual employee who voluntarily
750 participates in the program.
751 5. Designation of the corporation as the third-party
752 administrator for the employer's health benefit plan.
753 6. Identification of eligible employees.
754 7. Arrangement for periodic payments.

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755 8. Employer notification to employees of the intent to
756 transfer from an existing employee health plan to the program at
757 least 90 days before the transition.
758 (d) All eligible vendors who choose to participate and the
759 products and services that the vendors are permitted to sell are
760 as follows:
761 1. Insurers licensed under chapter 624 may sell health
762 insurance policies, limited benefit policies, other risk-bearing
763 coverage, and other products or services.
764 2. Health maintenance organizations licensed under part I
765 of chapter 641 may sell health maintenance contracts, limited
766 benefit policies, other risk-bearing products, and other
767 products or services.
768 3. Prepaid limited health service organizations may sell
769 products and services as authorized under part I of chapter 636,
770 and discount medical plan organizations may sell products and
771 services as authorized under part II of chapter 636.
772 4. Prepaid health clinic service providers licensed under
773 part II of chapter 641 may sell prepaid service contracts and
774 other arrangements for a specified amount and type of health
775 services or treatments.
776 5. Health care providers, including hospitals and other
777 licensed health facilities, health care clinics, licensed health
778 professionals, pharmacies, and other licensed health care
779 providers, may sell service contracts and arrangements for a
780 specified amount and type of health services or treatments.
781 6. Provider organizations, including service networks,
782 group practices, professional associations, and other
783 incorporated organizations of providers, may sell service

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784 contracts and arrangements for a specified amount and type of
785 health services or treatments.
786 7. Corporate entities providing specific health services in
787 accordance with applicable state law may sell service contracts
788 and arrangements for a specified amount and type of health
789 services or treatments.
790
791 A vendor described in subparagraphs 3.-7. may not sell products
792 that provide risk-bearing coverage unless that vendor is
793 authorized under a certificate of authority issued by the Office
794 of Insurance Regulation and is authorized to provide coverage in
795 the relevant geographic area. Otherwise eligible vendors may be
796 excluded from participating in the program for deceptive or
797 predatory practices, financial insolvency, or failure to comply
798 with the terms of the participation agreement or other standards
799 set by the corporation.
800 (e) Eligible individuals may participate in the program
801 voluntarily. Individuals who join the program may participate by
802 complying with the procedures established by the corporation.
803 These procedures must include, but are not limited to:
804 1. Submission of required information.
805 2. Authorization for payroll deduction, if applicable.
806 3. Compliance with federal tax requirements.
807 4. Arrangements for payment.
808 5. Selection of products and services.
809 (f) Vendors who choose to participate in the program may
810 enroll by complying with the procedures established by the
811 corporation. These procedures may include, but are not limited
812 to:

813 1. Submission of required information, including a complete
814 description of the coverage, services, provider network, payment
815 restrictions, and other requirements of each product offered
816 through the program.
817 2. Execution of an agreement to comply with requirements
818 established by the corporation.
819 3. Execution of an agreement that prohibits refusal to sell
820 any offered product or service to a participant who elects to
821 buy it.
822 4. Establishment of product prices based on applicable
823 criteria.
824 5. Arrangements for receiving payment for enrolled
825 participants.
826 6. Participation in ongoing reporting processes established
827 by the corporation.
828 7. Compliance with grievance procedures established by the
829 corporation.
830 (g) Health insurance agents licensed under part IV of
831 chapter 626 are eligible to voluntarily participate as buyers'
832 representatives. A buyer's representative acts on behalf of an
833 individual purchasing health insurance and health services
834 through the program by providing information about products and
835 services available through the program and assisting the
836 individual with both the decision and the procedure of selecting
837 specific products. Serving as a buyer's representative does not
838 constitute a conflict of interest with continuing
839 responsibilities as a health insurance agent if the relationship
840 between each agent and any participating vendor is disclosed
841 before advising an individual participant about the products and

