



**Conference Committee on  
Health & Human Services Appropriations/  
Health Care Appropriations**

**Senate Offer #1  
Conforming Bills**

**Thursday, April 22, 2010  
5:00 p. m.**

**102 House Office Building (Reed Hall)**



**Health Care Appropriations/Health and Human Services Appropriations  
Fiscal Year 2010-2011**

<b>Medicaid Services</b>	
<b>HB 5301- House Offer #1</b>	<b>CS/CS/SB 1464 Senate Offer #1</b>
<p><b>Section 1.</b> (s. 400.141, F.S.) Conforms a cross-reference to changes made by the act.</p> <p><b>Section 2.</b> (s. 400.23, F.S.) Provides flexibility to nursing home facilities for meeting the minimum staffing requirements and allows for additional flexibility in meeting the needs of higher acuity residents with additional licensed nursing staff.</p> <p><b>Section 3.</b> (s. 409.903, F.S.) Eliminates eligibility and coverage of pregnant women who live in a family that has an income at 150 percent up to 185 percent of the federal poverty level.</p> <p><b>Section 4.</b> (s. 409.904, F.S.) Extends the sunset date for the Medically Aged and Disabled waiver and Medically Needy programs to June 30, 2011.</p>	<p><b>Concur - House</b></p> <p><b>Section 1.</b> (s. 395.701, F.S.) Increases the assessment on inpatient and outpatient hospital revenues from 1.5 percent to 2.0 percent and from 1.0 percent to 1.5 percent of the annual net operating revenue, respectively. The effective date is contingent upon the state not receiving the enhanced Federal Medical Assistance Percentage (FMAP) for the period of January 1, 2011 through June 30, 2011.</p> <p><b>Section 2.</b> (s. 400.141, F.S.) Conforms a cross-reference to changes made by the act.</p> <p><b>Section 3.</b> (s. 400.23, F.S.) Provides flexibility to nursing home facilities for meeting the minimum staffing requirements and allows for additional flexibility in meeting the needs of higher acuity residents with additional licensed nursing staff.</p> <p><b>Concur - Senate</b></p> <p><b>Concur - House</b></p>

**Health Care Appropriations/Health and Human Services Appropriations  
Fiscal Year 2010-2011**

**Medicaid Services**

<b>HB 5301 - House Offer #1</b>	<b>Comments</b>	<b>CS/CS/SB 1464 Senate Offer #1</b>
<p><b>Section 5.</b> (s. 409.906, F.S.) Eliminates optional Medicaid coverage of chiropractic services for adult recipients.</p>	<p><b>Concur - Remove both provisions based on budget decisions.</b></p>	<p><b>Section 4.</b> (s. 409.906, F.S.) Requires the phase out of the Adult Day Health Care waiver and the Channeling Services waiver programs and transfers existing recipients into the other home and community-based services waivers. Prohibits new enrollment into the Adult Day Health Care waiver and the Channeling Services waiver programs effective July 1, 2010. Provides provisions for existing enrollees to receive counseling regarding available transition options and requires that an alternative home and community-based services program based on eligibility and personal choice must be offered. Requires services to continue without interruption and requires providers of the phased-out waivers to assist in the transition. Requires the provisions of the Adult Day Health Care waiver and the Channeling Services waiver to cease effective December 31, 2010. Gives the agency authority to seek a federal waiver to administer this change.</p>
<p><b>Section 6.</b> (s. 409.908, F.S.) Modifies reimbursement for prescribed drugs to the lesser of the wholesaler acquisition cost, the federal upper limit, the state maximum allowable cost, or the usual and customary charge billed by the provider, effective March 1, 2011, to adjust for the removal of the AWP component for all drugs from the reimbursement formula.</p>	<p><b>Concur - Senate</b></p>	
<p><b>Section 7.</b> (s. 409.9082, F.S.) Specifies that the nursing home facility quality assessment collected by the AHCA and the federal matching funds shall be used to restore rate reductions effective on or after January 1, 2008 as provided in the General Appropriations Act.</p>	<p><b>Concur - House</b></p>	<p><b>Section 5.</b> (s. 409.9082, F.S.) Revises the dates that nursing home quality assessment revenues may be used to restore rate reductions and removes the requirement that the quality assessment terminates if the average Medicaid rate paid to nursing homes facilities is reduced below the rate in effect on December 31, 2008.</p>

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**Medicaid Services**

<p align="center"><b>HB 5301 - House Offer #1</b></p>	<p align="center"><b>Comments</b></p>	<p align="center"><b>CS/CS/SB 1464 Senate Offer #1</b></p>
<p><b>Section 8.</b> (s. 409.9083, F.S.) Specifies that the intermediate care facility for the developmentally disabled (ICF/DD) quality assessment collected by the AHCA and the federal matching funds shall be used to restore rate reductions effective on or after October 1, 2008 as provided in the General Appropriations Act.</p>	<p><b>Concur - House</b></p>	<p><b>Section 6.</b> (s. 409.9083, F.S.) Revises the dates that intermediate care facility for the developmentally disabled (ICF/DD) quality assessment revenues may be used to restore rate reductions and removes the requirement that the quality assessment terminates if the average Medicaid rate paid to ICF/DD facilities is reduced below the rate in effect on October 1, 2008.</p>
<p><b>Section 9.</b> (s. 409.911, F.S.) Revises the method for calculating disproportionate share payments to hospitals for FY 2010-2011 by changing the years of averaged audited data from 2003, 2004, and 2005 to 2004, 2005, and 2006. <u>Revises the formula used to calculate disproportionate share payments to provider service network (PSN) hospitals.</u></p>	<p><b>Concur - Senate language, including underlined House language.</b></p>	<p><b>Section 7.</b> (s. 409.911, F.S.) Specifies that the average audited disproportionate share data from 2003, 2004, and 2005 will be used to determine Medicaid and charity care days for each hospital in the Disproportionate Share program for FY 2010-2011.</p>
<p><b>Section 10.</b> (s. 409.9112, F.S.) Continues the prohibition against distributing funds under the Disproportionate Share Program for regional perinatal intensive care centers for FY 2010-2011.</p>	<p><b>Identical</b></p>	<p><b>Section 8.</b> (s. 409.9112, F.S.) Continues the prohibition against distributing funds under the Disproportionate Share Program for regional perinatal intensive care centers for FY 2010-2011.</p>
<p><b>Section 11.</b> (s. 409.9113, F.S.) Continues the requirement that funds for statutorily defined teaching hospitals in Fiscal Year 2010-2011 be distributed in the same proportion as funds were distributed under the Disproportionate Share Program for teaching hospitals in Fiscal Year 2003-2004, or as otherwise provided in the General Appropriations Act.</p>	<p><b>Identical</b></p>	<p><b>Section 9.</b> (s. 409.9113, F.S.) Continues the requirement that funds for statutorily defined teaching hospitals in Fiscal Year 2010-2011 be distributed in the same proportion as funds were distributed under the Disproportionate Share Program for teaching hospitals in Fiscal Year 2003-2004, or as otherwise provided in the General Appropriations Act.</p>
<p><b>Section 12.</b> (s. 409.9117, F.S.) Continues the prohibition against distributing funds under the Primary Care Disproportionate Share program through FY 2010-2011.</p>	<p><b>Identical</b></p>	<p><b>Section 10.</b> (s. 409.9117, F.S.) Continues the prohibition against distributing funds under the Primary Care Disproportionate Share program through FY 2010-2011.</p>

