



Florida Taxation and Budget Reform Commission



2007-2008

# Final Report



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## Overview

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A 1988 constitutional amendment created the Taxation and Budget Reform Commission (TBRC), which first met in 1990 and was scheduled to re-establish every 10 years thereafter. However, an amendment adopted by voters in 1998 changed the Commission's next creation date to 2007 and called for it to re-establish every 20 years thereafter.

The TBRC is charged with examining the state budget process, revenue needs, and expenditure processes. Members are tasked with analyzing Florida's tax structure as well as governmental productivity and efficiency. It also reviews policy as it relates to the ability of state and local governments to tax and fund governmental operations. The Commission has the unique power to propose constitutional amendments directly to the ballot, and it can make recommendations for legislation to the Florida House of Representatives and the Florida Senate.

The Commission consists of 25 voting members, eleven of whom are appointed by the Governor, seven by the Speaker of the House, and seven by the Senate President. The TBRC also includes four non-voting, ex officio members who must be current members of the Legislature: two Republicans and two Democrats. The members of the 2007-08 TBRC were appointed on February 16, 2007 and held their initial organizational meeting on March 16, 2007, selecting former House Speaker Allan Bense as chair and former Senate President James Scott as vice-chair.

The 2007-08 TBRC established four substantive committees, including Finance and Taxation, Governmental Procedures and Structure, Governmental Services, and Planning and Budgetary Processes, as well as several ad hoc committees and workgroups on specific issues such as property tax, sales tax, and the required local effort for school district funding. From July to mid-September 2007, the committees and workgroups met to hear expert testimony on a host of issues, including tax policy, budget processes, courts, education, health, public safety, transportation, and water policy.

Between September 20 and December 5, 2007, the commission held a series of seven public hearings throughout the state to avail the general public of the opportunity to share their specific ideas and proposals on taxation, budgeting, and government efficiency issues. In total, the TBRC, its committees, workgroups, and subcommittees held 127 meetings, conference calls, and public hearings throughout the state during the 14-month period from March 2007 to April 2008.

Following the expert testimony and public hearing educational phase, the proposal submission process began. Beginning in mid-October 2007, members of the TBRC who wished to propose statutory recommendations or constitutional amendment language were asked to submit their written proposals to Chair Bense who assigned each one to the appropriate committee or committees of reference to be heard and debated. A majority vote of each committee of reference

(representing 6 of the 11 voting members) was needed for the measure to move on to the full commission, which began taking up committee approved proposals in December 2007.

Proposed statutory recommendations were required to receive a majority vote of the commission (representing 13 of the 25 voting members) in order to be presented to members of the Legislature for consideration.

Proposed constitutional amendment language was required to receive a two-thirds vote of the full TBRC membership (representing 17 of the 25 voting members) in order to be submitted to the Secretary of State by the May 4, 2008 deadline to appear on the November 4, 2008 general election ballot.

Unlike citizen initiatives, constitutional amendments proposed by the TBRC do not fall under the single subject rule nor do they receive automatic review by the Florida Supreme Court. However, TBRC ballot summaries must be written in 75 words or fewer and may contain a title of up to 15 words, just the same as citizen initiatives.

Commission members submitted 51 measures, including 12 statutory recommendations and 39 constitutional proposals. Of those 12 statutory recommendations, the eight that were passed by the full commission were transmitted to the Legislature following the meeting dates when they were approved by the Commission. Of those 39 constitutional proposals, the 11 that passed were reviewed by the Style & Drafting Committee, combined to create seven final constitutional proposals, and transmitted to the Secretary of State on April 28, 2008.

The website for the Florida TBRC is currently archived at the following URL:

<http://www.law.fsu.edu/library/databases/ftbrc/>



## Commission Members

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**Allan Bense, Chair**, of Panama City, is a partner with GAC Contractors. He was elected Speaker of the Florida House of Representatives where he served from 2004-06. He was the first Republican elected to House District 6 and served that district for eight years. He is a board member of the Florida Council of 100, Florida Chamber of Commerce, and Enterprise Florida.

*House Speaker's Appointee*

**James A. Scott, Vice Chair**, of Fort Lauderdale, is an attorney and founding partner of the Tripp Scott Law Firm in Fort Lauderdale. He was elected to the Florida Senate in 1976 and served more than 24 years, including two terms as chairman of the Appropriations Committee and one term as Senate President. Senator Scott was chairman of the Taxation Committee for the 1997-98 Constitution Revision Commission.

*Governor's Appointee*

**Hoyt "Barney" Barnett**, of Lakeland, is vice chairman of Publix Super Markets, Inc. He served as chairman of Florida TaxWatch and the Tampa Bay Partnership, as well as a member of the board of the James Madison Institute. Mr. Barnett served on the 1990-92 Taxation and Budget Reform Commission, as well as the Property Tax Reform Committee.

*Governor's Appointee*

**Martha W. Barnett**, of Tallahassee, is a partner in the law firm of Holland & Knight, where she serves on the Directors Committee. She served on the 1990-92 Taxation and Budget Reform Commission, the Florida Sales Tax on Services Study Commission, and the 1997-

98 Constitution Revision Commission. Ms. Barnett previously served as president of the American Bar Association.

*Governor's Appointee*

**R. Mark Bostick**, of Winter Haven, is the president of Comcar Industries. He previously worked as director of purchasing, vice-president, and senior vice-president of Comcar before becoming president in 1989. Mr. Bostick is a member of the Florida Trucking Association, Associated Industries of Florida, and the University of Florida Shands Cancer Center Advisory Board.

*Governor's Appointee*

**Richard Corcoran**, of Tallahassee, is an attorney with the Corcoran Law Firm. He served as chief of staff of the Florida House of Representatives under Speaker Marco Rubio, legal counsel to the Florida House under Speaker Tom Feeney, and as an advisor to the Florida House under Speaker Daniel Webster.

*House Speaker's Appointee*

*Appointed March 7, 2008 to replace Alan Levine*

**Talbot "Sandy" D'Alemberte**, of Tallahassee, is the former Chair of the 1997-98 Constitution Revision Commission and was appointed to serve by Gov. Askew. He is a former member of the House of Representatives where he served as the Chair of the Ad Valorem Taxation Committee. He was appointed by Gov. Kirk to serve as a member of the Tax Reform Commission. Mr. D'Alemberte is the former President of the American Bar Association and the former President of The Florida State University.

*Senate President's Appointee*

**Mike Hogan**, of Jacksonville, currently serves as the Duval County Tax Collector. From 1991-99, he served as a Councilman on the Jacksonville City Council. In 2000, he was elected to the Florida House of Representatives representing District 13. While in the House, he served two years on House/Senate Budget Conference Committees and, in 2002, served on the Special House Committee to evaluate Florida's Sales Tax laws. Before and during his service to elected offices, Mr. Hogan worked 25 years for BellSouth Telecommunications.

*Senate President's Appointee*

**Julia Johnson**, of Windermere, is the President of NETCOMMUNICATIONS. She was appointed as Chairman of the Florida Information Technology Development Task Force (Internet Task Force) by Gov. Bush. Ms. Johnson also served on the Public Service Commission for seven years, including two years as Chairman.

*House Speaker's Appointee*

**Bruce Kyle**, of Ft. Myers, currently serves as a Circuit Court Judge in the Twentieth Circuit. He was elected to the House of Representatives in 1998, where he served in several leadership positions, including chair and vice-chair of the Legislative Budget Commission. After completing his education, Mr. Kyle spent six years as a prosecutor in the Twentieth Circuit State Attorney's office, followed by time in private practice.

*House Speaker's Appointee*

**Carlos Lacasa**, of Miami, is an attorney with Ruden McCloskey, where he is part of the firm's Corporate, Administrative, and Governmental Practice Group. He served for eight years as a member of the Florida House of Representatives and chaired the House General Appropriations Committee from 2000-02. Currently,

Mr. Lacasa is serving as a member of the Citizens Property Insurance Board of Directors.

*House Speaker's Appointee*

**Patricia Levesque**, of Tallahassee, is the Executive Director of the Foundation for Florida's Future and also managing partner of Meridian Strategies, LLC. She served as Deputy Chief of Staff to Gov. Bush and Education Policy Coordinator in the Governor's Office of Policy and Budget. Ms. Levesque served six years for the Florida House of Representatives covering education policy in Speaker Webster's administration, as Staff Director of the Education K-12 Committee, and as Director of the House Council for Lifelong Learning.

*House Speaker's Appointee*

**Alan Levine**, of Ft. Lauderdale, is President and CEO of the North Broward Hospital District. Previously, he served as Secretary of the Agency for Healthcare Administration and as Deputy Chief of Staff to Gov. Bush. Mr. Levine has served as CEO of South Bay Hospital and Doctors' Memorial Hospital. In 2006, Modern Healthcare Magazine named him as one of 30 leaders nationwide likely to have a powerful impact on the future of healthcare.

*House Speaker's Appointee – Resigned March 7, 2008*

**Roberto "Bobby" Martinez**, of Coral Gables, is a shareholder in the Colson Hicks Edison law firm. He is a member of the State Board of Education. Mr. Martinez served as Chairman of the Board of Trustees of Miami Dade College, the United States Attorney for the Southern District of Florida, Chairman of Governor-Elect Crist's Transition Team in 2006, Chairman of Attorney General-Elect Crist's Transition Team in 2002, and General Counsel of Governor-Elect Bush's 1998 Transition Team.

*Governor's Appointee*

**Jacinta Mathis**, of Orlando, is a real estate and corporate attorney with the Law Office of J. Mathis, LLC. She served as a Commissioner on the 1997-98 Florida Constitution Revision Commission, a former Law Clerk to the First District Court of Appeal for Judge Anne Cawton Booth, and former Law Clerk to the Clerk of the Florida House of Representatives. Ms. Mathis received her Juris Doctorate from the Florida State University College of Law and she is active in community service.

*Senate President's Appointee*

**John M. McKay**, of Bradenton, is a real estate broker and President of John M. McKay, Inc. He has extensive real estate development, investment, and management experience. Mr. McKay served in the Florida Senate from 1990-2002, and was elected Senate President for the 2001-02 term.

*Governor's Appointee*

**Bob McKee**, of Leesburg, is the Tax Collector for Lake County. Prior to his election in 1996, he served as the Town Manager of Lady Lake and has been a public administrator in Lake County for over 20 years. Mr. McKee holds a Masters Degree in Public Administration and serves on the boards of directors of several community based organizations.

*Governor's Appointee*

**Lesley J. "Les" Miller, Jr.**, of Tampa, is currently the Director of Community Affairs and Student Ombudsman at The University of South Florida. During his 14 years of legislative service, Mr. Miller served as Democratic Leader of the Florida Senate from 2004-06 and of the House of Representatives from 1998-2000. He also served on the Appropriations and Ways and Means Committees and was twice named Vice Chair of the Legislature's Budget Conference Committee.

*Senate President's Appointee*

**Randy Miller**, of Tallahassee, serves as the Executive Vice President of the Florida Retail Federation. He is the former Executive Director of the Florida Department of Revenue. Previously, he served on the Sales Tax Exemption Study Commission, the Florida Telecommunications Task Force, and the State Tax Reform Task Force. In addition, he has served as President of the Southeastern Tax Administrators Association, and as a board member of the National Association of Tax Administrators and Florida TaxWatch.

*Senate President's Appointee*

**Jade Thomas Moore**, of Pinellas, is the Executive Director of the Pinellas Classroom Teachers Association. A former speech and English teacher, he has a Bachelors and Masters degree from the University of South Florida. In 1990, Mr. Moore served on the Florida Tax Revision Commission as a Senate appointee. He is a past president of Suncoast Tiger Bay and former Moderator of the Presbytery of Tampa Bay.

*Senate President's Appointee*

**Nancy J. Riley**, of Clearwater, a real estate broker for 35 years, she is currently with Coldwell Banker Residential Real Estate in Pinellas County. She is the 2007 President of the Florida Association of Realtors, a member of the Pinellas Suncoast Association of Realtors, and the Florida Gulfcoast Commercial Association of Realtors, and serves as a director for the National Association of Realtors. Ms. Riley was elected Pinellas County's Republican State Committeewoman and sits on the Board of Directors of the Republican Party of Florida.

*Governor's Appointee*

**Darryl Rouson**, of St. Petersburg, is a shareholder in the law firms of Rouson and Dudley, P.A., a personal injury firm, and Rouson, Dudley, & Jones, LLC, a commercial litigation firm. He serves as general counsel for several corporations, including utility and land development companies. He is the immediate past president of the St. Petersburg NAACP and the first chairman of the Substance Abuse and Addictions Task Force of the National Bar Association. Mr. Rouson serves on the boards of One Church One Child of Florida, Inc. and Urban Development Solutions, Inc.

*Governor's Appointee*

**Susan Story**, of Pensacola, is President and CEO of Gulf Power Company. She is the immediate past vice chair of Enterprise Florida, chair-elect of the Florida Chamber of Commerce, and serves on the board of directors of the Florida Council of 100, Association of Edison Illuminating Companies, James Madison Institute, and Southeastern Electric Exchange. Ms. Story also serves on the Florida Federal Judicial Nominating Commission and the Board of the Florida Disaster Relief Fund.

*Senate President's Appointee*

**William Gregory "Greg" Turbeville**, of Tallahassee, is a governmental consultant with Smith and Ballard, Inc. He served as policy director for Gov. Bush and chief of staff for former Florida House of Representatives Speaker John Thrasher. Mr. Turbeville worked as an economist for the Florida House of Representatives and as a member of the Revenue Estimating Conference under House Speaker Tom Feeney.