842 services available through the program. In order to participate,
843 a health insurance agent shall comply with the procedures
844 established by the corporation, including:
845 1. Completion of training requirements.
846 2. Execution of a participation agreement specifying the
847 terms and conditions of participation.
848 3. Disclosure of any appointments to solicit insurance or
849 procure applications for vendors participating in the program.
850 4. Arrangements to receive payment from the corporation for
851 services as a buyer’s representative.
852 (5) PRODUCTS.—
853 (a) The products that may be made available for purchase
854 through the program include, but are not limited to:
855 1. Health insurance policies.
856 2. Health maintenance contracts.
857 3. Limited benefit plans.
858 4. Prepaid clinic services.
859 5. Service contracts.
860 6. Arrangements for purchase of specific amounts and types
861 of health services and treatments.
862 7. Flexible spending accounts.
863 (b) Health insurance policies, health maintenance
864 contracts, limited benefit plans, prepaid service contracts, and
865 other contracts for services must ensure the availability of
866 covered services.
867 (c) Products may be offered for multiyear periods provided
868 the price of the product is specified for the entire period or
869 for each separately priced segment of the policy or contract.
870 (d) The corporation shall provide a disclosure form for

consumers to acknowledge their understanding of the nature of, and any limitations to, the benefits provided by the products and services being purchased by the consumer.

(e) The corporation must determine that making the plan available through the program is in the interest of eligible individuals and eligible employers in the state.

(6) PRICING.—Prices for the products and services sold through the program must be transparent to participants and established by the vendors. The corporation may ~~shall~~ annually assess a surcharge for each premium or price set by a participating vendor. Any ~~The~~ surcharge may not be more than 2.5 percent of the price and shall be used to generate funding for administrative services provided by the corporation and payments to buyers' representatives; however, a surcharge may not be assessed for products and services sold in the FHIX marketplace.

(7) THE MARKETPLACE PROCESS.—The program shall provide a single, centralized market for purchase of health insurance, health maintenance contracts, and other health products and services. Purchases may be made by participating individuals over the Internet or through the services of a participating health insurance agent. Information about each product and service available through the program shall be made available through printed material and an interactive Internet website.

(a) Marketplace purchasing.—A participant needing personal assistance to select products and services shall be referred to a participating agent in his or her area.

1.~~(a)~~ Participation in the program may begin at any time during a year after the employer completes enrollment and meets the requirements specified by the corporation pursuant to

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900 paragraph (4)(c).
901 <u>2.</u>~~(b)~~ Initial selection of products and services must be
902 made by an individual participant within the applicable open
903 enrollment period.
904 <u>3.</u>~~(c)~~ Initial enrollment periods for each product selected
905 by an individual participant must last at least 12 months,
906 unless the individual participant specifically agrees to a
907 different enrollment period.
908 <u>4.</u>~~(d)~~ If an individual has selected one or more products
909 and enrolled in those products for at least 12 months or any
910 other period specifically agreed to by the individual
911 participant, changes in selected products and services may only
912 be made during the annual enrollment period established by the
913 corporation.
914 <u>5.</u>~~(e)~~ The limits established in <u>subparagraphs 2., 3., and</u>
915 <u>4.</u> ~~paragraphs (b)-(d)~~ apply to any risk-bearing product that
916 promises future payment or coverage for a variable amount of
917 benefits or services. The limits do not apply to initiation of
918 flexible spending plans if those plans are not associated with
919 specific high-deductible insurance policies or the use of
920 spending accounts for any products offering individual
921 participants specific amounts and types of health services and
922 treatments at a contracted price.
923 <u>(b) FHIX marketplace purchasing.—</u>
924 <u>1. Participation in the FHIX marketplace may begin at any</u>
925 <u>time during the year.</u>
926 <u>2. Initial enrollment periods for certain products selected</u>
927 <u>by an individual enrollee which are noncompliant with the</u>
928 <u>Affordable Care Act may be required to last at least 12 months,</u>

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929 <u>unless the individual participant specifically agrees to a</u>
930 <u>different enrollment period.</u>
931 (8) CONSUMER INFORMATION.—The corporation shall:
932 (a) Establish a secure website to facilitate the purchase
933 of products and services by participating individuals. The
934 website must provide information about each product or service
935 available through the program.
936 (b) Inform individuals about other public health care
937 programs.
938 (9) RISK POOLING.—The program may use methods for pooling
939 the risk of individual participants and preventing selection
940 bias. These methods may include, but are not limited to, a
941 postenrollment risk adjustment of the premium payments to the
942 vendors. The corporation may establish a methodology for
943 assessing the risk of enrolled individual participants based on
944 data reported annually by the vendors about their enrollees.
945 Distribution of payments to the vendors may be adjusted based on
946 the assessed relative risk profile of the enrollees in each
947 risk-bearing product for the most recent period for which data
948 is available.
949 (10) EXEMPTIONS.—
950 (a) Products, other than the products set forth in
951 subparagraphs (4)(d)1.-4., sold as part of the program are not
952 subject to the licensing requirements of the Florida Insurance
953 Code, as defined in s. 624.01 or the mandated offerings or
954 coverages established in part VI of chapter 627 and chapter 641.
955 (b) The corporation may act as an administrator as defined
956 in s. 626.88 but is not required to be certified pursuant to
957 part VII of chapter 626. However, a <u>third-party</u> ~~third party~~