**Health Care Appropriations/Health and Human Services Appropriations  
Fiscal Year 2010-2011**

<b>Medicaid Services</b>		
<b>HB 5301- House Offer #1</b>	<b>Comments</b>	<b>CS/CS/SB 1464 Senate Offer #1</b>
<p><b>Section 13.</b> (s. 409.912, F.S.) Modifies reimbursement for prescribed drugs to the lesser of the wholesaler acquisition cost, the federal upper limit, the state maximum allowable cost, or the usual and customary charge billed by the provider, effective March 1, 2011, to adjust for the removal of the AWP component for all drugs from the reimbursement formula.</p> <p><b>Section 14.</b> (s. 430.707, F.S.) Allows any entity that is authorized to provide benefits pursuant PACE on or before July 1, 2010, to submit an application to expand a PACE Pilot project. Authorizes the AHCA, in consultation with DOEA, to accept and forward to Centers for Medicare and Medicaid Services (CMS) an application to expand a PACE Pilot project from a current PACE entity in good standing with the AHCA, DOEA, and CMS.</p>	<p><b>Concur - Senate</b></p>	
	<p><b>Offer Senate</b></p>	
	<p><b>Offer Senate</b></p>	<p><b>Section 11.</b> Creates an undesignated section of law to require Medicaid managed care plans and provider service networks to include in their provider network any pharmacy, which is located in a rural county willing to accept the reimbursement terms and conditions established by the managed care plan. Rural county is defined as any county with a population of less than 200,000 according to the 2000 official census.</p>
<p><b>Section 15.</b> Provides an effective date of July 1, 2010.</p>	<p><b>Identical</b></p>	<p><b>Section 12.</b> Provides an effective date of July 1, 2010.</p>

**Health Care Appropriations/Health and Human Services Appropriations  
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**Amended or New Provisions – Medicaid Services**

<b>HB 5301- House Offer #1</b>	<b>Comments</b>	<b>CS/CS/SB 1464 Senate Offer #1</b>
<p><u>(s. 400.179, F.S.)</u> By March 31 of each year, the agency shall assess the cumulative fees collected under this subparagraph, minus any amounts used to repay nursing home Medicaid overpayments and amounts transferred to contribute to the General Revenue Fund pursuant to s. 215.20. If the net cumulative collections, minus amounts utilized to repay nursing home Medicaid overpayments, exceed \$25 million, the provisions of this paragraph shall not apply for the subsequent fiscal year.</p>	<p><b>Offer Senate</b></p>	
<p><u>(s. 409.907, F.S.)</u></p> <p>(d) <u>May enroll entities as Medicare crossover-only providers for payment and claims processing purposes only. The provider agreement shall:</u></p> <ol style="list-style-type: none"> <li>1. <u>Require that the provider is an eligible Medicare provider, has a current provider agreement in place with the Centers for Medicare and Medicaid Services, and provides verification that the provider is currently in good standing with the agency.</u></li> <li>2. <u>Require that the provider notify the agency immediately, in writing, upon being suspended or disenrolled as a Medicare provider. If a provider does not provide such notification within 5 business days after suspension or disenrollment, sanctions may be imposed pursuant to this chapter and the provider may be required to return funds paid to the provider during the period of time that the provider was suspended or disenrolled as a Medicare provider.</u></li> <li>3. <u>Require that all records pertaining to health care</u></li> </ol>	<p><b>Offer Senate</b></p>	

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<b>HB 5301- House Offer #1</b>	<b>Comments</b>	<b>CS/CS/SB 1464 Senate Offer #1</b>
<p>services provided to each of the provider's recipients be kept for a minimum of 5 years. The agreement shall also require that records and information relating to payments claimed by the provider for services under the agreement be delivered to the agency or the Office of the Attorney General Medicaid Fraud Control Unit when requested. If a provider does not provide such records and information when requested, sanctions may be imposed pursuant to this chapter.</p> <p>4. <u>Disclose that the agreement is for the purposes of paying and processing Medicare crossover claims only.</u></p> <p><u>This paragraph pertains solely to Medicare crossover-only providers. In order to become a standard Medicaid provider, the other requirements of this section and applicable rules must be met.</u></p>		
<p><b><u>Undesignated Section of Statute</u></b></p> <p><u>Notwithstanding s. 430.707, Florida Statutes, and subject to federal approval of the application to be a site for the Program of All Inclusive Care for the Elderly, the Agency for Health Care Administration shall contract with one private health care organization, the sole member of which is a private, not-for-profit corporation that owns and manages health care organizations which provide comprehensive services, including hospice and palliative care services, to frail and elderly persons residing in Polk, Highlands, Hardee, and Hillsborough counties. Such an entity shall be exempt from the requirements of chapter 641, Florida Statutes. The agency, in consultation with the Department of Elder Affairs and subject to appropriation, shall approve up to 150 initial enrollees in the Program of All Inclusive Care for the Elderly established by this organization to serve persons in Polk, Highlands, and Hardee counties.</u></p>	<b>Offer Senate</b>	



**Health Care Appropriations/Health and Human Services Appropriations  
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<b>Agency for Persons with Disabilities</b>		
<b>HB 5303 House Offer #1</b>	<b>Comments</b>	<b>CS/CS/SB 1468 Senate Offer #1</b>
<p><b>Section 1.</b> (s. 393.065, F.S.) Implements waitlist prioritization for the first two categories of the APD Medicaid waiver list and delays prioritization of categories 3 through 7 until July 1, 2012.</p> <p><b>Section 2.</b> (s. 393.0661, F.S.) Specifies the use of an assessment instrument to be either the Individual Cost Guidelines or the Questionnaire for Situational Information for determining the tier to which the client should be assigned; specifies that age is a client characteristic in assigning clients to a tier; specifies that individuals enrolled in tier four on July 1, 2007, are assigned to the tier without needing an assessment; directs APD to eliminate behavior assistant services in standard and behavior focus group homes; and specifies certain rate reductions to the geographic differential for Miami-Dade, Broward, Palm Beach, and Monroe Counties for residential habilitation services.</p> <p><b>Section 3.</b> (s. 393.0662, F.S.) Creates section 393.0662, Florida Statutes, relating to individual budgets or iBudgets to improve the financial management of waiver services.</p>	<p><b>Offer Senate</b></p>	<p><b>Section 1.</b> (s. 393.0661, F.S.) Specifies annual client expenditure caps under waiver services to not exceed: \$120,000 – tier one, \$49,500 – tier two, \$31,500 – tier three, and \$13,313 – tier four; and directs APD to eliminate behavior assistant services in standard and behavior focus group homes.</p>
<p><b>Section 3.</b> (s. 393.0662, F.S.) Creates section 393.0662, Florida Statutes, relating to individual budgets or iBudgets to improve the financial management of waiver services.</p>	<p><b>Accept House Offer as Section #2 with changes to existing language.  Senate does not accept House New Alternative Language</b></p>	<p><b>Section 2.</b> (s. 393.0662, F.S.) Creates section 393.0662, Florida Statutes, relating to individual budgets or iBudgets to improve the financial management of waiver services.</p>

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<p><b>Section 4.</b> (s. 393.125, F.S.) Specifies conditions for requesting APD Medicaid fair hearings and requires these hearings to be provided by the Department of Children and Families.</p>	<p align="center"><b>Offer Senate</b></p>	
<p><b>Section 5.</b> Effective date is July 1, 2010.</p>	<p align="center"><b>Accept</b></p>	<p><b>Section 3.</b> Effective date is July 1, 2010; however, amendments relating to annual expenditure caps for tiers two through four and the elimination of behavior assistant services in standard and behavior focus group homes, will not take effect if federal law extends the enhanced Federal Medicaid Assistance Percentage rate, as provided under the American Reinvestment and Recovery Act.</p>