*Governor's Appointee*

**Kenneth "Ken" Wilkinson**, of Fort Myers, is currently the property appraiser for Lee County, having served in this position since 1980. He is a veteran of the United States Army Security Agency, president of the 1992 Save Our Homes Constitutional Amendment Initiative, and organizing chairman of the Enough Is Enough State Spending Limitation Initiative. Mr. Wilkinson is also currently the President of Save Our Homes/Portability, Inc.

*Governor's Appointee*

**Brian Yablonski**, of Tallahassee, is Vice President of Public Affairs for the St. Joe Company. He previously served as Director of Policy and Deputy Chief of Staff for Gov. Bush. Mr. Yablonski serves as a commissioner on the Fish and Wildlife Conservation Commission.

*House Speaker's Appointee*

## Ex Officio Members

**Representative Dan Gelber**, (*D-Miami Beach*), was elected to the House of Representatives in 2000 and subsequently reelected. Mr. Gelber has previously served as Chief Counsel to former United States Senator Sam Nunn from 1994-96, and Democratic Message Coordinator from 2004-06. He currently serves as the House Democratic Leader and on the Rules and Calendar Council where he is the Democratic Ranking Member.

*Appointed February 19, 2008 to replace  
Representative Frank Peterman*

**Senator Mike Haridopolos**, (*R-Melbourne*), was elected to the House of Representatives in 2000 where he served until 2003 when he was elected to the Senate and subsequently reelected. Mr. Haridopolos is co-founder of the Freedom Caucus and currently serves as the Majority Whip and chair of the Finance and Tax Committee.

**Senator Gwen Margolis**, (*D-Miami Beach*), was elected to the House of Representatives in 1974 where she served until 1980 when she was elected to the Senate and subsequently reelected. Ms. Margolis served as Senate President from 1990-92 and as the Minority Caucus Policy Committee Co-Chair from 2004-06. She currently serves as Vice Chair of both the Children, Families, and Elder Affairs Committee and the Transportation and Economic Development Appropriations Committee.

**Representative Frank Peterman, Jr.**, (*D-St. Petersburg*), was elected to the House of Representatives in 2000 and subsequently reelected. Mr. Peterman has previously served as a Commissioner on the Pinellas County Housing Authority and on the St. Petersburg City Council. He currently serves on the Committee on Juvenile Justice where he is the Democratic Ranking Member.

*Resigned February 19, 2008*

**Representative David Rivera**, (*R-Miami*), was elected to the Florida House of Representatives in 2002 and subsequently reelected in 2004 and 2006. He currently serves as the Chairman of the Rules & Calendar Council of the Florida House of Representatives. Mr. Rivera has also been elected in Miami-Dade County as State Committeeman to the Republican Party of Florida (RPOF). Mr. Rivera has served as Director of National Political Affairs and Director of Hispanic Outreach for the RPOF.

*Appointed April 11, 2008 to replace  
Representative Ray Sansom*

**Representative Ray Sansom**, (*R-Fort Walton Beach*), was elected to the House of Representatives in 2002 and subsequently reelected. He has previously served on the Okaloosa Board of County Commissioners and the Florida Corrections Commission. Mr. Sansom currently serves as Alternating Chair of the Legislative Budget Commission and Chair of the Policy and Budget Council. On March 5, 2007, he was officially designated as Speaker of the Florida House of Representatives for the 2008-10 legislative terms.

*Resigned April 11, 2008*



# TBRC Committees

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## Committee Descriptions

### **Finance and Taxation Committee**

The Finance and Taxation Committee was responsible for examining the appropriateness of the tax structure of state and local governments. The committee was charged with investigating how governmental activities in Florida are funded and how the existing structure is projected to function in the next twenty (20) years; assessing the effects of the current financial structure and determining the methods favored by the citizens of the state to fund the levels of service identified by the Governmental Services Committee; examining the constitutional and statutory limitations on finance and taxation; and making appropriate recommendations.

### **Governmental Procedures and Structure Committee**

The Governmental Procedures and Structure Committee was responsible for examining governmental efficiency and productivity at both the state and local levels. The committee was charged with determining what techniques could be used in the state to improve the cost effectiveness of the delivery of services; assessing the impact of these techniques and evaluating the constitutional and statutory constraints which impede their use; determining what measures could be instituted to realize additional revenues from existing tax sources; and examining the existing pattern of governance and the division of responsibilities in the state to determine if

they promote governmental efficiency and effectiveness and enable governmental operations and capital facilities to be funded adequately.

### **Governmental Services Committee**

The Governmental Services Committee was responsible for examining the revenue needs of the state and its local governments and evaluating the demand and requirements for operational services and capital facilities by state and local government during the next twenty (20) years. The committee was charged with examining constitutional limitations on expenditures at the state and local level; determining what services are provided, how they are currently financed, at what level of service they are provided, and how the costs of the services are projected to change over the next twenty (20) years; identifying the reasons for the rise in service expenditures; assessing the impact of the projected service inventory; and recommending any needed constitutional or statutory changes.

### **Planning and Budgetary Processes Committee**

The Planning and Budgetary Processes Committee was responsible for examining the state budgetary process. The committee was charged with identifying the financial planning and budgeting systems used by state and local governments in Florida and assessing their purpose, operation, and effect; reviewing the state and local financial planning, budgeting, and

needs assessment processes to determine whether the resulting information adequately supports a strategic decision making process; identifying the statutory and constitutional constraints on state and local financial planning and budgetary processes; and making appropriate recommendations for change.

### **Style and Drafting Committee**

The Style and Drafting Committee was responsible for conforming the work product from each of the substantive committees; and overseeing the preparation of any proposed constitutional amendments, proposed statutory changes, recommendations, and reports from the Commission.

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## **Committee Assignments**

The following assignments to the four substantive committees of the TBRC became effective May 10, 2007.

### **Finance & Taxation Committee**

Susan Story, Chair  
Barney Barnett  
Martha Barnett  
Julia Johnson  
Bruce Kyle  
Patricia Levesque  
John McKay  
Randy Miller  
James Scott  
Ken Wilkinson  
Brian Yablonski

### **Governmental Procedures & Structure Committee**

Alan Levine, Chair  
Mike Hogan  
Julia Johnson  
Carlos Lacasa  
Patricia Levesque  
Jacinta Mathis  
Nancy Riley  
Darryl Rouson  
Greg Turbeville  
Ken Wilkinson  
Brian Yablonski

### **Governmental Services Committee**

Bobby Martinez, Chair  
Barney Barnett  
Martha Barnett  
Mark Bostick  
Sandy D'Alemberte  
Bruce Kyle  
Bob McKee  
Les Miller  
Randy Miller  
Jade Moore  
James Scott

### **Planning & Budgetary Processes Committee**

Carlos Lacasa, Chair  
Mark Bostick  
Sandy D'Alemberte  
Mike Hogan  
Jacinta Mathis  
Bob McKee  
Les Miller  
Jade Moore  
Nancy Riley  
Darryl Rouson  
Greg Turbeville

The following assignments to the Style & Drafting Committee of the TBRC became effective Feb. 26, 2008.

### **Style & Drafting Committee**

Patricia Levesque, Chair  
Martha Barnett  
Allan Bense  
Mike Hogan  
Les Miller  
Jim Scott



# Governance & Rules

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## Governance

The Taxation & Budget Reform Commission is a self-governing constitutional commission which adopts, and functions under, its own rules. The commission is created in Section 6 of Article XI of the Florida Constitution. Statutory implementing language is found in s. 286.036, Florida Statutes.

Prior to 2007, the Taxation & Budget Reform Commission had been administratively housed at the Board of Regents. Since the Board of Regents was abolished in 2001 with the passage of legislation creating a new governance structure for higher education, the Office of the Governor asked the Department of Revenue to host the TBRC. For several months in 2007, the Department provided support services for the commission. Pursuant to ch. 2007-98, L.O.F., the TBRC was moved, for administrative purposes, to the legislative branch. From June 2007 to June 2008, support services for the commission were provided by the Office of Legislative Services of the Florida Legislature.

## Rules

Staff researched the operating rules of the 1990-92 Taxation and Budget Reform Commission and the 1997-98 Constitution Revision Commission, as well as Robert's Rules of Order and Mason's Rules, in an effort to construct rules for the 2007-08 TBRC. Initial drafts were provided to commission members for review and discussion. Issues of particular importance were lobbyist registration, telephonic participation and voting, and voting procedures for final passage of constitutional proposals. Ad hoc committees studied the issues of lobbyist registration, and telephonic participation and voting.

Rules were adopted at the October 4, 2007 TBRC meeting in Orlando, and subsequently revised at the February 26, 2008 TBRC meeting in Tallahassee. Staff legal counsel and consulting legal counsel worked with commission members to assure an orderly and transparent process.



## Staff and Consultants

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### Staff

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<b>Executive Director</b> .....	<i>Susan Skelton</i>
<b>Deputy Executive Director/Director of Communications</b> .....	<i>Kathy Torian</i>
<b>General Counsel/Senior Policy Analyst</b> .....	<i>Tom Cibula</i>
<b>Senior Budget Analyst</b> .....	<i>Ann Gordon</i>
<b>Research Assistant</b> .....	<i>Rob Shave</i>
<b>Senior Administrative Assistant/Office Manager</b> .....	<i>Nancy Frier</i>
<b>Administrative Assistant</b> .....	<i>Chandra Godwin</i>
<b>Intern</b> .....	<i>Paul Soberon-Llort</i>

### Consultants

<b>Counsel to the Chair</b> .....	<i>Dudley Goodlette</i>
<b>Style &amp; Drafting Committee Attorney</b> .....	<i>Richard Hixson</i>
<b>Media Relations/Public Outreach</b> .....	<i>Ava Parker</i>
<b>Parliamentary (volunteer)</b> .....	<i>John Phelps</i>
<b>Economist</b> .....	<i>Dr. Tony Villamil</i>
<b>Tax Consultant</b> .....	<i>David Zachem</i>



## Acknowledgements

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The members and staff of the 2007-08 Florida Taxation & Budget Reform Commission would like to thank the following people for their assistance and support:

- Florida House of Representatives and Florida Senate for meeting space and staff support;
- Governor's Office for staff support;
- Department of Transportation for meeting space and staff support;
- FSU Academic and Professional Program Services for all of their work on our website, and for the use of furniture and computers;
- Department of Revenue for assistance in setting up the commission;
- Office of Legislative Services for member and staff support;
- Office of Legislative Information Technology Services for computer support service;
- Danielle Frieze, Court Reporter;
- Jon Lutz, FSU Law School, for website archival; and
- Beth Golding, State Archives of Florida, for housing of all official documents.



# 1. Constitutional Proposals

1 Resolution of the Taxation and Budget Reform Commission  
 2 A resolution proposing an amendment to Sections 4 and 9  
 3 and the creation of Section 19 of Article VII and Section  
 4 28 of Article XII of the State Constitution to limit the  
 5 growth of assessments of certain real property for the  
 6 purposes of ad valorem taxation, to mandate the  
 7 elimination of property taxes set as required local  
 8 effort, to reduce the maximum millage for school purposes,  
 9 and to replace the revenues from property taxes set as  
 10 required local effort with other funds.

11  
 12 Be It Resolved by the Taxation and Budget Reform Commission:  
 13

14 That the following amendment to Sections 4 and 9, and the  
 15 creation of Section 19 of Article VII, and Section 28 of Article  
 16 XII of the State Constitution are agreed to and shall be  
 17 submitted to the electors of this state for approval or  
 18 rejection at the next general election or at an earlier special  
 19 election specifically authorized by law for that purpose:

20 ARTICLE VII

21 FINANCE AND TAXATION

22 SECTION 4. Taxation; assessments.--By general law  
 23 regulations shall be prescribed which shall secure a just  
 24 valuation of all property for ad valorem taxation, provided:

25 (a) Agricultural land, land producing high water recharge  
 26 to Florida's aquifers, or land used exclusively for  
 27 noncommercial recreational purposes may be classified by general  
 28 law and assessed solely on the basis of character or use.

29 (b) Pursuant to general law tangible personal property

30 held for sale as stock in trade and livestock may be valued for  
 31 taxation at a specified percentage of its value, may be  
 32 classified for tax purposes, or may be exempted from taxation.

33 (c) All persons entitled to a homestead exemption under  
 34 Section 6 of this Article shall have their homestead assessed at  
 35 just value as of January 1 of the year following the effective  
 36 date of this amendment. This assessment shall change only as  
 37 provided herein.

38 (1) Assessments subject to this provision shall be changed  
 39 annually on January 1st of each year; but those changes in  
 40 assessments shall not exceed the lower of the following:

41 a. Three percent (3%) of the assessment for the prior  
 42 year.

43 b. The percent change in the Consumer Price Index for all  
 44 urban consumers, U.S. City Average, all items 1967=100, or  
 45 successor reports for the preceding calendar year as initially  
 46 reported by the United States Department of Labor, Bureau of  
 47 Labor Statistics.

48 (2) No assessment shall exceed just value.

49 (3) After any change of ownership, as provided by general  
 50 law, homestead property shall be assessed at just value as of  
 51 January 1 of the following year, unless the provisions of  
 52 paragraph (8) apply. Thereafter, the homestead shall be assessed  
 53 as provided herein.