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958 administrator used by the corporation must be certified under
959 part VII of chapter 626.
960 (c) Any standard forms, website design, or marketing
961 communication developed by the corporation and used by the
962 corporation, or any vendor that meets the requirements of
963 paragraph (4)(f) is not subject to the Florida Insurance Code,
964 as established in s. 624.01.
965 (11) CORPORATION.—There is created the Florida Health
966 Choices, Inc., which shall be registered, incorporated,
967 organized, and operated in compliance with part III of chapter
968 112 and chapters 119, 286, and 617. The purpose of the
969 corporation is to administer the program created in this section
970 and to conduct such other business as may further the
971 administration of the program.
972 (a) The corporation shall be governed by a 15-member board
973 of directors consisting of:
974 1. Three ex officio, nonvoting members to include:
975 a. The Secretary of Health Care Administration or a
976 designee with expertise in health care services.
977 b. The Secretary of Management Services or a designee with
978 expertise in state employee benefits.
979 c. The commissioner of the Office of Insurance Regulation
980 or a designee with expertise in insurance regulation.
981 2. Four members appointed by and serving at the pleasure of
982 the Governor.
983 3. Four members appointed by and serving at the pleasure of
984 the President of the Senate.
985 4. Four members appointed by and serving at the pleasure of
986 the Speaker of the House of Representatives.

987 5. Board members may not include insurers, health insurance
988 agents or brokers, health care providers, health maintenance
989 organizations, prepaid service providers, or any other entity,
990 affiliate, or subsidiary of eligible vendors.
991 (b) Members shall be appointed for terms of up to 3 years.
992 Any member is eligible for reappointment. A vacancy on the board
993 shall be filled for the unexpired portion of the term in the
994 same manner as the original appointment.
995 (c) The board shall select a chief executive officer for
996 the corporation who shall be responsible for the selection of
997 such other staff as may be authorized by the corporation's
998 operating budget as adopted by the board.
999 (d) Board members are entitled to receive, from funds of
1000 the corporation, reimbursement for per diem and travel expenses
1001 as provided by s. 112.061. No other compensation is authorized.
1002 (e) There is no liability on the part of, and no cause of
1003 action shall arise against, any member of the board or its
1004 employees or agents for any action taken by them in the
1005 performance of their powers and duties under this section.
1006 (f) The board shall develop and adopt bylaws and other
1007 corporate procedures as necessary for the operation of the
1008 corporation and carrying out the purposes of this section. The
1009 bylaws shall:
1010 1. Specify procedures for selection of officers and
1011 qualifications for reappointment, provided that no board member
1012 shall serve more than 9 consecutive years.
1013 2. Require an annual membership meeting that provides an
1014 opportunity for input and interaction with individual
1015 participants in the program.

1016 3. Specify policies and procedures regarding conflicts of
1017 interest, including the provisions of part III of chapter 112,
1018 which prohibit a member from participating in any decision that
1019 would inure to the benefit of the member or the organization
1020 that employs the member. The policies and procedures shall also
1021 require public disclosure of the interest that prevents the
1022 member from participating in a decision on a particular matter.
1023 (g) The corporation may exercise all powers granted to it
1024 under chapter 617 necessary to carry out the purposes of this
1025 section, including, but not limited to, the power to receive and
1026 accept grants, loans, or advances of funds from any public or
1027 private agency and to receive and accept from any source
1028 contributions of money, property, labor, or any other thing of
1029 value to be held, used, and applied for the purposes of this
1030 section.
1031 (h) The corporation may establish technical advisory panels
1032 consisting of interested parties, including consumers, health
1033 care providers, individuals with expertise in insurance
1034 regulation, and insurers.
1035 (i) The corporation shall:
1036 1. Determine eligibility of employers, vendors,
1037 individuals, and agents in accordance with subsection (4).
1038 2. Establish procedures necessary for the operation of the
1039 program, including, but not limited to, procedures for
1040 application, enrollment, risk assessment, risk adjustment, plan
1041 administration, performance monitoring, and consumer education.
1042 3. Arrange for collection of contributions from
1043 participating employers, third parties, governmental entities,
1044 and individuals.