**Amended or New Provisions: Agency for Persons with Disabilities**

<p align="center"><b>HB 5303 House Offer #1</b></p> <p><b>Section 2.</b> Amend Paragraph (a), subsection (1), section 393.0661, Florida Statutes (a) The agency shall use an assessment instrument that the agency deems is reliable and valid, including but not limited to, the <u>Department of Children and Family Services' Individual Cost Guidelines or the agency's Questionnaire for Situational Information</u>. The agency may contract with an external vendor or may use support coordinators to complete client assessments if it develops sufficient safeguards and training to ensure ongoing inter-rater reliability.</p> <p>Amends Paragraphs (a)-(d), subsection (3), section 393.0661, Florida Statutes (3) The Agency for Health Care Administration, in</p>	<p align="center"><b>Comments</b></p> <p align="center"><b>Offer House</b></p> <p align="center">Accept</p> <p align="center">Accept</p>	<p align="center"><b>CS/CS/SB 1468 Senate Offer #1</b></p>
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<p align="center"><b>HB 5303 House Offer #1</b></p>	<p align="center"><b>Comments</b></p>	<p align="center"><b>CS/CS/SB 1468 Senate Offer #1</b></p>
<p>consultation with the agency, shall seek federal approval and implement a four-tiered waiver system to serve eligible clients through the developmental disabilities and family and supported living waivers. The agency shall assign all clients receiving services through the developmental disabilities waiver to a tier based on the <u>Department of Children and Family Services' Individual Cost Guidelines or the agency's Questionnaire for Situational Information, or other such assessment instrument deemed valid and reliable by the agency; client characteristics, including but not limited to, age; and other appropriate assessment methods.</u></p>	<p>Accept</p>	
<p>(a) Tier one is limited to clients who have service needs that cannot be met in tier two, three, or four for intensive medical or adaptive needs and that are essential for avoiding institutionalization, or who possess behavioral problems that are exceptional in intensity, duration, or frequency and present a substantial risk of harm to themselves or others. <u>Total annual expenditures under tier one may not exceed \$150,000 per client each year provided that expenditures for clients in tier one with a documented medical necessity requiring intensive behavioral residential habilitation services, intensive behavioral residential habilitation services with medical needs, or special medical home care, as provided in the Developmental Disabilities Waiver Services Coverage and Limitations</u></p>	<p>Accept</p>	

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<p align="center"><b>HB 5303 House Offer #1</b></p>	<p align="center"><b>Comments</b></p>	<p align="center"><b>CS/CS/SB 1468 Senate Offer #1</b></p>
<p><u>Handbook shall not be subject to the \$150,000 limit on annual expenditures.</u></p> <p>(b) Tier two is limited to clients whose service needs include a licensed residential facility and who are authorized to receive a moderate level of support for standard residential habilitation services or a minimal level of support for behavior focus residential habilitation services, or clients in supported living who receive more than 6 hours a day of in-home support services. Total annual expenditures under tier two may not exceed <u>\$53,625</u> per client each year.</p> <p>(c) Tier three includes, but is not limited to, clients requiring residential placements, clients in independent or supported living situations, and clients who live in their family home. Total annual expenditures under tier three may not exceed <u>\$34,125</u> per client each year.</p> <p>(d) Tier four includes individuals who were enrolled in the family and supported living waiver on July 1, 2007, who shall be assigned to this tier without the assessments required by this section. Tier four also includes, but is not limited to, clients in independent or supported living situations and clients who live in their family home. Total annual expenditures under tier four may not exceed <u>\$14,422</u> per client each year.</p>		
<p>Amend Subparagraph 6., paragraph (f), subsection (3) section 393.0661, Florida Statutes</p>		

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<p align="center"><b>HB 5303</b> <b>House Offer #1</b></p>	<p align="center"><b>Comments</b></p>	<p align="center"><b>CS/CS/SB 1468</b> <b>Senate Offer #1</b></p>
<p>6. Massage therapy, medication review, behavior assistant services, in standard and behavior focus group homes, and psychological assessment services are eliminated.</p>		
<p><b>Section 3</b>  Amend: Paragraph (b), subsection (1), section 393.0662, Florida Statutes  (a) The allocation methodology shall provide the algorithm that determines the amount of funds allocated to a client's iBudget. The agency may approve an increase in the amount of funds allocated, as determined by the algorithm, based on the client having <u>one or more of the following needs that cannot be accommodated within the funding as determined by the algorithm and having no other resources, supports, or services available to meet the need:</u></p>	<p align="center">Accept</p>	
<p>Amend: Subparagraph 2. paragraph (b), subsection (1), section 393.0662, Florida Statutes  2. A significant need for one-time or temporary support or services that, if not provided, would place the health and safety of the client, the client's caregiver, or the public in serious jeopardy, <u>unless the increase is approved.</u> A significant need may include, but is not limited to, the provision of environmental modifications, durable medical equipment, services to address the temporary loss of support from a caregiver, or special services or treatment for a serious temporary condition when the service or</p>	<p align="center">Accept</p>	

**Health Care Appropriations/Health and Human Services Appropriations  
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<p align="center"><b>HB 5303 House Offer #1</b></p>	<p align="center"><b>Comments</b></p>	<p align="center"><b>CS/CS/SB 1468 Senate Offer #1</b></p>
<p>treatment is expected to ameliorate the underlying condition. As used in this subparagraph, the term "temporary" means a period of fewer than 12 continuous months. <u>However, the presence of such significant need for one-time or temporary supports or services alone does not warrant an increase in the amount of funds allocated to a client's iBudget as determined by the algorithm.</u></p> <p>Amend: Subparagraph 3. paragraph (b), subsection (1), section 393.0662, Florida Statutes</p> <p>3. A significant increase in the need for services after the beginning of the service plan year that would place the health and safety of the client, the client's caregiver, or the public in serious jeopardy because of substantial changes in the client's circumstances, including, but not limited to, permanent or long-term loss or incapacity of a caregiver, loss of services authorized under the state Medicaid plan due to a change in age, or a significant change in medical or functional status which requires the provision of additional services on a permanent or long-term basis that cannot be accommodated within the client's current iBudget. As used in this subparagraph, the term "long-term" means a period of 12 or more continuous months. <u>However, such significant increase in need for services of a permanent or long-term nature alone does not warrant an increase in the amount of funds allocated to a client's iBudget as determined by the algorithm.</u></p>	<p align="center">Accept</p>	<p align="center">Accept</p>

**Health Care Appropriations/Health and Human Services Appropriations**  
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<p align="center"><b>HB 5303</b> <b>House Offer #1</b></p>	<p align="center"><b>Comments</b></p>	<p align="center"><b>CS/CS/SB 1468</b> <b>Senate Offer #1</b></p>
<p>Amend: Subparagraph 3. paragraph (c), subsection (1), section 393.0662, Florida Statutes                      (b) A client's iBudget shall be the total of the amount determined by the algorithm and any additional funding provided pursuant to paragraph (b). A client's annual expenditures for home and community-based services Medicaid waiver services may not exceed the limits of his or her iBudget. The total of all clients' projected annual iBudget expenditures may not exceed the agency's appropriation for waiver services.</p> <p>Add: Subsection (5), section 393.0662, Florida Statutes                      (5) <u>The service limitation in s. 393.0661(3) (f) 1., 2., and 3. shall not apply to the iBudget system.</u></p>	<p align="center">Accept</p>	