54 (4) New homestead property shall be assessed at just value  
 55 as of January 1st of the year following the establishment of the  
 56 homestead, unless the provisions of paragraph (8) apply. That  
 57 assessment shall only change as provided herein.

58 (5) Changes, additions, reductions, or improvements to

59 homestead property shall be assessed as provided for by general  
60 law; provided, however, after the adjustment for any change,  
61 addition, reduction, or improvement, the property shall be  
62 assessed as provided herein.

63 (6) In the event of a termination of homestead status, the  
64 property shall be assessed as provided by general law.

65 (7) The provisions of this amendment are severable. If any  
66 of the provisions of this amendment shall be held  
67 unconstitutional by any court of competent jurisdiction, the  
68 decision of such court shall not affect or impair any remaining  
69 provisions of this amendment.

70 (8)a. A person who establishes a new homestead as of  
71 January 1, 2009, or January 1 of any subsequent year and who has  
72 received a homestead exemption pursuant to Section 6 of this  
73 Article as of January 1 of either of the two years immediately  
74 preceding the establishment of the new homestead is entitled to  
75 have the new homestead assessed at less than just value. If this  
76 revision is approved in January of 2008, a person who  
77 establishes a new homestead as of January 1, 2008, is entitled  
78 to have the new homestead assessed at less than just value only  
79 if that person received a homestead exemption on January 1,  
80 2007. The assessed value of the newly established homestead  
81 shall be determined as follows:

82 1. If the just value of the new homestead is greater than  
83 or equal to the just value of the prior homestead as of January  
84 1 of the year in which the prior homestead was abandoned, the  
85 assessed value of the new homestead shall be the just value of  
86 the new homestead minus an amount equal to the lesser of  
87 \$500,000 or the difference between the just value and the

88 assessed value of the prior homestead as of January 1 of the  
89 year in which the prior homestead was abandoned. Thereafter, the  
90 homestead shall be assessed as provided herein.

91 2. If the just value of the new homestead is less than the  
92 just value of the prior homestead as of January 1 of the year in  
93 which the prior homestead was abandoned, the assessed value of  
94 the new homestead shall be equal to the just value of the new  
95 homestead divided by the just value of the prior homestead and  
96 multiplied by the assessed value of the prior homestead.

97 However, if the difference between the just value of the new  
98 homestead and the assessed value of the new homestead calculated  
99 pursuant to this sub-subparagraph is greater than \$500,000, the  
100 assessed value of the new homestead shall be increased so that  
101 the difference between the just value and the assessed value  
102 equals \$500,000. Thereafter, the homestead shall be assessed as  
103 provided herein.

104 b. By general law and subject to conditions specified  
105 therein, the Legislature shall provide for application of this  
106 paragraph to property owned by more than one person.

107 (d) The legislature may, by general law, for assessment  
108 purposes and subject to the provisions of this subsection, allow  
109 counties and municipalities to authorize by ordinance that  
110 historic property may be assessed solely on the basis of  
111 character or use. Such character or use assessment shall apply  
112 only to the jurisdiction adopting the ordinance. The  
113 requirements for eligible properties must be specified by  
114 general law.

115 (e) A county may, in the manner prescribed by general law,  
116 provide for a reduction in the assessed value of homestead

117 property to the extent of any increase in the assessed value of  
118 that property which results from the construction or  
119 reconstruction of the property for the purpose of providing  
120 living quarters for one or more natural or adoptive grandparents  
121 or parents of the owner of the property or of the owner's spouse  
122 if at least one of the grandparents or parents for whom the  
123 living quarters are provided is 62 years of age or older. Such a  
124 reduction may not exceed the lesser of the following:

125 (1) The increase in assessed value resulting from  
126 construction or reconstruction of the property.

127 (2) Twenty percent of the total assessed value of the  
128 property as improved.

129 (f) For all levies other than school district levies,  
130 assessments of residential real property, as defined by general  
131 law, which contains nine units or fewer and which is not subject  
132 to the assessment limitations set forth in subsections (a)  
133 through (c) shall change only as provided in this subsection.

134 (1) Assessments subject to this subsection shall be  
135 changed annually on the date of assessment provided by law; but  
136 those changes in assessments shall not exceed five ~~ten~~ percent  
137 (5%) ~~(10%)~~ of the assessment for the prior year.

138 (2) No assessment shall exceed just value.

139 (3) After a change of ownership or control, as defined by  
140 general law, including any change of ownership of a legal entity  
141 that owns the property, such property shall be assessed at just  
142 value as of the next assessment date. Thereafter, such property  
143 shall be assessed as provided in this subsection.

144 (4) Changes, additions, reductions, or improvements to  
145 such property shall be assessed as provided for by general law;

146 however, after the adjustment for any change, addition,  
147 reduction, or improvement, the property shall be assessed as  
148 provided in this subsection.

149 (g) For all levies other than school district levies,  
150 assessments of real property that is not subject to the  
151 assessment limitations set forth in subsections (a) through (c)  
152 and (f) shall change only as provided in this subsection.

153 (1) Assessments subject to this subsection shall be  
154 changed annually on the date of assessment provided by law; but  
155 those changes in assessments shall not exceed five ~~ten~~ percent  
156 (5%) ~~(10%)~~ of the assessment for the prior year.

157 (2) No assessment shall exceed just value.

158 (3) The legislature must provide that such property shall  
159 be assessed at just value as of the next assessment date after a  
160 qualifying improvement, as defined by general law, is made to  
161 such property. Thereafter, such property shall be assessed as  
162 provided in this subsection.

163 (4) The legislature may provide that such property shall  
164 be assessed at just value as of the next assessment date after a  
165 change of ownership or control, as defined by general law,  
166 including any change of ownership of the legal entity that owns  
167 the property. Thereafter, such property shall be assessed as  
168 provided in this subsection.

169 (5) Changes, additions, reductions, or improvements to  
170 such property shall be assessed as provided for by general law;  
171 however, after the adjustment for any change, addition,  
172 reduction, or improvement, the property shall be assessed as  
173 provided in this subsection.

174 SECTION 9. Local taxes.--

175 (a) Counties, school districts, and municipalities shall,  
 176 and special districts may, be authorized by law to levy ad  
 177 valorem taxes and may be authorized by general law to levy other  
 178 taxes, for their respective purposes, except ad valorem taxes on  
 179 intangible personal property and taxes prohibited by this  
 180 constitution.

181 (b) Ad valorem taxes, exclusive of taxes levied for the  
 182 payment of bonds and taxes levied for periods not longer than  
 183 two years when authorized by vote of the electors who are the  
 184 owners of freeholds therein not wholly exempt from taxation,  
 185 shall not be levied in excess of the following millages upon the  
 186 assessed value of real estate and tangible personal property:  
 187 for all county purposes, ten mills; for all municipal purposes,  
 188 ten mills; for all school purposes, five ~~ten~~ mills; for water  
 189 management purposes for the northwest portion of the state lying  
 190 west of the line between ranges two and three east, 0.05 mill;  
 191 for water management purposes for the remaining portions of the  
 192 state, 1.0 mill; and for all other special districts a millage  
 193 authorized by law approved by vote of the electors who are  
 194 owners of freeholds therein not wholly exempt from taxation. A  
 195 county furnishing municipal services may, to the extent  
 196 authorized by law, levy additional taxes within the limits fixed  
 197 for municipal purposes.

198 SECTION 19. Replacement of ad valorem taxes required by  
 199 the legislature with other funds for education.--

200 (a) Commencing in the 2010-2011 fiscal year, the  
 201 legislature shall be prohibited from requiring school districts  
 202 to levy an ad valorem tax as a required local effort for  
 203 participation in the Florida Education Finance Program or a

204 successor program.

205 (b)(1) The legislature shall replace the revenue impact of  
 206 the elimination of the required local effort as provided in  
 207 subsection (a) through one or more of the following options:

208 a. the repeal of sales tax exemptions, which are  
 209 determined not to advance or serve a public purpose, except for  
 210 the current exemptions for: food; prescription drugs; health  
 211 services; charitable organizations; religious organizations;  
 212 residential rent, electricity and heating fuel; sales of  
 213 tangible personal property purchased for resale or imported,  
 214 produced, or manufactured in this state for export; sales of  
 215 real property; and sales of intangible personal property.

216 b. an increase of up to one percentage point to the sales  
 217 and use tax rate in existence on January 6, 2009.

218 c. spending reductions for other components of the state  
 219 budget and revenue increases resulting from economic growth  
 220 attributable to lower property taxes.

221 d. other revenues identified or created by the  
 222 legislature.

223 (2) In implementing this section, the amount appropriated  
 224 and set in the General Appropriations Act in the 2010-2011  
 225 fiscal year shall not be less than the amount appropriated and  
 226 set in the 2008-2009 fiscal year for the funding of public  
 227 schools under the Florida Education Finance Program, as  
 228 increased by the average historical growth for such amounts  
 229 during state fiscal years 2006-2007 and 2007-2008, which  
 230 appropriated and set amount shall be referred to as the  
 231 "education hold harmless amount."

232 (3) Nothing contained herein shall be construed to replace

233 or eliminate: the ad valorem tax millage dedicated to capital  
 234 outlay, school renovation and repair, or for the payment of  
 235 lease purchase obligations authorized by general law; voter-  
 236 approved millage authorized in the constitution; or  
 237 discretionary ad valorem millage for school districts authorized  
 238 by law.

239 (c) Each law creating a sales tax exemption shall contain  
 240 the single subject of a single exemption and a legislative  
 241 finding that the exemption advances or serves the public purpose  
 242 of: encouraging economic development and competitiveness;  
 243 supporting educational, governmental, literary, scientific,  
 244 religious, or charitable initiatives or organizations; or  
 245 securing tax fairness.

246 ARTICLE XII

247 SCHEDULE

248 SECTION 28. Implementation of school property tax  
 249 reform.--

250 (a) The amendments to Section 4 of Article VII reducing  
 251 the maximum annual change in assessments for non-homestead  
 252 properties to five percent (5%) from ten percent (10%) shall  
 253 take effect January 1, 2009.

254 (b) The amendment to Section 9 of Article VII reducing to  
 255 five mills from ten mills the authorized ad valorem millage for  
 256 school purposes shall take effect January 1, 2010.

257  
 258  
 259  
 260

261 BE IT FURTHER RESOLVED that the following statement be  
 262 placed on the ballot:

263 CONSTITUTIONAL AMENDMENT

264 ARTICLE VII, SECTIONS 4, 9, AND 19

265 ARTICLE XII, SECTION 28

266 ELIMINATING STATE REQUIRED SCHOOL PROPERTY TAX AND  
 267 REPLACING WITH EQUIVALENT STATE REVENUES TO FUND EDUCATION.--  
 268 Replacing state required school property taxes with state  
 269 revenues generating an equivalent hold harmless amount for  
 270 schools through one or more of the following options: repealing  
 271 sales tax exemptions not specifically excluded; increasing sales  
 272 tax rate up to one percentage point; spending reductions; other  
 273 revenue options created by the legislature. Limiting subject  
 274 matter of laws granting future exemptions. Limiting annual  
 275 increases in assessment of non-homestead real property. Lowering  
 276 property tax millage rate for schools.

1 Resolution of the Taxation and Budget Reform Commission  
 2 A resolution proposing an amendment to Sections 3 and 4 of  
 3 Article VII and the creation of a new section in Article  
 4 XII of the State Constitution to prohibit the  
 5 consideration of wind-damage-resistance improvements and  
 6 the installation of renewable energy source devices in the  
 7 determination of the assessed value of residential real  
 8 property, to delete an existing exemption for renewable  
 9 energy source devices to conform, and to provide effective  
 10 dates for such provisions if adopted.

11  
 12 Be It Resolved by the Taxation and Budget Reform Commission:

13  
 14 That the following amendment to Sections 3 and 4 of Article  
 15 VII and the creation of a new section in Article XII of the  
 16 State Constitution are agreed to and shall be submitted to the  
 17 electors of this state for approval or rejection at the next  
 18 general election or at an earlier special election specifically  
 19 authorized by law for that purpose:

20 ARTICLE VII

21 FINANCE AND TAXATION

22 SECTION 3. Taxes; exemptions.--

23 (a) All property owned by a municipality and used  
 24 exclusively by it for municipal or public purposes shall be  
 25 exempt from taxation. A municipality, owning property outside  
 26 the municipality, may be required by general law to make payment  
 27 to the taxing unit in which the property is located. Such  
 28 portions of property as are used predominantly for educational,  
 29 literary, scientific, religious or charitable purposes may be

30 exempted by general law from taxation.

31 (b) There shall be exempt from taxation, cumulatively, to  
32 every head of a family residing in this state, household goods  
33 and personal effects to the value fixed by general law, not less  
34 than one thousand dollars, and to every widow or widower or  
35 person who is blind or totally and permanently disabled,  
36 property to the value fixed by general law not less than five  
37 hundred dollars.

38 (c) Any county or municipality may, for the purpose of its  
39 respective tax levy and subject to the provisions of this  
40 subsection and general law, grant community and economic  
41 development ad valorem tax exemptions to new businesses and  
42 expansions of existing businesses, as defined by general law.  
43 Such an exemption may be granted only by ordinance of the county  
44 or municipality, and only after the electors of the county or  
45 municipality voting on such question in a referendum authorize  
46 the county or municipality to adopt such ordinances. An  
47 exemption so granted shall apply to improvements to real  
48 property made by or for the use of a new business and  
49 improvements to real property related to the expansion of an  
50 existing business and shall also apply to tangible personal  
51 property of such new business and tangible personal property  
52 related to the expansion of an existing business. The amount or  
53 limits of the amount of such exemption shall be specified by  
54 general law. The period of time for which such exemption may be  
55 granted to a new business or expansion of an existing business  
56 shall be determined by general law. The authority to grant such  
57 exemption shall expire ten years from the date of approval by  
58 the electors of the county or municipality, and may be renewable

59 by referendum as provided by general law.