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1045 4. Arrange for payment of premiums and other appropriate
1046 disbursements based on the selections of products and services
1047 by the individual participants.
1048 5. Establish criteria for disenrollment of participating
1049 individuals based on failure to pay the individual’s share of
1050 any contribution required to maintain enrollment in selected
1051 products.
1052 6. Establish criteria for exclusion of vendors pursuant to
1053 paragraph (4)(d).
1054 7. Develop and implement a plan for promoting public
1055 awareness of and participation in the program.
1056 8. Secure staff and consultant services necessary to the
1057 operation of the program.
1058 9. Establish policies and procedures regarding
1059 participation in the program for individuals, vendors, health
1060 insurance agents, and employers.
1061 10. Provide for the operation of a toll-free hotline to
1062 respond to requests for assistance.
1063 11. Provide for initial, open, and special enrollment
1064 periods.
1065 12. Evaluate options for employer participation which may
1066 conform to ~~with~~ common insurance practices.
1067 13. Administer the Florida Health Insurance Affordability
1068 Exchange Program in accordance with ss. 409.72-409.731.
1069 14. Coordinate with the Agency for Health Care
1070 Administration, the Department of Children and Families, and the
1071 Florida Healthy Kids Corporation in developing and implementing
1072 the enrollee transition plan.
1073 15. Coordinate with the federal exchange to provide FHIX

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1074 enrollees with the option of selecting plans from either the
1075 FHIX marketplace or the federal exchange.
1076 (12) REPORT.—The board of the corporation shall ~~Beginning~~
1077 ~~in the 2009-2010 fiscal year,~~ submit by February 1 an annual
1078 report to the Governor, the President of the Senate, and the
1079 Speaker of the House of Representatives documenting the
1080 corporation's activities in compliance with the duties
1081 delineated in this section.
1082 (13) PROGRAM INTEGRITY.—To ensure program integrity and to
1083 safeguard the financial transactions made under the auspices of
1084 the program, the corporation is authorized to establish
1085 qualifying criteria and certification procedures for vendors,
1086 require performance bonds or other guarantees of ability to
1087 complete contractual obligations, monitor the performance of
1088 vendors, and enforce the agreements of the program through
1089 financial penalty or disqualification from the program.
1090 (14) EXEMPTION FROM PUBLIC RECORDS REQUIREMENTS.—
1091 (a) *Definitions.*—For purposes of this subsection, the term:
1092 1. "Buyer's representative" means a participating insurance
1093 agent as described in paragraph (4)(g).
1094 2. "Enrollee" means an employer who is eligible to enroll
1095 in the program pursuant to paragraph (4)(a).
1096 3. "Participant" means an individual who is eligible to
1097 participate in the program pursuant to paragraph (4)(b).
1098 4. "Proprietary confidential business information" means
1099 information, regardless of form or characteristics, that is
1100 owned or controlled by a vendor requesting confidentiality under
1101 this section; that is intended to be and is treated by the
1102 vendor as private in that the disclosure of the information

1103 would cause harm to the business operations of the vendor; that
1104 has not been disclosed unless disclosed pursuant to a statutory
1105 provision, an order of a court or administrative body, or a
1106 private agreement providing that the information may be released
1107 to the public; and that is information concerning:
1108 a. Business plans.
1109 b. Internal auditing controls and reports of internal
1110 auditors.
1111 c. Reports of external auditors for privately held
1112 companies.
1113 d. Client and customer lists.
1114 e. Potentially patentable material.
1115 f. A trade secret as defined in s. 688.002.
1116 5. “Vendor” means a participating insurer or other provider
1117 of services as described in paragraph (4)(d).
1118 (b) *Public record exemptions.*—
1119 1. Personal identifying information of an enrollee or
1120 participant who has applied for or participates in the Florida
1121 Health Choices Program is confidential and exempt from s.
1122 119.07(1) and s. 24(a), Art. I of the State Constitution.
1123 2. Client and customer lists of a buyer’s representative
1124 held by the corporation are confidential and exempt from s.
1125 119.07(1) and s. 24(a), Art. I of the State Constitution.
1126 3. Proprietary confidential business information held by
1127 the corporation is confidential and exempt from s. 119.07(1) and
1128 s. 24(a), Art. I of the State Constitution.
1129 (c) *Retroactive application.*—The public record exemptions
1130 provided for in paragraph (b) apply to information held by the
1131 corporation before, on, or after the effective date of this

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1132 exemption.