## Health Care Appropriations/Health and Human Services Appropriations Fiscal Year 2010-2011

The Senate does not accept this alternate house offer:  
Alternate House Offer—iBudget –

(9)(a) The agency, in consultation with the Agency for Health Care Administration, shall establish an individual budget, referred to as an iBudget, demonstration project for each individual served through the Medicaid waiver program in Escambia, Okaloosa, Santa Rosa, and Walton Counties, which comprise area one of the agency. For the purpose of this subsection, the Medicaid waiver program includes the four-tiered waiver system established in subsection (3) or the Consumer Directed Care Plus Medicaid waiver program. The funds appropriated to the agency and used for Medicaid waiver program services to individuals in the demonstration project area shall be allocated through the iBudget system to eligible, Medicaid-enrolled clients. The iBudget system shall be designed to provide for enhanced client choice within a specified service package, appropriate assessment strategies, an efficient consumer budgeting and billing process that includes reconciliation and monitoring components, a redefined role for support coordinators that avoids potential conflicts of interest, a flexible and streamlined service review process, and a methodology and process that ensure the equitable allocation of available funds to each client based on the client's level of need, as determined by the variables in the allocation algorithm.

1. In developing each client's iBudget, the agency shall use an allocation algorithm and methodology. The algorithm shall use variables that have been determined by the agency to have a statistically validated relationship to the client's level of need for services provided through the Medicaid waiver program. The algorithm and methodology may consider individual characteristics, including, but not limited to, a client's age and living situation, information from a formal assessment instrument that the agency determines is valid and reliable, and information from other assessment processes.

2. The allocation methodology shall provide the algorithm that determines the amount of funds allocated to a client's iBudget. The agency may approve an increase in the amount of funds allocated, as determined by the algorithm, based on the client's having one or more of the following needs that cannot be accommodated within the funding as determined by the algorithm and having no other resources, supports, or services available to meet those needs:



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- a. An extraordinary need that would place the health and safety of the client, the client's caregiver, or the public in immediate, serious jeopardy unless the increase is approved. An extraordinary need may include, but is not limited to:
- (I) A documented history of significant, potentially life-threatening behaviors, such as recent attempts at suicide, arson, nonconsensual sexual behavior, or self-injurious behavior requiring medical attention;
  - (II) A complex medical condition that requires active intervention by a licensed nurse on an ongoing basis that cannot be taught or delegated to a nonlicensed person;
  - (III) A chronic co-morbid condition. As used in this sub-sub-paragraph, the term "co-morbid condition" means a medical condition existing simultaneously with but independently of another medical condition in a patient; or
  - (IV) A need for total physical assistance with activities such as eating, bathing, toileting, grooming, and personal hygiene.

However, the presence of an extraordinary need alone does not warrant an increase in the amount of funds allocated to a client's iBudget as determined by the algorithm.

- b. A significant need for one-time or temporary support or services that, if not provided, would place the health and safety of the client, the client's caregiver, or the public in serious jeopardy unless the increase is approved. A significant need may include, but is not limited to, the provision of environmental modifications, durable medical equipment, services to address the temporary loss of support from a caregiver, or special services or treatment for a serious temporary condition when the service or treatment is expected to ameliorate the underlying condition. As used in this sub-paragraph, the term "temporary" means lasting for a period of less than 12 consecutive months. However, the presence of such significant need for one-time or temporary support or services alone does not warrant an increase in the amount of funds allocated to a client's iBudget as determined by the algorithm.
- c. A significant increase in the need for services after the beginning of the service plan year that would place the health and safety of the client, the client's caregiver, or the public in serious jeopardy because of substantial changes in the client's circumstances, including, but not limited to, permanent or long-term loss or incapacity of a caregiver, loss of services authorized under the state Medicaid plan due to a change in age, or a significant change in medical or functional status that requires the provision of additional services on a permanent or long-term basis that cannot be accommodated within the client's current iBudget. As used in this sub-

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subparagraph, the term "long-term" means lasting for a period of more than 12 continuous months. However, such significant increase in need for services of a permanent or long-term nature alone does not warrant an increase in the amount of funds allocated to a client's iBudget as determined by the algorithm.

The agency shall reserve portions of the appropriation for the home and community-based services Medicaid waiver program for adjustments required pursuant to this subparagraph and may use the services of an independent actuary in determining the amount of the portions to be reserved.

3. A client's iBudget shall be the total of the amount determined by the algorithm and any additional funding provided under subparagraph 2. A client's annual expenditures for Medicaid waiver services may not exceed the limits of his or her iBudget.

(b) The Agency for Health Care Administration, in consultation with the agency, shall seek federal approval for the iBudget demonstration project and amend current waivers, request a new waiver if appropriate, and amend contracts as necessary to implement the iBudget system to serve eligible, enrolled clients in the demonstration project area through the Medicaid waiver program.

(c) The agency shall transition all eligible, enrolled clients in the demonstration project area to the iBudget system. The agency may gradually phase in the iBudget system with full implementation by January 1, 2013.

1. The agency shall design the phase-in process to ensure that a client does not experience more than one-half of any expected overall increase or decrease to his or her existing annualized cost plan during the first year that the client is provided an iBudget due solely to the transition to the iBudget system. However, all iBudgets in the demonstration project area must be fully phased in by January 1, 2013.

(d) A client must use all available services authorized under the state Medicaid plan, school-based services, private insurance and other benefits, and any other resources that may be available to the client before using funds from his or her iBudget to pay for support and services.

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- (e) The service limitations in subparagraphs(3)(f)1., 2., and 3. shall not apply to the iBudget system.
- (f) Rates for any or all services established under rules of the agency shall be designated as the maximum rather than a fixed amount for individuals who receive an iBudget, except for services specifically identified in those rules that the agency determines are not appropriate for negotiation, which may include, but are not limited to, residential habilitation services.
- (g) The agency shall ensure that clients and caregivers in the demonstration project area have access to training and education to inform them about the iBudget system and enhance their ability for self-direction. Such training shall be offered in a variety of formats and, at a minimum, shall address the policies and processes of the iBudget system; the roles and responsibilities of consumers, caregivers, waiver support coordinators, providers, and the agency; information available to help the client make decisions regarding the iBudget system; and examples of support and resources available in the community.
- (h)1. The agency, in consultation with the Agency for Health Care Administration, shall prepare a design plan for the purchase of an evaluation by an independent contractor. The design plan to evaluate the iBudget demonstration project shall be submitted to the President of the Senate and the Speaker of the House of Representatives for approval not later than December 31, 2010.
2. The agency shall prepare an evaluation that shall include, at a minimum, an analysis of cost savings, cost containment, and budget predictability. In addition, the evaluation shall review the demonstration with regard to consumer education, quality of care, affects on choice of and access to services, and satisfaction of demonstration project participants. The agency shall submit the evaluation report to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than December 31, 2013.
- (i) The agency shall adopt rules specifying the allocation algorithm and methodology; criteria and processes for clients to access reserved funds for extraordinary needs, temporarily or permanently changed needs, and one-time needs; and processes and requirements for selection and review of services, development of support and cost plans, and management of the iBudget system as needed to administer this subsection.