60 ~~(d) By general law and subject to conditions specified~~  
61 ~~therein, there may be granted an ad valorem tax exemption to a~~  
62 ~~renewable energy source device and to real property on which~~  
63 ~~such device is installed and operated, to the value fixed by~~  
64 ~~general law not to exceed the original cost of the device, and~~  
65 ~~for the period of time fixed by general law not to exceed ten~~  
66 ~~years.~~

67 (d)~~(e)~~ Any county or municipality may, for the purpose of  
68 its respective tax levy and subject to the provisions of this  
69 subsection and general law, grant historic preservation ad  
70 valorem tax exemptions to owners of historic properties. This  
71 exemption may be granted only by ordinance of the county or  
72 municipality. The amount or limits of the amount of this  
73 exemption and the requirements for eligible properties must be  
74 specified by general law. The period of time for which this  
75 exemption may be granted to a property owner shall be determined  
76 by general law.

77 (e)~~(f)~~ By general law and subject to conditions specified  
78 therein, twenty-five thousand dollars of the assessed value of  
79 property subject to tangible personal property tax shall be  
80 exempt from ad valorem taxation.

81 SECTION 4. Taxation; assessments.--By general law  
82 regulations shall be prescribed which shall secure a just  
83 valuation of all property for ad valorem taxation, provided:

84 (a) Agricultural land, land producing high water recharge  
85 to Florida's aquifers, or land used exclusively for  
86 noncommercial recreational purposes may be classified by general  
87 law and assessed solely on the basis of character or use.

88 (b) Pursuant to general law tangible personal property  
89 held for sale as stock in trade and livestock may be valued for  
90 taxation at a specified percentage of its value, may be  
91 classified for tax purposes, or may be exempted from taxation.

92 (c) All persons entitled to a homestead exemption under  
93 Section 6 of this Article shall have their homestead assessed at  
94 just value as of January 1 of the year following the effective  
95 date of this amendment. This assessment shall change only as  
96 provided in this subsection herein.

97 (1) Assessments subject to this subsection ~~provision~~ shall  
98 be changed annually on January 1st of each year; but those  
99 changes in assessments shall not exceed the lower of the  
100 following:

101 a. Three percent (3%) of the assessment for the prior  
102 year.

103 b. The percent change in the Consumer Price Index for all  
104 urban consumers, U.S. City Average, all items 1967=100, or  
105 successor reports for the preceding calendar year as initially  
106 reported by the United States Department of Labor, Bureau of  
107 Labor Statistics.

108 (2) No assessment shall exceed just value.

109 (3) After any change of ownership, as provided by general  
110 law, homestead property shall be assessed at just value as of  
111 January 1 of the following year, unless the provisions of  
112 paragraph (8) apply. Thereafter, the homestead shall be assessed  
113 as provided in this subsection herein.

114 (4) New homestead property shall be assessed at just value  
115 as of January 1st of the year following the establishment of the  
116 homestead, unless the provisions of paragraph (8) apply. That

117 assessment shall only change as provided in this subsection  
118 ~~herein~~.

119 (5) Changes, additions, reductions, or improvements to  
120 homestead property shall be assessed as provided for by general  
121 law; provided, however, after the adjustment for any change,  
122 addition, reduction, or improvement, the property shall be  
123 assessed as provided in this subsection ~~herein~~.

124 (6) In the event of a termination of homestead status, the  
125 property shall be assessed as provided by general law.

126 (7) The provisions of this amendment are severable. If any  
127 of the provisions of this amendment shall be held  
128 unconstitutional by any court of competent jurisdiction, the  
129 decision of such court shall not affect or impair any remaining  
130 provisions of this amendment.

131 (8)a. A person who establishes a new homestead as of  
132 January 1, 2009, or January 1 of any subsequent year and who has  
133 received a homestead exemption pursuant to Section 6 of this  
134 Article as of January 1 of either of the two years immediately  
135 preceding the establishment of the new homestead is entitled to  
136 have the new homestead assessed at less than just value. If this  
137 revision is approved in January of 2008, a person who  
138 establishes a new homestead as of January 1, 2008, is entitled  
139 to have the new homestead assessed at less than just value only  
140 if that person received a homestead exemption on January 1,  
141 2007. The assessed value of the newly established homestead  
142 shall be determined as follows:

143 1. If the just value of the new homestead is greater than  
144 or equal to the just value of the prior homestead as of January  
145 1 of the year in which the prior homestead was abandoned, the

146 assessed value of the new homestead shall be the just value of  
147 the new homestead minus an amount equal to the lesser of  
148 \$500,000 or the difference between the just value and the  
149 assessed value of the prior homestead as of January 1 of the  
150 year in which the prior homestead was abandoned. Thereafter, the  
151 homestead shall be assessed as provided in this subsection  
152 ~~herein~~.

153 2. If the just value of the new homestead is less than the  
154 just value of the prior homestead as of January 1 of the year in  
155 which the prior homestead was abandoned, the assessed value of  
156 the new homestead shall be equal to the just value of the new  
157 homestead divided by the just value of the prior homestead and  
158 multiplied by the assessed value of the prior homestead.  
159 However, if the difference between the just value of the new  
160 homestead and the assessed value of the new homestead calculated  
161 pursuant to this sub-subparagraph is greater than \$500,000, the  
162 assessed value of the new homestead shall be increased so that  
163 the difference between the just value and the assessed value  
164 equals \$500,000. Thereafter, the homestead shall be assessed as  
165 provided in this subsection ~~herein~~.

166 b. By general law and subject to conditions specified  
167 therein, the Legislature shall provide for application of this  
168 paragraph to property owned by more than one person.

169 (d) The legislature may, by general law, for assessment  
170 purposes and subject to the provisions of this subsection, allow  
171 counties and municipalities to authorize by ordinance that  
172 historic property may be assessed solely on the basis of  
173 character or use. Such character or use assessment shall apply  
174 only to the jurisdiction adopting the ordinance. The

175 requirements for eligible properties must be specified by  
176 general law.

177 (e) A county may, in the manner prescribed by general law,  
178 provide for a reduction in the assessed value of homestead  
179 property to the extent of any increase in the assessed value of  
180 that property which results from the construction or  
181 reconstruction of the property for the purpose of providing  
182 living quarters for one or more natural or adoptive grandparents  
183 or parents of the owner of the property or of the owner's spouse  
184 if at least one of the grandparents or parents for whom the  
185 living quarters are provided is 62 years of age or older. Such a  
186 reduction may not exceed the lesser of the following:

187 (1) The increase in assessed value resulting from  
188 construction or reconstruction of the property.

189 (2) Twenty percent of the total assessed value of the  
190 property as improved.

191 (f) For all levies other than school district levies,  
192 assessments of residential real property, as defined by general  
193 law, which contains nine units or fewer and which is not subject  
194 to the assessment limitations set forth in subsections (a)  
195 through (c) shall change only as provided in this subsection.

196 (1) Assessments subject to this subsection shall be  
197 changed annually on the date of assessment provided by law; but  
198 those changes in assessments shall not exceed ten percent (10%)  
199 of the assessment for the prior year.

200 (2) No assessment shall exceed just value.

201 (3) After a change of ownership or control, as defined by  
202 general law, including any change of ownership of a legal entity  
203 that owns the property, such property shall be assessed at just

204 value as of the next assessment date. Thereafter, such property  
205 shall be assessed as provided in this subsection.

206 (4) Changes, additions, reductions, or improvements to  
207 such property shall be assessed as provided for by general law;  
208 however, after the adjustment for any change, addition,  
209 reduction, or improvement, the property shall be assessed as  
210 provided in this subsection.

211 (g) For all levies other than school district levies,  
212 assessments of real property that is not subject to the  
213 assessment limitations set forth in subsections (a) through (c)  
214 and (f) shall change only as provided in this subsection.

215 (1) Assessments subject to this subsection shall be  
216 changed annually on the date of assessment provided by law; but  
217 those changes in assessments shall not exceed ten percent (10%)  
218 of the assessment for the prior year.

219 (2) No assessment shall exceed just value.

220 (3) The legislature must provide that such property shall  
221 be assessed at just value as of the next assessment date after a  
222 qualifying improvement, as defined by general law, is made to  
223 such property. Thereafter, such property shall be assessed as  
224 provided in this subsection.

225 (4) The legislature may provide that such property shall  
226 be assessed at just value as of the next assessment date after a  
227 change of ownership or control, as defined by general law,  
228 including any change of ownership of the legal entity that owns  
229 the property. Thereafter, such property shall be assessed as  
230 provided in this subsection.

231 (5) Changes, additions, reductions, or improvements to  
232 such property shall be assessed as provided for by general law;

233 however, after the adjustment for any change, addition,  
 234 reduction, or improvement, the property shall be assessed as  
 235 provided in this subsection.

236 (h) The legislature, by general law and subject to  
 237 conditions specified therein, may prohibit the consideration of  
 238 the following in the determination of the assessed value of real  
 239 property used for residential purposes:

240 (1) Any change or improvement made for the purpose of  
 241 improving the property's resistance to wind damage.

242 (2) The installation of a renewable energy source device.

243 ARTICLE XII

244 SCHEDULE

245 Limitation on the assessed value of real property used for  
 246 residential purposes.--

247 (a) The repeal of the renewable energy source property tax  
 248 exemption in Section 3 of Article VII shall take effect upon  
 249 approval by the voters.

250 (b) The amendment to Section 4 of Article VII authorizing  
 251 the legislature to prohibit an increase in the assessed value of  
 252 real property used for residential purposes as the result of  
 253 improving the property's resistance to wind damage or installing  
 254 a renewable energy source device shall take effect January 1,  
 255 2009.

256  
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261 BE IT FURTHER RESOLVED that the following statement be  
262 placed on the ballot:

263 CONSTITUTIONAL AMENDMENT

264 ARTICLE VII, SECTIONS 3 AND 4

265 ARTICLE XII, NEW SECTION

266 CHANGES AND IMPROVEMENTS NOT AFFECTING THE ASSESSED VALUE  
267 OF RESIDENTIAL REAL PROPERTY.--Authorizes the Legislature, by  
268 general law, to prohibit consideration of changes or  
269 improvements to residential real property which increase  
270 resistance to wind damage and installation of renewable energy  
271 source devices as factors in assessing the property's value for  
272 ad valorem taxation purposes. Effective upon adoption, repeals  
273 the existing renewable energy source device exemption no longer  
274 in effect.

1 Resolution of the Taxation and Budget Reform Commission  
2 A resolution proposing an amendment to Section 4 of  
3 Article VII and the creation of a new section in Article  
4 XII of the State Constitution to provide for the  
5 assessment of working waterfront property based upon  
6 current use.

7  
8 Be It Resolved by the Taxation and Budget Reform Commission:  
9

10 That the following amendment to Section 4 of Article VII,  
11 and the creation of a new section in Article XII of the State  
12 Constitution are agreed to and shall be submitted to the  
13 electors of this state for approval or rejection at the next  
14 general election or at an earlier special election specifically  
15 authorized by law for that purpose:

16 ARTICLE VII

17 FINANCE AND TAXATION

18 SECTION 4. Taxation; assessments.--By general law  
19 regulations shall be prescribed which shall secure a just  
20 valuation of all property for ad valorem taxation, provided:

21 (a) Agricultural land, land producing high water recharge  
22 to Florida's aquifers, or land used exclusively for  
23 noncommercial recreational purposes may be classified by general  
24 law and assessed solely on the basis of character or use.

25 (b) Pursuant to general law tangible personal property  
26 held for sale as stock in trade and livestock may be valued for  
27 taxation at a specified percentage of its value, may be  
28 classified for tax purposes, or may be exempted from taxation.

29 (c) All persons entitled to a homestead exemption under  
30 Section 6 of this Article shall have their homestead assessed at  
31 just value as of January 1 of the year following the effective  
32 date of this amendment. This assessment shall change only as  
33 provided herein.

34 (1) Assessments subject to this provision shall be changed  
35 annually on January 1st of each year; but those changes in  
36 assessments shall not exceed the lower of the following:

37 a. Three percent (3%) of the assessment for the prior  
38 year.

39 b. The percent change in the Consumer Price Index for all  
40 urban consumers, U.S. City Average, all items 1967=100, or  
41 successor reports for the preceding calendar year as initially  
42 reported by the United States Department of Labor, Bureau of  
43 Labor Statistics.

44 (2) No assessment shall exceed just value.

45 (3) After any change of ownership, as provided by general  
46 law, homestead property shall be assessed at just value as of  
47 January 1 of the following year, unless the provisions of  
48 paragraph (8) apply. Thereafter, the homestead shall be assessed  
49 as provided herein.

50 (4) New homestead property shall be assessed at just value  
51 as of January 1st of the year following the establishment of the  
52 homestead, unless the provisions of paragraph (8) apply. That  
53 assessment shall only change as provided herein.