1133 (d) *Authorized release.*—

1134 1. Upon request, information made confidential and exempt
1135 pursuant to this subsection shall be disclosed to:

1136 a. Another governmental entity in the performance of its
1137 official duties and responsibilities.

1138 b. Any person who has the written consent of the program
1139 applicant.

1140 c. The Florida Kidcare program for the purpose of
1141 administering the program authorized in ss. 409.810-409.821.

1142 2. Paragraph (b) does not prohibit a participant's legal
1143 guardian from obtaining confirmation of coverage, dates of
1144 coverage, the name of the participant's health plan, and the
1145 amount of premium being paid.

1146 (e) *Penalty.*—A person who knowingly and willfully violates
1147 this subsection commits a misdemeanor of the second degree,
1148 punishable as provided in s. 775.082 or s. 775.083.

1149 (f) *Review and repeal.*—This subsection is subject to the
1150 Open Government Sunset Review Act in accordance with s. 119.15,
1151 and shall stand repealed on October 2, 2016, unless reviewed and
1152 saved from repeal through reenactment by the Legislature.

1153 Section 16. Subsection (2) of section 409.904, Florida
1154 Statutes, is amended to read:

1155 409.904 Optional payments for eligible persons.—The agency
1156 may make payments for medical assistance and related services on
1157 behalf of the following persons who are determined to be
1158 eligible subject to the income, assets, and categorical
1159 eligibility tests set forth in federal and state law. Payment on
1160 behalf of these Medicaid eligible persons is subject to the

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1161 availability of moneys and any limitations established by the
1162 General Appropriations Act or chapter 216.
1163 (2) A family, a pregnant woman, a child under age 21, a
1164 person age 65 or over, or a blind or disabled person, who would
1165 be eligible under any group listed in s. 409.903(1), (2), or
1166 (3), except that the income or assets of such family or person
1167 exceed established limitations. For a family or person in one of
1168 these coverage groups, medical expenses are deductible from
1169 income in accordance with federal requirements in order to make
1170 a determination of eligibility. A family or person eligible
1171 under the coverage known as the "medically needy," is eligible
1172 to receive the same services as other Medicaid recipients, with
1173 the exception of services in skilled nursing facilities and
1174 intermediate care facilities for the developmentally disabled.
1175 Effective July 1, 2016, persons eligible under "medically needy"
1176 shall be limited to children under 21 years of age and pregnant
1177 women. This subsection expires October 1, 2019.
1178 Section 17. Section 624.91, Florida Statutes, is amended to
1179 read:
1180 624.91 The Florida Healthy Kids Corporation Act.—
1181 (1) SHORT TITLE.—This section may be cited as the "William
1182 G. 'Doc' Myers Healthy Kids Corporation Act."
1183 (2) LEGISLATIVE INTENT.—
1184 (a) The Legislature finds that increased access to health
1185 care services could improve children's health and reduce the
1186 incidence and costs of childhood illness and disabilities among
1187 children in this state. Many children do not have comprehensive,
1188 affordable health care services available. It is the intent of
1189 the Legislature that the Florida Healthy Kids Corporation