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<b>Child Welfare</b>		
<b>HB 5305 House Offer #1</b>	<b>Comments</b>	<b>CS/CS/SB 1466 Senate Offer #1</b>
<p><b>Section 1.</b> (s. 402.7306, F.S.) Requires DCF, DOH, DJJ, APD and AHCA to implement changes to improve efficiency in health and human services contract administration.</p> <p><b>Section 2.</b> (s. 402.7305, F.S.) Requires DCF to limit monitoring of child-caring or child-placing services provider to only once per year.</p> <p><b>Section 3.</b> (s. 409.1451) Makes payments for independent living transition services subject to a specific appropriation and limits the RTI award to \$675 per month; specifies the award shall be issued on the day the eligible student reaches age 18; payment for a partial month shall be prorated on the basis of a 30-day month; and specifies that funds shall be terminated during the interim between an award and the evaluation for a renewal award if the department determines that award recipient is no longer enrolled in an educational institution or is no longer a state resident.</p>	<p>Senate Accepts House Offer with Amended Language Below</p> <p>Identical</p> <p>Senate Accepts House offer to replace House Language with Rulemaking Language Below</p> <p>Senate Offers Senate Language with Noted Modification</p>	<p><b>Section 1.</b> (unnumbered section of law) Requires DCF, DOH, DJJ, APD and AHCA to implement changes to improve efficiency in health and human services contract administration.</p> <p><b>Section 3.</b> (s. 402.7305, F.S.) Requires DCF to limit monitoring of child-caring or child-placing services provider to only once per year.</p> <p><b>Section 2.</b> (s. 39.301, F.S.) Allows Mandates DCF to develop and operate a pilot program related to family needs assistance referrals to be located in circuit where child protection investigation unit and community-based care lead agency agree to participate within existing resources; requires a report to the Legislature by January 31, 2011, which contains the results of the pilot program and recommendations for continuing, expanding or modifying program.</p>
<p><b>Section 4.</b> (s. 409.1663, F.S.) Repeals adoption benefit for qualifying adopting employees of state agencies.</p>	<p>Bump</p>	

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<p><b>Section 5.</b> (s. 409.1671, F.S.) Specifies that contracts entered into with community-based care lead agencies must be funded by a grant of general revenue and by applicable other state and federal funding sources; authorizes in increase in lead agency contracts for excess federal funds; community-based care lead agency is authorized to carry forward documented unexpended funds from one fiscal year to the next, but must return any unexpended funds that remain at the end of the contract period; funds carried forward may be retained through any contract renewals and any new procurement as long as the community-based care lead agency is retained by the department; requires the department to enter into a fixed-price contract that provides for a 2-month advance payment at the beginning of each fiscal year and equal monthly payments thereafter; allows the department to outsource programmatic, administrative or fiscal monitoring oversight of the lead agencies; and authorizes the lead agencies to continue to use funding for certain expenditures.</p>	<p align="center">Senate Counter- Offers Senate Language</p>	<p><b>Section 4.</b> (s. 409.1671, F.S.) Specifies that contracts entered into with community-based care lead agencies must be funded by a grant of general revenue and by applicable other state and federal funding sources; authorizes in increase in lead agency contracts for excess federal funds; community-based care lead agency is authorized to carry forward documented unexpended funds from one fiscal year to the next, but the cumulative amount carried forward may not exceed 8 percent of the contract total; funds carried forward may not be used that would create increased recurring future obligations; any unexpended funds that remain at the end of the contract period must be returned; requires the department to enter into a fixed-price contract that provides for a 2-month advance payment at the beginning of each fiscal year and equal monthly payments thereafter; allows the department to outsource programmatic, administrative or fiscal monitoring oversight of the lead agencies; and authorizes the lead agencies to continue to use funding for certain expenditures.</p>
<p><b>Section 6.</b> (s. 409.166, F.S.) Conforming change to s. 409.1663, F.S., repeal.</p>	<p align="center">Bump</p>	
<p><b>Section 7.</b> Effective date July 1, 2010.</p>	<p align="center">Bump</p>	<p><b>Section 5.</b> (s. 394.655, F.S.) Repeals the Substance Abuse and Mental Health Corporation. <b>Section 6.</b> Effective date July 1, 2010.</p>

**Health Care Appropriations/Health and Human Services Appropriations  
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**Amended or New Provisions – Child Welfare**

<b>HB 5305</b>	<b>Comments</b>	<b>CS/CS/SB 1466 Senate Offer #1</b>
<p>Add new subsection 4 to s. 402.302, F.S. <u>(4) "Child welfare provider" means a licensed child caring or child placing agency.</u></p>	<p>Senate Accepts House Offer</p>	
<p>Amend subsection (10) of s. 402.7306, F.S. (1) Limit administrative monitoring to once every 3 years if the child welfare provider is accredited by the Joint Commission on the Accreditation of Healthcare Organizations, the Commission on Accreditation of Rehabilitation Facilities, or the Council on Accreditation of Children and Family Services. <u>If the accrediting body does not require documentation that the state agency requires, that document will be requested by the state agency and may be posted by the provider on the data warehouse for the agency's review. Notwithstanding the survey or inspection of an accrediting organization specified in this subsection, an agency specified in and subject to this section may continue to monitor the provider as necessary with respect to:</u></p>	<p>Senate Accepts House Offer</p>	
<p>Adds paragraph (d) to subsection (1), s. 402.7306, F.S. <u>(d) Medicaid certification and pre-certification reviews are exempt from this section in order to ensure Medicaid compliance.</u></p>	<p>Senate Accepts House Offer</p>	
<p>Amend subsection (2), s. 402.7306, F.S. (2) Allow private-sector development and implementation of an Internet-based, secure, and consolidated data warehouse and archive for maintaining corporate, fiscal, and administrative records of child welfare providers. A provider shall ensure that the data is up to date and accessible to the applicable agency under this section and the appropriate agency subcontractor. A provider shall submit any revised,</p>	<p>Senate Accepts House Offer</p>	