54 (5) Changes, additions, reductions, or improvements to  
55 homestead property shall be assessed as provided for by general  
56 law; provided, however, after the adjustment for any change,  
57 addition, reduction, or improvement, the property shall be

58 assessed as provided herein.

59 (6) In the event of a termination of homestead status, the  
60 property shall be assessed as provided by general law.

61 (7) The provisions of this amendment are severable. If any  
62 of the provisions of this amendment shall be held  
63 unconstitutional by any court of competent jurisdiction, the  
64 decision of such court shall not affect or impair any remaining  
65 provisions of this amendment.

66 (8)a. A person who establishes a new homestead as of  
67 January 1, 2009, or January 1 of any subsequent year and who has  
68 received a homestead exemption pursuant to Section 6 of this  
69 Article as of January 1 of either of the two years immediately  
70 preceding the establishment of the new homestead is entitled to  
71 have the new homestead assessed at less than just value. If this  
72 revision is approved in January of 2008, a person who  
73 establishes a new homestead as of January 1, 2008, is entitled  
74 to have the new homestead assessed at less than just value only  
75 if that person received a homestead exemption on January 1,  
76 2007. The assessed value of the newly established homestead  
77 shall be determined as follows:

78 1. If the just value of the new homestead is greater than  
79 or equal to the just value of the prior homestead as of January  
80 1 of the year in which the prior homestead was abandoned, the  
81 assessed value of the new homestead shall be the just value of  
82 the new homestead minus an amount equal to the lesser of  
83 \$500,000 or the difference between the just value and the  
84 assessed value of the prior homestead as of January 1 of the  
85 year in which the prior homestead was abandoned. Thereafter, the  
86 homestead shall be assessed as provided herein.

87           2. If the just value of the new homestead is less than the  
88 just value of the prior homestead as of January 1 of the year in  
89 which the prior homestead was abandoned, the assessed value of  
90 the new homestead shall be equal to the just value of the new  
91 homestead divided by the just value of the prior homestead and  
92 multiplied by the assessed value of the prior homestead.  
93 However, if the difference between the just value of the new  
94 homestead and the assessed value of the new homestead calculated  
95 pursuant to this sub-subparagraph is greater than \$500,000, the  
96 assessed value of the new homestead shall be increased so that  
97 the difference between the just value and the assessed value  
98 equals \$500,000. Thereafter, the homestead shall be assessed as  
99 provided herein.

100           b. By general law and subject to conditions specified  
101 therein, the Legislature shall provide for application of this  
102 paragraph to property owned by more than one person.

103           (d) The legislature may, by general law, for assessment  
104 purposes and subject to the provisions of this subsection, allow  
105 counties and municipalities to authorize by ordinance that  
106 historic property may be assessed solely on the basis of  
107 character or use. Such character or use assessment shall apply  
108 only to the jurisdiction adopting the ordinance. The  
109 requirements for eligible properties must be specified by  
110 general law.

111           (e) A county may, in the manner prescribed by general law,  
112 provide for a reduction in the assessed value of homestead  
113 property to the extent of any increase in the assessed value of  
114 that property which results from the construction or  
115 reconstruction of the property for the purpose of providing

116 living quarters for one or more natural or adoptive grandparents  
117 or parents of the owner of the property or of the owner's spouse  
118 if at least one of the grandparents or parents for whom the  
119 living quarters are provided is 62 years of age or older. Such a  
120 reduction may not exceed the lesser of the following:

121 (1) The increase in assessed value resulting from  
122 construction or reconstruction of the property.

123 (2) Twenty percent of the total assessed value of the  
124 property as improved.

125 (f) For all levies other than school district levies,  
126 assessments of residential real property, as defined by general  
127 law, which contains nine units or fewer and which is not subject  
128 to the assessment limitations set forth in subsections (a)  
129 through (c) shall change only as provided in this subsection.

130 (1) Assessments subject to this subsection shall be  
131 changed annually on the date of assessment provided by law; but  
132 those changes in assessments shall not exceed ten percent (10%)  
133 of the assessment for the prior year.

134 (2) No assessment shall exceed just value.

135 (3) After a change of ownership or control, as defined by  
136 general law, including any change of ownership of a legal entity  
137 that owns the property, such property shall be assessed at just  
138 value as of the next assessment date. Thereafter, such property  
139 shall be assessed as provided in this subsection.

140 (4) Changes, additions, reductions, or improvements to  
141 such property shall be assessed as provided for by general law;  
142 however, after the adjustment for any change, addition,  
143 reduction, or improvement, the property shall be assessed as  
144 provided in this subsection.

145 (g) For all levies other than school district levies,  
146 assessments of real property that is not subject to the  
147 assessment limitations set forth in subsections (a) through (c)  
148 and (f) shall change only as provided in this subsection.

149 (1) Assessments subject to this subsection shall be  
150 changed annually on the date of assessment provided by law; but  
151 those changes in assessments shall not exceed ten percent (10%)  
152 of the assessment for the prior year.

153 (2) No assessment shall exceed just value.

154 (3) The legislature must provide that such property shall  
155 be assessed at just value as of the next assessment date after a  
156 qualifying improvement, as defined by general law, is made to  
157 such property. Thereafter, such property shall be assessed as  
158 provided in this subsection.

159 (4) The legislature may provide that such property shall  
160 be assessed at just value as of the next assessment date after a  
161 change of ownership or control, as defined by general law,  
162 including any change of ownership of the legal entity that owns  
163 the property. Thereafter, such property shall be assessed as  
164 provided in this subsection.

165 (5) Changes, additions, reductions, or improvements to  
166 such property shall be assessed as provided for by general law;  
167 however, after the adjustment for any change, addition,  
168 reduction, or improvement, the property shall be assessed as  
169 provided in this subsection.

170 (h)(1) The assessment of the following working waterfront  
171 properties shall be based upon the current use of the property:

172 a. Land used predominantly for commercial fishing  
173 purposes.

174 b. Land that is accessible to the public and used for  
 175 vessel launches into waters that are navigable.

176 c. Marinas and drystacks that are open to the public.

177 d. Water-dependent marine manufacturing facilities,  
 178 commercial fishing facilities, and marine vessel construction  
 179 and repair facilities and their support activities.

180 (2) The assessment benefit provided by this subsection is  
 181 subject to conditions and limitations and reasonable definitions  
 182 as specified by the legislature by general law.

183 ARTICLE XII

184 SCHEDULE

185 Assessment of working waterfront property.--The amendment  
 186 to Section 4 of Article VII providing for the assessment of  
 187 working waterfront property based on current use, and this  
 188 section, shall take effect upon approval by the electors and  
 189 shall first apply to assessments for tax years beginning January  
 190 1, 2010.

191  
 192 BE IT FURTHER RESOLVED that the following statement be  
 193 placed on the ballot:

194 CONSTITUTIONAL AMENDMENT

195 ARTICLE VII, SECTION 4

196 ARTICLE XII, NEW SECTION

197 ASSESSMENT OF WORKING WATERFRONT PROPERTY BASED UPON  
 198 CURRENT USE.--Provides for assessment based upon use of land  
 199 used predominantly for commercial fishing purposes; land used  
 200 for vessel launches into waters that are navigable and  
 201 accessible to the public; marinas and drystacks that are open to  
 202 the public; and water-dependent marine manufacturing facilities,

203 commercial fishing facilities, and marine vessel construction  
204 and repair facilities and their support activities, subject to  
205 conditions, limitations, and reasonable definitions specified by  
206 general law.

1 Resolution of the Taxation and Budget Reform Commission  
 2 A resolution proposing an amendment to Sections 3 and 4 of  
 3 Article VII and the creation of Section 28 of Article XII  
 4 of the State Constitution to require the Legislature to  
 5 provide by law for an ad valorem tax exemption for real  
 6 property dedicated in perpetuity for conservation  
 7 purposes, to require land used for conservation purposes  
 8 to be classified and assessed solely on the basis of  
 9 character or use for the purposes of ad valorem taxation,  
 10 and to provide implementation and effective dates.

11  
 12 Be It Resolved by the Taxation and Budget Reform Commission:

13  
 14 That the following amendment to Sections 3 and 4 of Article  
 15 VII and the creation of Section 28 of Article XII of the State  
 16 Constitution are agreed to and shall be submitted to the  
 17 electors of this state for approval or rejection at the next  
 18 general election or at an earlier special election specifically  
 19 authorized by law for that purpose:

20 ARTICLE VII

21 FINANCE AND TAXATION

22 SECTION 3. Taxes; exemptions.--

23 (a) All property owned by a municipality and used  
 24 exclusively by it for municipal or public purposes shall be  
 25 exempt from taxation. A municipality, owning property outside  
 26 the municipality, may be required by general law to make payment  
 27 to the taxing unit in which the property is located. Such  
 28 portions of property as are used predominantly for educational,

29 literary, scientific, religious or charitable purposes may be  
30 exempted by general law from taxation.

31 (b) There shall be exempt from taxation, cumulatively, to  
32 every head of a family residing in this state, household goods  
33 and personal effects to the value fixed by general law, not less  
34 than one thousand dollars, and to every widow or widower or  
35 person who is blind or totally and permanently disabled,  
36 property to the value fixed by general law not less than five  
37 hundred dollars.

38 (c) Any county or municipality may, for the purpose of its  
39 respective tax levy and subject to the provisions of this  
40 subsection and general law, grant community and economic  
41 development ad valorem tax exemptions to new businesses and  
42 expansions of existing businesses, as defined by general law.  
43 Such an exemption may be granted only by ordinance of the county  
44 or municipality, and only after the electors of the county or  
45 municipality voting on such question in a referendum authorize  
46 the county or municipality to adopt such ordinances. An  
47 exemption so granted shall apply to improvements to real  
48 property made by or for the use of a new business and  
49 improvements to real property related to the expansion of an  
50 existing business and shall also apply to tangible personal  
51 property of such new business and tangible personal property  
52 related to the expansion of an existing business. The amount or  
53 limits of the amount of such exemption shall be specified by  
54 general law. The period of time for which such exemption may be  
55 granted to a new business or expansion of an existing business  
56 shall be determined by general law. The authority to grant such  
57 exemption shall expire ten years from the date of approval by

58 the electors of the county or municipality, and may be renewable  
59 by referendum as provided by general law.

60 (d) By general law and subject to conditions specified  
61 therein, there may be granted an ad valorem tax exemption to a  
62 renewable energy source device and to real property on which  
63 such device is installed and operated, to the value fixed by  
64 general law not to exceed the original cost of the device, and  
65 for the period of time fixed by general law not to exceed ten  
66 years.

67 (e) Any county or municipality may, for the purpose of its  
68 respective tax levy and subject to the provisions of this  
69 subsection and general law, grant historic preservation ad  
70 valorem tax exemptions to owners of historic properties. This  
71 exemption may be granted only by ordinance of the county or  
72 municipality. The amount or limits of the amount of this  
73 exemption and the requirements for eligible properties must be  
74 specified by general law. The period of time for which this  
75 exemption may be granted to a property owner shall be determined  
76 by general law.

77 (f) By general law and subject to conditions specified  
78 therein, twenty-five thousand dollars of the assessed value of  
79 property subject to tangible personal property tax shall be  
80 exempt from ad valorem taxation.

81 (g) There shall be granted an ad valorem tax exemption for  
82 real property dedicated in perpetuity for conservation purposes,  
83 including real property encumbered by perpetual conservation  
84 easements or by other perpetual conservation protections, as  
85 defined by general law.

86 SECTION 4. Taxation; assessments.--By general law  
87 regulations shall be prescribed which shall secure a just  
88 valuation of all property for ad valorem taxation, provided:

89 (a) Agricultural land, land producing high water recharge  
90 to Florida's aquifers, or land used exclusively for  
91 noncommercial recreational purposes may be classified by general  
92 law and assessed solely on the basis of character or use.

93 (b) As provided by general law and subject to conditions,  
94 limitations, and reasonable definitions specified therein, land  
95 used for conservation purposes shall be classified by general  
96 law and assessed solely on the basis of character or use.

97 (c)~~(b)~~ Pursuant to general law tangible personal property  
98 held for sale as stock in trade and livestock may be valued for  
99 taxation at a specified percentage of its value, may be  
100 classified for tax purposes, or may be exempted from taxation.

101 (d)~~(e)~~ All persons entitled to a homestead exemption under  
102 Section 6 of this Article shall have their homestead assessed at  
103 just value as of January 1 of the year following the effective  
104 date of this amendment. This assessment shall change only as  
105 provided herein.

106 (1) Assessments subject to this provision shall be changed  
107 annually on January 1st of each year; but those changes in  
108 assessments shall not exceed the lower of the following:

109 a. Three percent (3%) of the assessment for the prior  
110 year.

111 b. The percent change in the Consumer Price Index for all  
112 urban consumers, U.S. City Average, all items 1967=100, or  
113 successor reports for the preceding calendar year as initially

114 reported by the United States Department of Labor, Bureau of  
115 Labor Statistics.

116 (2) No assessment shall exceed just value.

117 (3) After any change of ownership, as provided by general  
118 law, homestead property shall be assessed at just value as of  
119 January 1 of the following year, unless the provisions of  
120 paragraph (8) apply. Thereafter, the homestead shall be assessed  
121 as provided herein.

122 (4) New homestead property shall be assessed at just value  
123 as of January 1st of the year following the establishment of the  
124 homestead, unless the provisions of paragraph (8) apply. That  
125 assessment shall only change as provided herein.