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1190 provide comprehensive health insurance coverage to such
1191 children. The corporation is encouraged to cooperate with any
1192 existing health service programs funded by the public or the
1193 private sector.
1194 (b) It is the intent of the Legislature that the Florida
1195 Healthy Kids Corporation serve as one of several providers of
1196 services to children eligible for medical assistance under Title
1197 XXI of the Social Security Act. Although the corporation may
1198 serve other children, the Legislature intends the primary
1199 recipients of services provided through the corporation be
1200 school-age children with a family income below 200 percent of
1201 the federal poverty level, who do not qualify for Medicaid. It
1202 is also the intent of the Legislature that state and local
1203 government Florida Healthy Kids funds be used to continue
1204 coverage, subject to specific appropriations in the General
1205 Appropriations Act, to children not eligible for federal
1206 matching funds under Title XXI.
1207 (3) ELIGIBILITY FOR STATE-FUNDED ASSISTANCE.—Only residents
1208 of this state are eligible ~~the following individuals are~~
1209 ~~eligible~~ for state-funded assistance in paying Florida Healthy
1210 Kids premiums pursuant to s. 409.814.~~:~~
1211 ~~(a) Residents of this state who are eligible for the~~
1212 ~~Florida Kidcare program pursuant to s. 409.814.~~
1213 ~~(b) Notwithstanding s. 409.814, legal aliens who are~~
1214 ~~enrolled in the Florida Healthy Kids program as of January 31,~~
1215 ~~2004, who do not qualify for Title XXI federal funds because~~
1216 ~~they are not qualified aliens as defined in s. 409.811.~~
1217 (4) NONENTITLEMENT.—Nothing in this section shall be
1218 construed as providing an individual with an entitlement to

1219 health care services. No cause of action shall arise against the
1220 state, the Florida Healthy Kids Corporation, or a unit of local
1221 government for failure to make health services available under
1222 this section.
1223 (5) CORPORATION AUTHORIZATION, DUTIES, POWERS.—
1224 (a) There is created the Florida Healthy Kids Corporation,
1225 a not-for-profit corporation.
1226 (b) The Florida Healthy Kids Corporation shall:
1227 1. Arrange for the collection of any individual, family,
1228 ~~local contributions,~~ or employer payment or premium, in an
1229 amount to be determined by the board of directors, to provide
1230 for payment of premiums for comprehensive insurance coverage and
1231 for the actual or estimated administrative expenses.
1232 2. Arrange for the collection of any voluntary
1233 contributions to provide for payment of Florida Kidcare program
1234 or Florida Health Insurance Affordability Exchange Program
1235 (FHIX) premiums ~~for children who are not eligible for medical~~
1236 ~~assistance under Title XIX or Title XXI of the Social Security~~
1237 ~~Act~~.
1238 3. ~~Subject to the provisions of s. 409.8134, accept~~
1239 ~~voluntary supplemental local match contributions that comply~~
1240 ~~with the requirements of Title XXI of the Social Security Act~~
1241 ~~for the purpose of providing additional Florida Kidcare coverage~~
1242 ~~in contributing counties under Title XXI.~~
1243 ~~4.~~ Establish the administrative and accounting procedures
1244 for the operation of the corporation.
1245 4.~~5.~~ Establish, with consultation from appropriate
1246 professional organizations, standards for preventive health
1247 services and providers and comprehensive insurance benefits

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1248 appropriate to children, provided that such standards for rural
1249 areas shall not limit primary care providers to board-certified
1250 pediatricians.
1251 5.~~6.~~ Determine eligibility for children seeking to
1252 participate in the Title XXI-funded components of the Florida
1253 Kidcare program consistent with the requirements specified in s.
1254 409.814~~, as well as the non-Title-XXI-eligible children as~~
1255 ~~provided in subsection (3)~~.
1256 6.~~7.~~ Establish procedures under which ~~providers of local~~
1257 ~~match to,~~ applicants to and participants in the program may have
1258 grievances reviewed by an impartial body and reported to the
1259 board of directors of the corporation.
1260 7.~~8.~~ Establish participation criteria and, if appropriate,
1261 contract with an authorized insurer, health maintenance
1262 organization, or third-party administrator to provide
1263 administrative services to the corporation.
1264 8.~~9.~~ Establish enrollment criteria that include penalties
1265 or waiting periods of 30 days for reinstatement of coverage upon
1266 voluntary cancellation for nonpayment of family or individual
1267 premiums.
1268 9.~~10.~~ Contract with authorized insurers or any provider of
1269 health care services, meeting standards established by the
1270 corporation, for the provision of comprehensive insurance
1271 coverage to participants. Such standards shall include criteria
1272 under which the corporation may contract with more than one
1273 provider of health care services in program sites.
1274 a. Health plans shall be selected through a competitive bid
1275 process. The Florida Healthy Kids Corporation shall purchase
1276 goods and services in the most cost-effective manner consistent