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<p>updated information to the data warehouse within 10 business days after receiving the request. An agency that conducts administrative monitoring of child welfare providers under this section must use the data warehouse for document requests. If the information provided to the agency by the provider's data warehouse is not current or is unavailable from the data warehouse and archive, the agency may contact the provider directly. <u>A provider that fails to comply with an agency's requested documents may be subject to a site visit to ensure compliance. Access to the data warehouse must be provided without charge to an applicable agency under this section. At a minimum, the records must include the provider's:</u></p> <ul style="list-style-type: none"> <li>(a) Articles of incorporation.</li> <li>(b) Bylaws.</li> <li>(c) Governing board and committee minutes.</li> <li>(d) Financial audits.</li> <li>(e) Expenditure reports.</li> <li>(f) Compliance audits.</li> <li>(g) Organizational charts.</li> <li>(h) Governing board membership information.</li> <li>(i) Human resource policies and procedures.</li> <li>(j) <u>Staff credentials.</u></li> <li>(k) <u>Monitoring procedures including tools and schedules.</u></li> <li>(l) <u>Procurement and contracting policies and procedures.</u></li> <li>(m) <u>Monitoring reports.</u></li> </ul> <p>Amend subsection (10) of 409.1451, F.S. <b>(10) RULEMAKING.</b>—The department shall adopt rule procedures to administer this section, including balancing goals of normalcy and safety for the youth and providing the caregivers with as much flexibility as possible to enable youth to participate in normal life</p>		<p align="center">Senate Accepts House Offer</p>
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<p>experiences. The department shall not adopt rules relating to reductions in awards. The department shall engage in appropriate planning to prevent, to the extent possible, a reduction in awards after issuance. The department shall adopt rules to govern the payments and conditions related to payments for services to youth or young adults provided under this section.</p>		
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<b>Mental Health and Substance Abuse</b>		
<b>HB 5307 House Offer #1</b>	<b>Comments</b>	<b>CS/CS/SB 1466 Senate Offer #1</b>
<p><b>Section 1.</b> (s. 394.655, F.S.) Repeals the Substance Abuse and Mental Health Corporation.</p>	<p>Bump</p>	<p><b>Section 5.</b> (s. 394.655, F.S.) Repeals the Substance Abuse and Mental Health Corporation.</p>
<p><b>Section 2.</b> (s. 14.20195, F.S.) Revises membership of the Suicide Prevention Coordinating Council from 28 to 27 to remove representative of the Substance Abuse and Mental Health Corporation.</p>		
<p><b>Section 3.</b> (s. 394.656, F.S.) Replaces the Substance Abuse and Mental Health Corporation with the Department and Children and Families for the purpose of establishing the Criminal Justice, Mental Health and Substance Abuse Statewide Grant Review Committee; removes five members of the corporation from the committee.</p>		
<p><b>Section 4.</b> (s. 394.657, F.S.) Replaces the Substance Abuse and Mental Health Corporation with the Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Review Committee for the purpose of receiving the Criminal Justice, Mental Health, and Substance Reinvestment Grant applications.</p>		
<p><b>Section 5.</b> (s. 394.658, F.S.) Replaces the Substance Abuse and Mental Health Corporation with the Criminal</p>		



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Justice, Mental Health, and Substance Abuse Statewide Grant Review Committee for the purpose of establishing grant review criteria.	
<b>Section 6.</b> (s. 394.659, F.S.) Removes the Substance Abuse and Mental Health Corporation from annual reporting requirement.	
<b>Section 7.</b> Effective date July 1, 2010.	

<b>Tobacco Education and Use Prevention</b>	
<b>HB 5309 House Offer #1</b>	<b>HB 5309 Senate Offer #1</b>
<b>Comments</b>	<b>Comments</b>
<p><b>Section 1.</b> (s. 381.84) Amends the Comprehensive Statewide Tobacco Education and Use Prevention Program by:</p> <ul style="list-style-type: none"> <li>• Expanding media campaign to include use of personal communication devices and online networking.</li> <li>• Deleting language exempting county health departments from the competitive bid process to receive core funding.</li> <li>• Ensuring administration and management expenditures for the Department of Health are limited to 5 percent.</li> <li>• Deleting obsolete language related to Area Health Education Centers (AHECs), making AHEC's continued function in each county permissive, and deleting language requiring the AHECs to compete for future funding.</li> <li>• Authorizing community mental health providers under contract with the Department of Children and Families to receive a portion of the annual tobacco appropriation to provide intervention and tobacco-use cessation treatment for persons with mental illness.</li> </ul>	<p>Senate Offers House Bill As Amended</p> <p>Accept</p> <p>As Amended</p> <p>As Amended</p> <p>As Amended</p> <p>As Amended</p>

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<ul style="list-style-type: none"> <li>Requiring the department to submit a written proposal for implementing an incentive-based pilot program using commitment contracts for tobacco-users and providing specific guidance for decision-points that must be included in the department's proposal.</li> </ul>	As Amended
Section 2. Effective date July 1, 2010. Accept	

**Amended or New Provisions: Tobacco Education and Use Prevention**

HB 5309 House Offer #1	Comments	HB 5309 Senate Offer #1
	<p>Senate Offers House Bill As Amended</p> <p>Senate Offer</p>	<p>Section 1. Amend Paragraph (g), subsection (3), section 393.0661, Florida Statutes</p> <p>(g) Administration and management, statewide programs, and county health departments.—<u>The department shall administer the program within the expenditure limit established in subsection (8).</u> Each county health department is eligible to receive a portion of the annual appropriation, on a per capita basis, for coordinating tobacco education and use prevention programs within that county. Appropriated funds may be used to improve the infrastructure of the county health department to implement the comprehensive, statewide tobacco education and use prevention program. Each county health department shall prominently display in all treatment rooms and waiting rooms, counter-marketing and advertisement materials in the form of wall posters, brochures, television advertising if televisions are used in the lobby or waiting room, and screensavers and Internet advertising if computer kiosks are available for use or viewing by people at the county health department.</p>
	Senate Offer	Removes (j), subsection (3)

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<p align="center"><b>HB 5309 House Offer #1</b></p>	<p align="center"><b>Comments</b></p>	<p align="center"><b>HB 5309 Senate Offer #1</b></p>
	<p>Senate Offer</p>	<p>Amend Paragraph subsection (6)</p> <p>(6) <b>CONTRACT REQUIREMENTS.</b>—Contracts or grants for the program components or subcomponents described in paragraphs (3)(a)-(f) shall be awarded by the State Surgeon General, after consultation with the council, on the basis of merit, as determined by an open, competitive, peer-reviewed process that ensures objectivity, consistency, and high quality. The department shall award such grants or contracts no later than October 1 for each fiscal year. A recipient of a contract or grant for the program component described in paragraph (3)(c) is not eligible for a contract or grant award for any other program component described in subsection (3) in the same state fiscal year. A school or college of medicine that is represented on the council is not eligible to receive a contract or grant under this section. <del>For the 2009-2010 fiscal year only,</del> The department shall award a contract or grant in the amount of \$10 million to the AHEC network for the purpose of developing the components described in paragraph (3)(i). The AHEC network may apply for competitive contracts or grants <u>after the 2009-2010 fiscal year.</u></p> <p>(a) In order to ensure that all proposals for funding are appropriate and are evaluated fairly on the basis of merit, the State Surgeon General, in consultation with the council, shall appoint a peer review panel of independent, qualified experts in the field of tobacco control to review the content of each proposal and establish its priority score. The priority scores shall be forwarded to the council and must be considered in determining which proposals will be recommended for funding.</p> <p>(b) The council and the peer review panel shall establish and follow rigorous guidelines for ethical conduct and adhere to a strict policy with regard to conflicts of interest. A member</p>

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		<p>of the council or panel may not participate in any discussion or decision with respect to a research proposal by any firm, entity, or agency with which the member is associated as a member of the governing body or as an employee or with which the member has entered into a contractual arrangement. Meetings of the council and the peer review panels are subject to chapter 119, s. 286.011, and s. 24, Art.</p>
	<p>Senate Offer Restores Language in Paragraph (c)</p>	<p>I of the State Constitution. (c) Notwithstanding the competitive process for contracts prescribed in this subsection, each county health department is eligible for core funding, on a per capita basis, to implement tobacco education and use prevention activities within that county. (e)(d) In each advertising contract, the department shall limit the total of production fees, buyer commissions, and related costs to no more than 10 percent of the total contract amount. (e)(e) Notwithstanding the competitive process for contracts prescribed in this subsection, each county health department is eligible for core funding, on a per capita basis, to implement tobacco education and use prevention activities within that county.</p>
	<p>Senate Offer</p>	<p>Removes (b), subsection (7)</p>
<p><b>Section 2.</b> Effective date July 1, 2010.</p>	<p>Accept</p>	