126 (5) Changes, additions, reductions, or improvements to  
127 homestead property shall be assessed as provided for by general  
128 law; provided, however, after the adjustment for any change,  
129 addition, reduction, or improvement, the property shall be  
130 assessed as provided herein.

131 (6) In the event of a termination of homestead status, the  
132 property shall be assessed as provided by general law.

133 (7) The provisions of this amendment are severable. If any  
134 of the provisions of this amendment shall be held  
135 unconstitutional by any court of competent jurisdiction, the  
136 decision of such court shall not affect or impair any remaining  
137 provisions of this amendment.

138 (8)a. A person who establishes a new homestead as of  
139 January 1, 2009, or January 1 of any subsequent year and who has  
140 received a homestead exemption pursuant to Section 6 of this  
141 Article as of January 1 of either of the two years immediately  
142 preceding the establishment of the new homestead is entitled to

143 have the new homestead assessed at less than just value. If this  
144 revision is approved in January of 2008, a person who  
145 establishes a new homestead as of January 1, 2008, is entitled  
146 to have the new homestead assessed at less than just value only  
147 if that person received a homestead exemption on January 1,  
148 2007. The assessed value of the newly established homestead  
149 shall be determined as follows:

150 1. If the just value of the new homestead is greater than  
151 or equal to the just value of the prior homestead as of January  
152 1 of the year in which the prior homestead was abandoned, the  
153 assessed value of the new homestead shall be the just value of  
154 the new homestead minus an amount equal to the lesser of  
155 \$500,000 or the difference between the just value and the  
156 assessed value of the prior homestead as of January 1 of the  
157 year in which the prior homestead was abandoned. Thereafter, the  
158 homestead shall be assessed as provided herein.

159 2. If the just value of the new homestead is less than the  
160 just value of the prior homestead as of January 1 of the year in  
161 which the prior homestead was abandoned, the assessed value of  
162 the new homestead shall be equal to the just value of the new  
163 homestead divided by the just value of the prior homestead and  
164 multiplied by the assessed value of the prior homestead.  
165 However, if the difference between the just value of the new  
166 homestead and the assessed value of the new homestead calculated  
167 pursuant to this sub-subparagraph is greater than \$500,000, the  
168 assessed value of the new homestead shall be increased so that  
169 the difference between the just value and the assessed value  
170 equals \$500,000. Thereafter, the homestead shall be assessed as  
171 provided herein.

172           b. By general law and subject to conditions specified  
173 therein, the Legislature shall provide for application of this  
174 paragraph to property owned by more than one person.

175           (e)~~(d)~~ The legislature may, by general law, for assessment  
176 purposes and subject to the provisions of this subsection, allow  
177 counties and municipalities to authorize by ordinance that  
178 historic property may be assessed solely on the basis of  
179 character or use. Such character or use assessment shall apply  
180 only to the jurisdiction adopting the ordinance. The  
181 requirements for eligible properties must be specified by  
182 general law.

183           (f)~~(e)~~ A county may, in the manner prescribed by general  
184 law, provide for a reduction in the assessed value of homestead  
185 property to the extent of any increase in the assessed value of  
186 that property which results from the construction or  
187 reconstruction of the property for the purpose of providing  
188 living quarters for one or more natural or adoptive grandparents  
189 or parents of the owner of the property or of the owner's spouse  
190 if at least one of the grandparents or parents for whom the  
191 living quarters are provided is 62 years of age or older. Such a  
192 reduction may not exceed the lesser of the following:

193           (1) The increase in assessed value resulting from  
194 construction or reconstruction of the property.

195           (2) Twenty percent of the total assessed value of the  
196 property as improved.

197           (g)~~(f)~~ For all levies other than school district levies,  
198 assessments of residential real property, as defined by general  
199 law, which contains nine units or fewer and which is not subject

200 to the assessment limitations set forth in subsections (a)  
201 through (d)~~(e)~~ shall change only as provided in this subsection.

202 (1) Assessments subject to this subsection shall be  
203 changed annually on the date of assessment provided by law; but  
204 those changes in assessments shall not exceed ten percent (10%)  
205 of the assessment for the prior year.

206 (2) No assessment shall exceed just value.

207 (3) After a change of ownership or control, as defined by  
208 general law, including any change of ownership of a legal entity  
209 that owns the property, such property shall be assessed at just  
210 value as of the next assessment date. Thereafter, such property  
211 shall be assessed as provided in this subsection.

212 (4) Changes, additions, reductions, or improvements to  
213 such property shall be assessed as provided for by general law;  
214 however, after the adjustment for any change, addition,  
215 reduction, or improvement, the property shall be assessed as  
216 provided in this subsection.

217 (h)~~(g)~~ For all levies other than school district levies,  
218 assessments of real property that is not subject to the  
219 assessment limitations set forth in subsections (a) through  
220 (d)~~(e)~~ and (g)~~(f)~~ shall change only as provided in this  
221 subsection.

222 (1) Assessments subject to this subsection shall be  
223 changed annually on the date of assessment provided by law; but  
224 those changes in assessments shall not exceed ten percent (10%)  
225 of the assessment for the prior year.

226 (2) No assessment shall exceed just value.

227 (3) The legislature must provide that such property shall  
228 be assessed at just value as of the next assessment date after a

229 qualifying improvement, as defined by general law, is made to  
 230 such property. Thereafter, such property shall be assessed as  
 231 provided in this subsection.

232 (4) The legislature may provide that such property shall  
 233 be assessed at just value as of the next assessment date after a  
 234 change of ownership or control, as defined by general law,  
 235 including any change of ownership of the legal entity that owns  
 236 the property. Thereafter, such property shall be assessed as  
 237 provided in this subsection.

238 (5) Changes, additions, reductions, or improvements to  
 239 such property shall be assessed as provided for by general law;  
 240 however, after the adjustment for any change, addition,  
 241 reduction, or improvement, the property shall be assessed as  
 242 provided in this subsection.

243 ARTICLE XII

244 SCHEDULE

245 SECTION 28. Property tax exemption and classification and  
 246 assessment of land used for conservation purposes. The  
 247 amendment to Section 3 of Article VII requiring the creation of  
 248 an ad valorem tax exemption for real property dedicated in  
 249 perpetuity for conservation purposes, and the amendment to  
 250 Section 4 of Article VII requiring land used for conservation  
 251 purposes to be classified by general law and assessed solely on  
 252 the basis of character or use for purposes of ad valorem  
 253 taxation, shall take effect upon approval by the electors and  
 254 shall be implemented by January 1, 2010. This section shall take  
 255 effect upon approval of the electors.

256  
 257

258 BE IT FURTHER RESOLVED that the following statement be  
259 placed on the ballot:

260 CONSTITUTIONAL AMENDMENT

261 ARTICLE VII, SECTIONS 3 AND 4

262 ARTICLE XII, SECTION 28

263 PROPERTY TAX EXEMPTION OF PERPETUALLY CONSERVED LAND;  
264 CLASSIFICATION AND ASSESSMENT OF LAND USED FOR CONSERVATION.--  
265 Requires Legislature to provide a property tax exemption for  
266 real property encumbered by perpetual conservation easements or  
267 other perpetual conservation protections, defined by general  
268 law. Requires Legislature to provide for classification and  
269 assessment of land used for conservation purposes, and not  
270 perpetually encumbered, solely on the basis of character or use.  
271 Subjects assessment benefit to conditions, limitations, and  
272 reasonable definitions established by general law. Applies to  
273 property taxes beginning in 2010.

1 Resolution of the Taxation and Budget Reform Commission  
 2 A resolution proposing an amendment to Section 3 of  
 3 Article I of the State Constitution providing that an  
 4 individual or entity may not be barred from participating  
 5 in any public program because of religion and repealing a  
 6 prohibition against using public revenues in aid of any  
 7 church, sect, or religious denomination or any sectarian  
 8 institution.

9  
 10 Be It Resolved by the Taxation and Budget Reform Commission:

11  
 12 That the following amendment to Section 3 of Article I of  
 13 the State Constitution is agreed to and shall be submitted to  
 14 the electors of this state for approval or rejection at the next  
 15 general election or at an earlier special election specifically  
 16 authorized by law for that purpose:

17 ARTICLE I

18 DECLARATION OF RIGHTS

19 SECTION 3. Religious freedom.--There shall be no law  
 20 respecting the establishment of religion or prohibiting or  
 21 penalizing the free exercise thereof. Religious freedom shall  
 22 not justify practices inconsistent with public morals, peace or  
 23 safety. An individual or entity may not be barred from  
 24 participating in any public program because of religion. ~~No~~  
 25 ~~revenue of the state or any political subdivision or agency~~  
 26 ~~thereof shall ever be taken from the public treasury directly or~~  
 27 ~~indirectly in aid of any church, sect, or religious denomination~~  
 28 ~~or in aid of any sectarian institution.~~

29 BE IT FURTHER RESOLVED that the following statement be  
30 placed on the ballot:

31 CONSTITUTIONAL AMENDMENT

32 ARTICLE I, SECTION 3

33 RELIGIOUS FREEDOM.--Proposing an amendment to the State  
34 Constitution to provide that an individual or entity may not be  
35 barred from participating in any public program because of  
36 religion and to delete the prohibition against using revenues  
37 from the public treasury directly or indirectly in aid of any  
38 church, sect, or religious denomination or in aid of any  
39 sectarian institution.

1 Resolution of the Taxation and Budget Reform Commission  
 2 A resolution proposing an amendment to Section 1 and the  
 3 creation of Section 8 of Article IX and the creation of  
 4 Section 28 of Article XII of the State Constitution to  
 5 provide that the State Constitution establishes the  
 6 state's minimum duty to educate the children residing  
 7 within the state and to require a certain percent of  
 8 school funding to be spent on classroom instruction.  
 9

10 Be It Resolved by the Taxation and Budget Reform Commission:  
 11

12 That the following amendment to Section 1 and the creation  
 13 of Section 8 of Article IX and the creation of Section 28 of  
 14 Article XII of the State Constitution is agreed to and shall be  
 15 submitted to the electors of this state for approval or  
 16 rejection at the next general election or at an earlier special  
 17 election specifically authorized by law for that purpose:

18 ARTICLE IX

19 EDUCATION

20 SECTION 1. Public funding of education.--

21 (a) The education of children is a fundamental value of  
 22 the people of the State of Florida. It is, therefore, a  
 23 paramount duty of the state to make adequate provision for the  
 24 education of all children residing within its borders. This duty  
 25 shall be fulfilled, at a minimum and not exclusively, through  
 26 adequate ~~Adequate~~ provision ~~shall be made~~ by law for a uniform,  
 27 efficient, safe, secure, and high quality system of free public  
 28 schools that allows students to obtain a high quality education  
 29 and for the establishment, maintenance, and operation of

30 institutions of higher learning and other public education  
31 programs that the needs of the people may require. Nothing in  
32 this subsection creates an entitlement to a publicly-financed  
33 private program.

34 (b) To assure that children attending public schools  
35 obtain a high quality education, the legislature shall make  
36 adequate provision to ensure that, by the beginning of the 2010  
37 school year, there are a sufficient number of classrooms so  
38 that:

39 (1) The maximum number of students who are assigned to  
40 each teacher who is teaching in public school classrooms for  
41 prekindergarten through grade 3 does not exceed 18 students;

42 (2) The maximum number of students who are assigned to  
43 each teacher who is teaching in public school classrooms for  
44 grades 4 through 8 does not exceed 22 students; and

45 (3) The maximum number of students who are assigned to  
46 each teacher who is teaching in public school classrooms for  
47 grades 9 through 12 does not exceed 25 students.

48  
49 The class size requirements of this subsection do not apply to  
50 extracurricular classes. Payment of the costs associated with  
51 reducing class size to meet these requirements is the  
52 responsibility of the state and not of local schools districts.  
53 Beginning with the 2003-2004 fiscal year, the legislature shall  
54 provide sufficient funds to reduce the average number of  
55 students in each classroom by at least two students per year  
56 until the maximum number of students per classroom does not  
57 exceed the requirements of this subsection.

58 (c)~~(b)~~ Every four-year old child in Florida shall be

59 provided by the State a high quality pre-kindergarten learning  
60 opportunity in the form of an early childhood development and  
61 education program which shall be voluntary, high quality, free,  
62 and delivered according to professionally accepted standards. An  
63 early childhood development and education program means an  
64 organized program designed to address and enhance each child's  
65 ability to make age appropriate progress in an appropriate range  
66 of settings in the development of language and cognitive  
67 capabilities and emotional, social, regulatory and moral  
68 capacities through education in basic skills and such other  
69 skills as the Legislature may determine to be appropriate.

70 ~~(d)(e)~~ The early childhood education and development  
71 programs provided by reason of subsection (c) ~~subparagraph (b)~~  
72 shall be implemented no later than the beginning of the 2005  
73 school year through funds generated in addition to those used  
74 for existing education, health, and development programs.  
75 Existing education, health, and development programs are those  
76 funded by the State as of January 1, 2002 that provided for  
77 child or adult education, health care, or development.