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1277 with the delivery of quality medical care.
1278 b. The maximum administrative cost for a Florida Healthy
1279 Kids Corporation contract shall be 15 percent. For health and
1280 dental care contracts, the minimum medical loss ratio for a
1281 Florida Healthy Kids Corporation contract shall be 85 percent.
1282 The calculations must use uniform financial data collected from
1283 all plans in a format established by the corporation and shall
1284 be computed for each plan on a statewide basis. Funds shall be
1285 classified in a manner consistent with 45 C.F.R. part 158 ~~For~~
1286 ~~dental contracts, the remaining compensation to be paid to the~~
1287 ~~authorized insurer or provider under a Florida Healthy Kids~~
1288 ~~Corporation contract shall be no less than an amount which is 85~~
1289 ~~percent of premium; to the extent any contract provision does~~
1290 ~~not provide for this minimum compensation, this section shall~~
1291 ~~prevail~~.
1292 c. The health plan selection criteria and scoring system,
1293 and the scoring results, shall be available upon request for
1294 inspection after the bids have been awarded.
1295 d. Effective July 1, 2016, health and dental services
1296 contracts of the corporation must transition to the FHIX
1297 marketplace under s. 409.722. Qualifying plans may enroll as
1298 vendors with the FHIX marketplace to maintain continuity of care
1299 for participants.
1300 10.~~11.~~ Establish disenrollment criteria in the event ~~local~~
1301 ~~matching~~ funds are insufficient to cover enrollments.
1302 11.~~12.~~ Develop and implement a plan to publicize the
1303 Florida Kidcare program, the eligibility requirements of the
1304 program, and the procedures for enrollment in the program and to
1305 maintain public awareness of the corporation and the program.

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1306 12.~~13.~~ Secure staff necessary to properly administer the
1307 corporation. Staff costs shall be funded from state ~~and local~~
1308 ~~matching funds~~ and such other private or public funds as become
1309 available. The board of directors shall determine the number of
1310 staff members necessary to administer the corporation.
1311 13.~~14.~~ In consultation with the partner agencies, provide a
1312 report on the Florida Kidcare program annually to the Governor,
1313 the Chief Financial Officer, the Commissioner of Education, the
1314 President of the Senate, the Speaker of the House of
1315 Representatives, and the Minority Leaders of the Senate and the
1316 House of Representatives.
1317 14.~~15.~~ Provide information on a quarterly basis online to
1318 the Legislature and the Governor which compares the costs and
1319 utilization of the full-pay enrolled population and the Title
1320 XXI-subsidized enrolled population in the Florida Kidcare
1321 program. The information, at a minimum, must include:
1322 a. The monthly enrollment and expenditure for full-pay
1323 enrollees in the Medikids and Florida Healthy Kids programs
1324 compared to the Title XXI-subsidized enrolled population; and
1325 b. The costs and utilization by service of the full-pay
1326 enrollees in the Medikids and Florida Healthy Kids programs and
1327 the Title XXI-subsidized enrolled population.
1328 15.~~16.~~ Establish benefit packages that conform to the
1329 provisions of the Florida Kidcare program, as created in ss.
1330 409.810-409.821.
1331 16. Contract with other insurance affordability programs to
1332 provide such services that are consistent with this act.
1333 17. Annually develop performance metrics for the following
1334 focus areas:

1335 a. Administrative functions.
1336 b. Contracting with vendors.
1337 c. Customer service.
1338 d. Enrollee education.
1339 e. Financial services.
1340 f. Program integrity.
1341 (c) Coverage under the corporation's program is secondary
1342 to any other available private coverage held by, or applicable
1343 to, the participant child or family member. Insurers under
1344 contract with the corporation are the payors of last resort and
1345 must coordinate benefits with any other third-party payor that
1346 may be liable for the participant's medical care.
1347 (d) The Florida Healthy Kids Corporation shall be a private
1348 corporation not for profit, organized pursuant to chapter 617,
1349 and shall have all powers necessary to carry out the purposes of
1350 this act, including, but not limited to, the power to receive
1351 and accept grants, loans, or advances of funds from any public
1352 or private agency and to receive and accept from any source
1353 contributions of money, property, labor, or any other thing of
1354 value, to be held, used, and applied for the purposes of this
1355 act.
1356 (6) BOARD OF DIRECTORS AND MANAGEMENT SUPERVISION.—
1357 (a) The Florida Healthy Kids Corporation shall operate
1358 subject to the supervision and approval of a board of directors.
1359 The board chair shall be an appointee designated by the
1360 Governor, and the board shall be ~~chaired by the Chief Financial~~
1361 ~~Officer or her or his designee, and~~ composed of 12 other
1362 members. The Senate shall confirm the designated chair and other
1363 board appointees. The board members shall be appointed ~~selected~~