<b>Department of Health</b>	
<b>HB 5311</b>	<b>HB 5311 Senate Offer #1</b>
<p><b>Section 1.</b> (s. 20.435, F.S.) Makes the source(s) of revenue and use of the Administrative Trust Fund consistent with section 215.32, Florida Statutes. Removes language regarding environmental regulatory fees as a fund source</p>	<p>Accept House Offer</p>

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and regulatory activities as a use of the trust fund. <b>Sections 2, 3, 4, 10 &amp; 11.</b> (ss. 318.14; 318.18; 318.21; 395.403; 395.4036, F.S.) Replaces the Administrative Trust Fund with the Emergency Medical Services Trust Fund as the revenue source and use of the trust fund regarding payments to trauma centers. <b>Sections 5, 6, 7, 8, 9 &amp; 12.</b> (ss. 320.131; 327.35; 381.765; 381.78; 381.79; 938.07, F.S.) Replaces reference to Brain and Spinal Cord Rehabilitation Trust Fund with Brain and Spinal Cord Injury Program Trust Fund. <b>Section 13.</b> Effective date July 1, 2010.	Accept House Offer  Accept House Offer  Accept House Offer
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**Amended or New Provisions: Department of Health**

<b>HB 5311</b>	<b>Comments</b>	<b>HB 5311 Senate Offer #1</b>
	Senate Offer	Create a new section XX. Section 458.315, Florida Statutes, is amended to read:  458.315 Temporary certificate for practice in areas of critical need. (see attached)

## **HB 5309**

# **Comprehensive Statewide Tobacco Education and Use Prevention Program**

1                                   A bill to be entitled  
 2       An act relating to the Comprehensive Statewide Tobacco  
 3       Education and Use Prevention Program; amending s. 381.84,  
 4       F.S.; providing for the counter-marketing and advertising  
 5       campaign to include innovative communication strategies;  
 6       revising terminology; providing requirements for  
 7       administration and management of the program by the  
 8       Department of Health; deleting county health department  
 9       funding eligibility; specifying purpose of funds  
 10      distributed under the program; revising the area health  
 11      education center network program component functions and  
 12      requirements; authorizing community mental health  
 13      providers under contract with the Department of Children  
 14      and Family Services to receive a share of the annual  
 15      appropriation for specified purposes, subject to a  
 16      specific appropriation in the General Appropriations Act;  
 17      requiring the Department of Health to submit a proposal to  
 18      the Governor and Legislature for developing a pilot  
 19      program by a specified date; specifying elements of the  
 20      proposal; deleting obsolete language; providing an  
 21      effective date.

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

24  
 25           Section 1. Subsection (3), paragraph (a) of subsection  
 26   (4), and subsections (6), (7), and (9) of section 381.84,  
 27   Florida Statutes, are amended to read:

28           381.84   Comprehensive Statewide Tobacco Education and Use

29 Prevention Program.—

30 (3) PROGRAM COMPONENTS AND REQUIREMENTS.—The department  
 31 shall conduct a comprehensive, statewide tobacco education and  
 32 use prevention program consistent with the recommendations for  
 33 effective program components contained in the 1999 Best  
 34 Practices for Comprehensive Tobacco Control Programs of the CDC,  
 35 as amended by the CDC. The program shall include the following  
 36 components, each of which shall focus on educating people,  
 37 particularly youth and their parents, about the health hazards  
 38 of tobacco and discouraging the use of tobacco:

39 (a) Counter-marketing and advertising; Internet cyberspace  
 40 resource center.—The counter-marketing and advertising campaign  
 41 shall include, at a minimum, Internet, print, radio, and  
 42 television advertising and shall be funded with a minimum of  
 43 one-third of the total annual appropriation required by s. 27,  
 44 Art. X of the State Constitution.

45 1. The campaign shall include an Internet A-cyberspace  
 46 resource center for copyrighted materials and information  
 47 concerning tobacco education and use prevention, including  
 48 cessation, ~~shall be maintained by the program.~~ The Internet Such  
 49 resource center must be accessible to the public, including  
 50 parents, teachers, and students, at each level of public and  
 51 private schools, universities, and colleges in the state and  
 52 shall provide links to other relevant resources. The Internet  
 53 address for the resource center must be incorporated in all  
 54 advertising. The information maintained in the resource center  
 55 shall be used by the other components of the program.

56 2. The campaign shall use innovative communication



57 strategies, such as targeting specific audiences who use  
 58 personal communication devices and frequent social networking  
 59 websites.

60 (b) Cessation programs, counseling, and treatment.—This  
 61 program component shall include two subcomponents:

62 1. A statewide toll-free cessation service, which may  
 63 include counseling, referrals to other local resources and  
 64 support services, and treatment to the extent funds are  
 65 available for treatment services; and

66 2. A local community-based program to disseminate  
 67 information about tobacco-use ~~smoking~~ cessation, how tobacco-use  
 68 ~~smoking~~ cessation relates to prenatal care and obesity  
 69 prevention, and other chronic tobacco-related diseases.

70 (c) Surveillance and evaluation.—The program shall conduct  
 71 ongoing epidemiological surveillance and shall contract for  
 72 annual independent evaluations of the effectiveness of the  
 73 various components of the program in meeting the goals as set  
 74 forth in subsection (2).

75 (d) Youth school programs.—School and after-school  
 76 programs shall use current evidence-based curricula and programs  
 77 that involve youth to educate youth about the health hazards of  
 78 tobacco, help youth develop skills to refuse tobacco, and  
 79 demonstrate to youth how to stop using tobacco.

80 (e) Community programs and chronic disease prevention.—The  
 81 department shall promote and support local community-based  
 82 partnerships that emphasize programs involving youth, including  
 83 programs for the prevention, detection, and early intervention  
 84 of tobacco-related ~~smoking-related~~ chronic diseases.

85 (f) Training.—The program shall include the training of  
 86 health care practitioners, tobacco-use cessation ~~smoking-~~  
 87 ~~cessation~~ counselors, and teachers by health professional  
 88 students and other tobacco-use prevention specialists who are  
 89 trained in preventing tobacco use and health education. Tobacco-  
 90 use cessation ~~Smoking-cessation~~ counselors shall be trained by  
 91 specialists who are certified in tobacco-use cessation.

92 (g) Administration and management, statewide programs, and  
 93 county health departments.—The department shall administer the  
 94 program within the expenditure limit established in subsection  
 95 (8). As part of this component, the department shall coordinate  
 96 the activities of state and community-based tobacco control  
 97 organizations. In addition, Each county health department is  
 98 eligible to receive a portion of the annual appropriation, on a  
 99 per capita basis, for coordinating tobacco education and use  
 100 prevention programs within that county. Appropriated funds may  
 101 be used to improve the infrastructure of the county health  
 102 department to implement the comprehensive, statewide tobacco  
 103 education and use prevention program. each county health  
 104 department shall prominently display in all treatment rooms and  
 105 waiting rooms, counter-marketing and advertisement materials in  
 106 the form of wall posters, brochures, television advertising if  
 107 televisions are used in the lobby or waiting room, and  
 108 screensavers and Internet advertising if computer kiosks are  
 109 available for use or viewing by people at the county health  
 110 department.

111 (h) Enforcement and awareness of related laws.—In  
 112 coordination with the Department of Business and Professional

113 Regulation, the program shall monitor the enforcement of laws,  
 114 rules, and policies prohibiting the sale or other provision of  
 115 tobacco to minors, as well as the continued enforcement of the  
 116 Clean Indoor Air Act prescribed in chapter 386. The  
 117 advertisements produced in accordance with paragraph (a) may  
 118 also include information designed to make the public aware of  
 119 these related laws and rules. The departments may enter into  
 120 interagency agreements to carry out this program component.