78 SECTION 8. Requiring sixty-five percent of school funding  
79 for classroom instruction.--At least sixty-five percent of the  
80 school funding received by school districts shall be spent on  
81 classroom instruction, rather than on administration. Classroom  
82 instruction and administration shall be defined by law. The  
83 legislature may also address differences in administrative  
84 expenditures by district for necessary services, such as  
85 transportation and food services. Funds for capital outlay shall  
86 not be included in the calculation required by this section.  
87

ARTICLE XII

SCHEDULE

Section 28. Requiring sixty-five percent of school funding for classroom instruction.--The requirement that sixty-five percent of school funding received by school districts be spent on classroom instruction in Section 8 of Article IX, and this section, shall first be applicable to school years commencing during the state fiscal year 2009-2010.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE IX, SECTIONS 1 AND 8

ARTICLE XII, SECTION 28

REQUIRING 65 PERCENT OF SCHOOL FUNDING FOR CLASSROOM INSTRUCTION; STATE'S DUTY FOR CHILDREN'S EDUCATION.--Requires at least 65 percent of school funding received by school districts be spent on classroom instruction, rather than administration; allows for differences in administrative expenditures by district. Provides the constitutional requirement for the state to provide a "uniform, efficient, safe, secure, and high quality system of free public schools" is a minimum, nonexclusive duty. Reverses legal precedent prohibiting public funding of private school alternatives to public school programs without creating an entitlement.

1 Resolution of the Taxation and Budget Reform Commission  
 2 A resolution proposing an amendment to Section 9 of  
 3 Article VII of the State Constitution requiring the  
 4 Legislature to authorize local option taxes to supplement  
 5 funding for public community colleges.

6  
 7 Be It Resolved by the Taxation and Budget Reform Commission:  
 8

9 That the following amendment to Section 9 of Article VII of  
 10 the State Constitution is agreed to and shall be submitted to  
 11 the electors of this state for approval or rejection at the next  
 12 general election or at an earlier special election specifically  
 13 authorized by law for that purpose:

14 ARTICLE VII

15 FINANCE AND TAXATION

16 SECTION 9. Local taxes.--

17 (a) Counties, school districts, and municipalities shall,  
 18 and special districts may, be authorized by law to levy ad  
 19 valorem taxes and may be authorized by general law to levy other  
 20 taxes, for their respective purposes, except ad valorem taxes on  
 21 intangible personal property and taxes prohibited by this  
 22 constitution.

23 (b) Ad valorem taxes, exclusive of taxes levied for the  
 24 payment of bonds and taxes levied for periods not longer than  
 25 two years when authorized by vote of the electors who are the  
 26 owners of freeholds therein not wholly exempt from taxation,  
 27 shall not be levied in excess of the following millages upon the  
 28 assessed value of real estate and tangible personal property:  
 29 for all county purposes, ten mills; for all municipal purposes,

30 ten mills; for all school purposes, ten mills; for water  
 31 management purposes for the northwest portion of the state lying  
 32 west of the line between ranges two and three east, 0.05 mill;  
 33 for water management purposes for the remaining portions of the  
 34 state, 1.0 mill; and for all other special districts a millage  
 35 authorized by law approved by vote of the electors who are  
 36 owners of freeholds therein not wholly exempt from taxation. A  
 37 county furnishing municipal services may, to the extent  
 38 authorized by law, levy additional taxes within the limits fixed  
 39 for municipal purposes.

40 (c) Counties served by an open-access public institution  
 41 whose primary mission and responsibility includes providing  
 42 lower level undergraduate instruction and awarding associate  
 43 degrees shall be authorized by law to levy a local option sales  
 44 tax to supplement the funding of the institution. The tax may  
 45 not be levied unless approved by the electors of each county  
 46 served by the institution. The local option tax shall sunset  
 47 after five years and may be reauthorized by the electors as  
 48 provided by law.

49  
 50 BE IT FURTHER RESOLVED that the following statement be  
 51 placed on the ballot:

52 CONSTITUTIONAL AMENDMENT

53 ARTICLE VII, SECTION 9

54 LOCAL OPTION COMMUNITY COLLEGE FUNDING.--Proposing an  
 55 amendment to the State Constitution to require that the  
 56 Legislature authorize counties to levy a local option sales tax  
 57 to supplement community college funding; requiring voter

58 approval to levy the tax; providing that approved taxes will  
59 sunset after 5 years and may be reauthorized by the voters.



# 2. Statutory Recommendations

1 A bill to be entitled

2 An act relating to the assessment of residential  
 3 property; creating s. 193.624, F.S.; providing that  
 4 improving a property's resistance to wind damage and the  
 5 installation and operation of a renewable energy source  
 6 device may not be considered in the determination of the  
 7 assessed value of residential property; repealing s.  
 8 196.175, F.S.; relating to the renewable energy source  
 9 property tax exemption; providing a contingent effective  
 10 date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14 Section 1. Section 193.624, Florida Statutes, is created  
 15 to read:

16 193.624 Assessment of residential property.--The following  
 17 may not be considered in the determination of the assessed value  
 18 of real property used for residential purposes:

19 (1) The installation and operation of a renewable energy  
 20 source device.

21 (2) Changes or improvements made for the purpose of  
 22 improving the property's resistance to wind damage. Such  
 23 improvements include:

24 (a) Improving the strength of the roof deck attachment.

25 (b) Creating a secondary water barrier to prevent water  
 26 intrusion.

27 (c) Installing hurricane-resistant shingles.

28 (d) Installing gable-end bracing.

29 (e) Reinforcing roof-to-wall connections.

30 (f) Installing storm shutters.

31 (g) Installing impact-resistant glazing.

32 (h) Installing hurricane-resistant doors.

33 (3) This section does not apply to new construction or  
34 structures that are retrofitted within one year after the  
35 issuance of a certificate of occupancy.

36 (4) After a change of ownership, the existence of a  
37 renewable energy source device or changes or improvements made  
38 for the purpose of improving a property's resistance to wind  
39 damage may be considered in the determination of assessed value.

40 Section 2. Section 196.175, Florida Statutes, is amended  
41 to read:

42 ~~196.175 Renewable energy source exemption.~~

43 ~~(1) Improved real property upon which a renewable energy~~  
44 ~~source device is installed and operated shall be entitled to an~~  
45 ~~exemption not greater than the lesser of:~~

46 ~~(a) The assessed value of such real property less any~~  
47 ~~other exemptions applicable under this chapter;~~

48 ~~(b) The original cost of the device, including the~~  
49 ~~installation cost thereof, but excluding the cost of replacing~~  
50 ~~previously existing property removed or improved in the course~~  
51 ~~of such installation; or~~

52 ~~(c) Eight percent of the assessed value of such property~~  
53 ~~immediately following installation.~~

54 ~~(2) The exempt amount authorized under subsection (1)~~  
55 ~~shall apply in full if the device was installed and operative~~  
56 ~~throughout the 12-month period preceding January 1 of the year~~  
57 ~~of application for this exemption. If the device was operative~~  
58 ~~for a portion of that period, the exempt amount authorized under~~

59 ~~this section shall be reduced proportionally.~~

60 ~~(3) It shall be the responsibility of the applicant for an~~  
61 ~~exemption pursuant to this section to demonstrate affirmatively~~  
62 ~~to the satisfaction of the property appraiser that he or she~~  
63 ~~meets the requirements for exemption under this section and that~~  
64 ~~the original cost pursuant to paragraph (1) (b) and the period~~  
65 ~~for which the device was operative, as indicated on the~~  
66 ~~exemption application, are correct.~~

67 ~~(4) No exemption authorized pursuant to this section shall~~  
68 ~~be granted for a period of more than 10 years. No exemption~~  
69 ~~shall be granted with respect to renewable energy source devices~~  
70 ~~installed before January 1, 1980, or after December 31, 1990.~~

71 Section 3. This act shall take effect on the effective  
72 date of the amendment to the State Constitution contained in  
73 constitutional proposal \_\_\_\_\_ proposed by the Taxation and  
74 Budget Reform Commission, but this act shall not take effect  
75 unless constitutional proposal \_\_\_\_\_ is approved by a vote of at  
76 least 60 percent of the electors of this state.

1 A bill to be entitled

2 An act relating to ballot summaries; amending s. 101.161,  
3 F.S.; removing the limits on ballot summary length for  
4 amendments and public measures except those proposed by  
5 initiative; providing an effective date.

6  
7 Be It Enacted by the Legislature of the State of Florida:

8  
9 Section 1. Subsection (1) of section 101.161, Florida  
10 Statutes, is amended to read:

11 101.161 Referenda; ballots.—

12 (1) Whenever a constitutional amendment or other public  
13 measure is submitted to the vote of the people, the substance of  
14 such amendment or other public measure shall be printed in clear  
15 and unambiguous language on the ballot after the list of  
16 candidates, followed by the word "yes" and also by the word  
17 "no," and shall be styled in such a manner that a "yes" vote  
18 will indicate approval of the proposal and a "no" vote will  
19 indicate rejection. The wording of the substance of the  
20 amendment or other public measure and the ballot title to appear  
21 on the ballot shall be embodied in the joint resolution,  
22 constitutional revision commission proposal, constitutional  
23 convention proposal, taxation and budget reform commission  
24 proposal, or enabling resolution or ordinance. Except for  
25 amendments and ballot language proposed by joint resolution,  
26 constitution revision commission, or taxation and budget reform  
27 commission, the substance of the amendment or other public  
28 measure shall be an explanatory statement, not exceeding 75  
29 words in length, of the chief purpose of the measure. In  
30 addition, for every amendment proposed by initiative, the ballot

31 shall include, following the ballot summary, a separate  
32 financial impact statement concerning the measure prepared by  
33 the Financial Impact Estimating Conference in accordance with s.  
34 100.371(5). The ballot title shall consist of a caption, not  
35 exceeding 15 words in length, by which the measure is commonly  
36 referred to or spoken of.

37 Section 2. This act shall take effect upon becoming a law.

1                   A bill to be entitled  
 2           An act relating to ad valorem taxation; amending s.  
 3           194.301, F.S.; revising criteria for burden of proof in ad  
 4           valorem tax assessment value challenges; deleting certain  
 5           provisions relating to presumption of correctness of  
 6           property appraiser's assessments; specifying burden of  
 7           proof for property appraisers in actions challenging  
 8           denial of an exemption or assessment classification;  
 9           providing legislative intent relating to taxpayer burden  
 10          of proof; amending s. 193.011, F.S.; expanding the factors  
 11          that a property appraiser must consider in deriving just  
 12          valuation; requiring consideration of the legally  
 13          permissible use of property; requiring the consideration  
 14          of zoning changes, concurrency requirements, and permits  
 15          necessary to achieve the highest and best use of property;  
 16          requiring consideration of external obsolescence of  
 17          property; requiring consideration of physical  
 18          deterioration and functional obsolescence of property;  
 19          providing an effective date.

20  
 21 Be It Enacted by the Legislature of the State of Florida:

22  
 23           Section 1. Section 194.301, Florida Statutes, is amended  
 24           to read:

25           194.301 Presumption of correctness and burden of proof in  
 26           ad valorem tax value assessment challenges.--

27           (1) In any administrative or judicial action in which a  
 28           taxpayer challenges an ad valorem tax assessment of value, the  
 29           property appraiser shall have the burden of going forward and  
 30           proving that his or her assessment was arrived at by complying

31 with s. 193.011 and professionally accepted appraisal practices,  
32 including mass appraisal practices, in which case the assessment  
33 shall be presumed correct. The taxpayer shall have the burden of  
34 proving by a preponderance of the evidence that the assessment  
35 of value exceeds just value or that the assessment is based upon  
36 appraisal practices which are different from the appraisal  
37 practices generally applied to comparable property within the  
38 same class. In any judicial action in which the property  
39 appraiser challenges the value adjustment board's determination  
40 of value, the property appraiser shall have the burden of  
41 proving by a preponderance of the evidence that the assessment  
42 established by the value adjustment board is less than just  
43 value appraiser's assessment shall be presumed correct. This  
44 ~~presumption of correctness is lost if the taxpayer shows by a~~  
45 ~~preponderance of the evidence that either the property appraiser~~  
46 ~~has failed to consider properly the criteria in s. 193.011 or if~~  
47 ~~the property appraiser's assessment is arbitrarily based on~~  
48 ~~appraisal practices which are different from the appraisal~~  
49 ~~practices generally applied by the property appraiser to~~  
50 ~~comparable property within the same class and within the same~~  
51 ~~county. If the presumption of correctness is lost, the taxpayer~~  
52 ~~shall have the burden of proving by a preponderance of the~~  
53 ~~evidence that the appraiser's assessment is in excess of just~~  
54 ~~value. If the presumption of correctness is retained, the~~  
55 ~~taxpayer shall have the burden of proving by clear and~~  
56 ~~convincing evidence that the appraiser's assessment is in excess~~  
57 ~~of just value. In no case shall the taxpayer have the burden of~~  
58 ~~proving that the property appraiser's assessment is not~~  
59 ~~supported by any reasonable hypothesis of a legal assessment. If~~  
60 ~~the property appraiser's assessment is determined to be~~

61 erroneous, the value adjustment board ~~Value Adjustment Board~~ or  
62 the court can establish the assessment if ~~there exists~~  
63 competent, substantial evidence exists in the record, which  
64 cumulatively meets the requirements of s. 193.011 by applying  
65 professionally accepted appraisal practices. If the record lacks  
66 such competent, substantial evidence ~~meeting the just value~~  
67 ~~criteria of s. 193.011~~, the matter shall be remanded to the  
68 property appraiser with appropriate directions from the value  
69 adjustment board ~~Value Adjustment Board~~ or the court.

70 (2) In any administrative or judicial action in which a  
71 denial of an exemption or assessment classification is  
72 challenged, the property appraiser shall have the burden of  
73 proving that his or her denial complies with the applicable laws  
74 governing such exemption or assessment classification.