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1364 for 3-year terms. ~~of office as follows:~~
1365 ~~1. The Secretary of Health Care Administration, or his or~~
1366 ~~her designee.~~
1367 ~~2. One member appointed by the Commissioner of Education~~
1368 ~~from the Office of School Health Programs of the Florida~~
1369 ~~Department of Education.~~
1370 ~~3. One member appointed by the Chief Financial Officer from~~
1371 ~~among three members nominated by the Florida Pediatric Society.~~
1372 ~~4. One member, appointed by the Governor, who represents~~
1373 ~~the Children's Medical Services Program.~~
1374 ~~5. One member appointed by the Chief Financial Officer from~~
1375 ~~among three members nominated by the Florida Hospital~~
1376 ~~Association.~~
1377 ~~6. One member, appointed by the Governor, who is an expert~~
1378 ~~on child health policy.~~
1379 ~~7. One member, appointed by the Chief Financial Officer,~~
1380 ~~from among three members nominated by the Florida Academy of~~
1381 ~~Family Physicians.~~
1382 ~~8. One member, appointed by the Governor, who represents~~
1383 ~~the state Medicaid program.~~
1384 ~~9. One member, appointed by the Chief Financial Officer,~~
1385 ~~from among three members nominated by the Florida Association of~~
1386 ~~Counties.~~
1387 ~~10. The State Health Officer or her or his designee.~~
1388 ~~11. The Secretary of Children and Families, or his or her~~
1389 ~~designee.~~
1390 ~~12. One member, appointed by the Governor, from among three~~
1391 ~~members nominated by the Florida Dental Association.~~
1392 (b) A member of the board of directors shall be appointed

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1393 <u>by and serve at the pleasure of the Governor</u> ~~may be removed by~~
1394 ~~the official who appointed that member~~. The board shall appoint
1395 an executive director, who is responsible for other staff
1396 authorized by the board.
1397 (c) Board members are entitled to receive, from funds of
1398 the corporation, reimbursement for per diem and travel expenses
1399 as provided by s. 112.061.
1400 (d) There shall be no liability on the part of, and no
1401 cause of action shall arise against, any member of the board of
1402 directors, or its employees or agents, for any action they take
1403 in the performance of their powers and duties under this act.
1404 <u>(e) Terms for board members appointed under this act are</u>
1405 <u>effective January 1, 2016.</u>
1406 (7) LICENSING NOT REQUIRED; FISCAL OPERATION.—
1407 (a) The corporation shall not be deemed an insurer. The
1408 officers, directors, and employees of the corporation shall not
1409 be deemed to be agents of an insurer. Neither the corporation
1410 nor any officer, director, or employee of the corporation is
1411 subject to the licensing requirements of the insurance code or
1412 the rules of the Department of Financial Services. However, any
1413 marketing representative utilized and compensated by the
1414 corporation must be appointed as a representative of the
1415 insurers or health services providers with which the corporation
1416 contracts.
1417 (b) The board has complete fiscal control over the
1418 corporation and is responsible for all corporate operations.
1419 (c) The Department of Financial Services shall supervise
1420 any liquidation or dissolution of the corporation and shall
1421 have, with respect to such liquidation or dissolution, all power

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1422 granted to it pursuant to the insurance code.
1423 (8) TRANSITION PLANS.—The corporation shall confer with the
1424 Agency for Health Care Administration, the Department of
1425 Children and Families, and Florida Health Choices, Inc., to
1426 develop transition plans for the Florida Health Insurance
1427 Affordability Exchange Program as created under ss. 409.72-
1428 409.731.
1429 Section 18. Section 624.915, Florida Statutes, is repealed.
1430 Section 19. The Division of Law Revision and Information is
1431 directed to replace the phrase "the effective date of this act"
1432 wherever it occurs in this act with the date the act becomes a
1433 law.
1434 Section 20. If any law amended by this act was also amended
1435 by a law enacted during the 2015 Regular Session of the
1436 Legislature, such laws shall be construed as if enacted during
1437 the same session of the Legislature, and full effect shall be
1438 given to each if possible.
1439 Section 21. This act shall take effect upon becoming a law.