121 (i) AHEC tobacco-use cessation ~~smoking cessation~~  
 122 initiative. ~~For the 2009-2010 fiscal year,~~ The AHEC network may  
 123 administer ~~shall expand~~ the AHEC tobacco-use cessation ~~smoking-~~  
 124 ~~cessation~~ initiative in ~~to~~ each county within the state and  
 125 perform other activities as determined by the department.

126 (j) Community-based organizations providing services to  
 127 specific populations.—Subject to a specific appropriation in the  
 128 General Appropriations Act, and in order to reach, involve, and  
 129 mobilize tobacco-users with mental illness, community mental  
 130 health providers under contract with the Department of Children  
 131 and Family Services pursuant to s. 394.74 are eligible to  
 132 receive a portion of the annual appropriation to provide  
 133 intervention services and tobacco-use cessation treatments for  
 134 persons with mental illness.

135 (4) ADVISORY COUNCIL; MEMBERS, APPOINTMENTS, AND  
 136 MEETINGS.—The Tobacco Education and Use Prevention Advisory  
 137 Council is created within the department.

138 (a) The council shall consist of 23 members, including:

139 1. The State Surgeon General, who shall serve as the  
 140 chairperson.

141           2. One county health department director, appointed by the  
142 State Surgeon General.

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

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

147           5. The chief executive officer of the Greater Southeast  
148 Affiliate of the American Heart Association, or his or her  
149 designee.

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

152           7. The dean of the University of Miami School of Medicine,  
153 or his or her designee.

154           8. The dean of the University of Florida College of  
155 Medicine, or his or her designee.

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

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

160           11. The dean of Nova Southeastern College of Osteopathic  
161 Medicine, or his or her designee.

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

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

166           14. The chief executive officer of the Legacy Foundation,  
167 or his or her designee.

168           15. Four members appointed by the Governor, of whom two

169 must have expertise in the field of tobacco-use prevention and  
 170 education or tobacco-use ~~smoking~~ cessation and one individual  
 171 who shall be between the ages of 16 and 21 at the time of his or  
 172 her appointment.

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

176 17. Two members appointed by the Speaker of the House of  
 177 Representatives, of whom one must have expertise in the field of  
 178 tobacco-use prevention and education or tobacco-use ~~smoking~~  
 179 cessation.

180 (6) CONTRACT REQUIREMENTS.—Contracts or grants for the  
 181 program components or subcomponents described in paragraphs  
 182 (3)(a)-(f) shall be awarded by the State Surgeon General, after  
 183 consultation with the council, on the basis of merit, as  
 184 determined by an open, competitive, peer-reviewed process that  
 185 ensures objectivity, consistency, and high quality. The  
 186 department shall award such grants or contracts no later than  
 187 October 1 for each fiscal year. A recipient of a contract or  
 188 grant for the program component described in paragraph (3)(c) is  
 189 not eligible for a contract or grant award for any other program  
 190 component described in subsection (3) in the same state fiscal  
 191 year. A school or college of medicine that is represented on the  
 192 council is not eligible to receive a contract or grant under  
 193 this section. ~~For the 2009-2010 fiscal year only, the department~~  
 194 ~~shall award a contract or grant in the amount of \$10 million to~~  
 195 ~~the AHEC network for the purpose of developing the components~~  
 196 ~~described in paragraph (3)(i). The AHEC network may apply for a~~

197 ~~competitive contract or grant after the 2009-2010 fiscal year.~~

198 (a) In order to ensure that all proposals for funding are  
 199 appropriate and are evaluated fairly on the basis of merit, the  
 200 State Surgeon General, in consultation with the council, shall  
 201 appoint a peer review panel of independent, qualified experts in  
 202 the field of tobacco control to review the content of each  
 203 proposal and establish its priority score. The priority scores  
 204 shall be forwarded to the council and must be considered in  
 205 determining which proposals will be recommended for funding.

206 (b) The council and the peer review panel shall establish  
 207 and follow rigorous guidelines for ethical conduct and adhere to  
 208 a strict policy with regard to conflicts of interest. A member  
 209 of the council or panel may not participate in any discussion or  
 210 decision with respect to a research proposal by any firm,  
 211 entity, or agency with which the member is associated as a  
 212 member of the governing body or as an employee or with which the  
 213 member has entered into a contractual arrangement. Meetings of  
 214 the council and the peer review panels are subject to chapter  
 215 119, s. 286.011, and s. 24, Art. I of the State Constitution.

216 ~~(c) Notwithstanding the competitive process for contracts~~  
 217 ~~prescribed in this subsection, each county health department is~~  
 218 ~~eligible for core funding, on a per capita basis, to implement~~  
 219 ~~tobacco education and use prevention activities within that~~  
 220 ~~county.~~

221 (c) ~~(d)~~ In each advertising contract, the department shall  
 222 limit the total of production fees, buyer commissions, and  
 223 related costs to no more than 10 percent of the total contract  
 224 amount.

225 (d)~~(e)~~ Notwithstanding the competitive process for  
 226 contracts prescribed in this subsection, each county health  
 227 department is eligible for core funding, on a per capita basis,  
 228 to implement tobacco education and use prevention activities  
 229 within that county.

230 (7) ANNUAL REPORT REQUIRED.—

231 (a) By January 31 of each year, the department shall  
 232 provide to the Governor, the President of the Senate, and the  
 233 Speaker of the House of Representatives a report that evaluates  
 234 the program's effectiveness in reducing and preventing tobacco  
 235 use and that recommends improvements to enhance the program's  
 236 effectiveness. The report must contain, at a minimum, an annual  
 237 survey of youth attitudes and behavior toward tobacco, as well  
 238 as a description of the progress in reducing the prevalence of  
 239 tobacco use among youth, adults, and pregnant women; reducing  
 240 per capita tobacco consumption; and reducing exposure to  
 241 environmental tobacco smoke.

242 (b) By December 1, 2010, the department shall submit to  
 243 the Governor, the President of the Senate, the Speaker of the  
 244 House of Representatives, and the appropriate substantive  
 245 committees of the Legislature a written proposal for  
 246 implementing an incentive-based pilot program using commitment  
 247 contracts for tobacco-users. The proposal shall include a  
 248 recommended amount and source of funding for the pilot program,  
 249 as well as recommendations related to:

- 250 1. The location of the pilot program.
- 251 2. The type of commitment contract to be used.
- 252 3. Proposed terms for the commitment contract, including

253 any additional incentives that could be provided by the state  
 254 and penalties or consequences for failure to abstain from using  
 255 tobacco by program participants.

256 4. The method for testing for tobacco abstention by  
 257 program participants.

258 5. The locations of testing site centers, which may  
 259 include area health education centers, county health  
 260 departments, and federally qualified health centers.

261 (8) LIMITATION ON ADMINISTRATIVE EXPENSES.—From the total  
 262 funds appropriated for the Comprehensive Statewide Tobacco  
 263 Education and Use Prevention Program in the General  
 264 Appropriations Act, an amount of up to 5 percent may be used by  
 265 the department for administrative expenses.

266 (9) RULEMAKING AUTHORIZED.—~~By January 1, 2008,~~ The  
 267 department shall adopt rules pursuant to ss. 120.536(1) and  
 268 120.54 to administer this section.

269 Section 2. This act shall take effect July 1, 2010.