75 Section 2. It is the express intent of the Legislature  
76 that a taxpayer shall not have the burden of proving that the  
77 property appraiser's assessment is not supported by any  
78 reasonable hypothesis of a legal assessment and all cases  
79 setting out such a standard were expressly rejected  
80 legislatively on the adoption of chapter 97-85, Laws of Florida.  
81 It is the further intent of the Legislature that any cases of  
82 law published since 1997 citing the every-reasonable-hypothesis  
83 standard are expressly rejected to the extent that they are  
84 interpretative of legislative intent.

85 Section 3. Sections 1 and 2 of this act shall take effect  
86 upon becoming a law.

87 Section 4. Section 193.011, Florida Statutes is amended to  
88 read:

89 193.011 Factors to consider in deriving just valuation.—In  
90 arriving at just valuation of real and tangible personal

91 property as required under s. 4, Art. VII of the State  
92 Constitution, the property appraiser shall take into  
93 consideration the following factors:

94 (1) The present cash value in exchange of the property,  
95 which is the amount a willing purchaser would pay a willing  
96 seller, exclusive of reasonable fees and costs of purchase, in  
97 cash or the immediate equivalent thereof in a transaction at  
98 arm's length;

99 (2) The highest and best use to which the property can be  
100 expected to be put in the immediate future and the present use  
101 of the property, taking into consideration the legally  
102 permissible use of the property including any applicable  
103 judicial limitation, local or state land use regulation, or  
104 historic preservation ordinance, and any zoning changes,  
105 concurrency requirements, and permits necessary to achieve the  
106 highest and best use, and considering any moratorium imposed by  
107 executive order, law, ordinance, regulation, resolution, or  
108 proclamation adopted by any governmental body or agency or the  
109 Governor when the moratorium or judicial limitation prohibits or  
110 restricts the development or improvement of property as  
111 otherwise authorized by applicable law. The applicable  
112 governmental body or agency or the Governor shall notify the  
113 property appraiser in writing of any executive order, ordinance,  
114 regulation, resolution, or proclamation it adopts imposing any  
115 such limitation, regulation, or moratorium;

116 (3) The location of said property;

117 (4) The quantity or size of said property;

118 (5) The cost of said property and the present replacement  
119 value of any improvements thereon, taking into account external  
120 obsolescence;

121 (6) The condition of said property, taking into account  
122 physical deterioration and functional obsolescence;

123 (7) The income from said property; and

124 (8) The net proceeds of the sale of the property, as  
125 received by the seller, after deduction of all of the usual and  
126 reasonable fees and costs of the sale, including the costs and  
127 expenses of financing, and allowance for unconventional or  
128 atypical terms of financing arrangements. When the net proceeds  
129 of the sale of any property are utilized, directly or  
130 indirectly, in the determination of just valuation of realty of  
131 the sold parcel or any other parcel under the provisions of this  
132 section, the property appraiser, for the purposes of such  
133 determination, shall exclude any portion of such net proceeds  
134 attributable to payments for household furnishings or other  
135 items of personal property.

136 Section 5. This act shall take effect upon becoming a law  
137 and shall apply to assessments in 2009.

1 A bill to be entitled  
2 An act relating to the Streamlined Sales and Use Tax  
3 Agreement; amending s. 212.02, F.S.; revising definitions;  
4 providing applicability; amending ss. 212.0306, 212.04,  
5 and 212.0506, F.S.; deleting the application of brackets  
6 for the calculation of sales and use taxes; amending s.  
7 212.05, F.S.; deleting criteria establishing criteria  
8 under which taxes on the lease or rental of a motor  
9 vehicle are due; revising criteria establishing  
10 circumstances under which taxes on the sale of a prepaid  
11 calling arrangement are due; deleting the application of  
12 brackets for the calculation of sales and use taxes;  
13 amending s. 212.054, F.S.; limiting the \$5,000 cap on  
14 discretionary sales surtax to the sale of motor vehicles,  
15 aircraft, boats, motor homes, manufactured homes, and  
16 mobile homes; specifying the time at which changes in  
17 surtaxes may take effect; providing criteria to determine  
18 the situs of certain sales; providing for databases to  
19 identify taxing jurisdictions; providing criteria to hold  
20 purchasers harmless for failure to pay the correct amount  
21 of tax; repealing s. 212.0596, F.S.; repealing provisions  
22 pertaining to taxation of mail-order sales; amending s.  
23 212.06, F.S.; defining terms; providing criteria for  
24 determining the location of transactions involving  
25 tangible personal property, digital goods, or services and  
26 for the lease or rental of tangible personal property;  
27 requiring purchasers of direct mail to use direct mail  
28 forms; amending s. 212.07, F.S.; providing for the  
29 creation of a taxability matrix; providing immunity from

30 liability for acts in reliance of the taxability matrix;  
31 amending s. 212.08, F.S.; revising exemptions from sales  
32 and use tax for food and medical products; creating s.  
33 212.094, F.S.; providing a procedure for a purchaser to  
34 obtain a refund of tax collected by a dealer; amending s.  
35 212.12, F.S.; authorizing collection allowances for  
36 certified service providers in accordance with the  
37 Streamlined Sales and Use Tax Agreement; providing for the  
38 computation of taxes due based on rounding instead of  
39 brackets; amending s. 212.17, F.S.; providing additional  
40 criteria for a dealer to claim a credit for taxes paid  
41 relating to worthless accounts; amending s. 212.18, F.S.;  
42 authorizing the Department of Revenue to waive the dealer  
43 registration fee for applications submitted through the  
44 central electronic registration system provided by member  
45 states of the Streamlined Sales and Use Tax Agreement;  
46 amending s. 212.20, F.S.; deleting procedures for refunds  
47 of tax paid on mail-order sales; creating s. 213.052,  
48 F.S.; providing for notice of state sales or use tax  
49 changes; creating s. 213.0521, F.S.; providing the  
50 effective date for state sales and use tax changes;  
51 creating 213.215, F.S.; providing amnesty for non-  
52 collection of sales and use taxes for sellers who register  
53 under the Streamlined Sales and Use Tax Agreement;  
54 amending s. 213.256, F.S.; providing definitions;  
55 providing for entry into agreements with other states to  
56 simplify and facilitate compliance with sales tax laws;  
57 providing for certification of compliance with agreements;  
58 creating s. 213.2567, F.S.; providing for the registration

59 of sellers, the certification of a person as a certified  
60 service provider, and the certification of a software  
61 program as a certified automated system by the governing  
62 board under the Streamlined Sales and Use Tax Agreement;  
63 declaring legislative intent; providing for the adoption  
64 of emergency rules; amending s. 11.45, F.S.; conforming a  
65 cross-reference; amending s. 196.012, F.S.; conforming a  
66 cross-reference; amending s. 202.18, F.S.; conforming  
67 cross-references; amending s. 203.01, F.S.; conforming  
68 cross-references; amending s. 212.031, F.S.; conforming a  
69 cross-reference; amending s. 212.055, F.S.; conforming  
70 cross-references; amending s. 212.15, F.S.; conforming a  
71 cross-reference; amending s. 213.13, F.S.; conforming a  
72 cross-reference; amending s. 218.245, F.S.; conforming a  
73 cross-reference; amending s. 288.1169, F.S.; conforming a  
74 cross-reference; amending s. 551.102, F.S.; conforming a  
75 cross reference; amending s. 790.0655, F.S., conforming a  
76 cross-reference; providing an effective date.

77  
78 Be It Enacted by the Legislature of the State of Florida:

79  
80 Section 1. Section 212.02, Florida Statutes, is amended to  
81 read:

82 212.02 Definitions.--The following terms and phrases when  
83 used in this chapter have the meanings ascribed to them in this  
84 section, except where the context clearly indicates a different  
85 meaning:

86 (1) The term "admissions" means and includes the net sum  
87 of money after deduction of any federal taxes for admitting a

88 person or vehicle or persons to any place of amusement, sport,  
89 or recreation or for the privilege of entering or staying in any  
90 place of amusement, sport, or recreation, including, but not  
91 limited to, theaters, outdoor theaters, shows, exhibitions,  
92 games, races, or any place where charge is made by way of sale  
93 of tickets, gate charges, seat charges, box charges, season pass  
94 charges, cover charges, greens fees, participation fees,  
95 entrance fees, or other fees or receipts of anything of value  
96 measured on an admission or entrance or length of stay or seat  
97 box accommodations in any place where there is any exhibition,  
98 amusement, sport, or recreation, and all dues and fees paid to  
99 private clubs and membership clubs providing recreational or  
100 physical fitness facilities, including, but not limited to,  
101 golf, tennis, swimming, yachting, boating, athletic, exercise,  
102 and fitness facilities, except physical fitness facilities owned  
103 or operated by any hospital licensed under chapter 395.

104 (2) "Agreement" means the Streamlined Sales and Use Tax  
105 Agreement.

106 (3)~~(27)~~ "Agricultural commodity" means horticultural,  
107 aquacultural, poultry and farm products, and livestock and  
108 livestock products.

109 (4)~~(32)~~ "Agricultural production" means the production of  
110 plants and animals useful to humans, including the preparation,  
111 planting, cultivating, or harvesting of these products or any  
112 other practices necessary to accomplish production through the  
113 harvest phase, and includes aquaculture, horticulture,  
114 floriculture, viticulture, forestry, dairy, livestock, poultry,  
115 bees, and any and all forms of farm products and farm  
116 production.

117        (5)~~(2)~~ "Business" means any activity engaged in by any  
118 person, or caused to be engaged in by him or her, with the  
119 object of private or public gain, benefit, or advantage, either  
120 direct or indirect. Except for the sales of any aircraft, boat,  
121 mobile home, or motor vehicle, the term "business" shall not be  
122 construed in this chapter to include occasional or isolated  
123 sales or transactions involving tangible personal property or  
124 services by a person who does not hold himself or herself out as  
125 engaged in business or sales of unclaimed tangible personal  
126 property under s. 717.122, but includes other charges for the  
127 sale or rental of tangible personal property, sales of services  
128 taxable under this chapter, sales of or charges of admission,  
129 communication services, all rentals and leases of living  
130 quarters, other than low-rent housing operated under chapter  
131 421, sleeping or housekeeping accommodations in hotels,  
132 apartment houses, roominghouses, tourist or trailer camps, and  
133 all rentals of or licenses in real property, other than low-rent  
134 housing operated under chapter 421, all leases or rentals of or  
135 licenses in parking lots or garages for motor vehicles, docking  
136 or storage spaces for boats in boat docks or marinas as defined  
137 in this chapter and made subject to a tax imposed by this  
138 chapter. The term "business" shall not be construed in this  
139 chapter to include the leasing, subleasing, or licensing of real  
140 property by one corporation to another if all of the stock of  
141 both such corporations is owned, directly or through one or more  
142 wholly owned subsidiaries, by a common parent corporation; the  
143 property was in use prior to July 1, 1989, title to the property  
144 was transferred after July 1, 1988, and before July 1, 1989,  
145 between members of an affiliated group, as defined in s. 1504(a)

146 of the Internal Revenue Code of 1986, which group included both  
147 such corporations and there is no substantial change in the use  
148 of the property following the transfer of title; the leasing,  
149 subleasing, or licensing of the property was required by an  
150 unrelated lender as a condition of providing financing to one or  
151 more members of the affiliated group; and the corporation to  
152 which the property is leased, subleased, or licensed had sales  
153 subject to the tax imposed by this chapter of not less than \$667  
154 million during the most recent 12-month period ended June 30.  
155 Any tax on such sales, charges, rentals, admissions, or other  
156 transactions made subject to the tax imposed by this chapter  
157 shall be collected by the state, county, municipality, any  
158 political subdivision, agency, bureau, or department, or other  
159 state or local governmental instrumentality in the same manner  
160 as other dealers, unless specifically exempted by this chapter.

161 (6) "Certified service provider" means an agent certified  
162 under the Streamlined Sales and Use Tax Agreement to perform all  
163 of the seller's sales and use tax functions, other than the  
164 seller's obligation to remit taxes on the seller's purchases.

165 (7)(3) The terms "cigarettes," "tobacco," or "tobacco  
166 products" referred to in this chapter include all such products  
167 as are defined or may be hereafter defined by the laws of the  
168 state.

169 (8)(24) "Coin-operated amusement machine" means any  
170 machine operated by coin, slug, token, coupon, or similar device  
171 for the purposes of entertainment or amusement. The term  
172 includes, but is not limited to, coin-operated pinball machines,  
173 music machines, juke boxes, mechanical games, video games,

174 arcade games, billiard tables, moving picture viewers, shooting  
175 galleries, and all other similar amusement devices.

176 (9) "Computer" means an electronic device that accepts  
177 information in digital or similar form and manipulates such  
178 information for a result based on a sequence of instructions.

179 (10) "Computer software" means a set of coded instructions  
180 designed to cause a computer or automatic data processing  
181 equipment to perform a task.

182 (11)~~(4)~~ "Cost price" means the actual cost of articles of  
183 tangible personal property without any deductions therefrom on  
184 account of the cost of materials used, labor or service costs,  
185 transportation charges, or any expenses whatsoever.

186 (12) "Delivery charges" means charges by the seller of  
187 tangible personal property or personal services for preparation  
188 and delivery to a location designated by the purchaser of such  
189 property or services , including, but not limited to,  
190 transportation, shipping, postage, handling, crating, and  
191 packing. The term does not include the charges for delivery of  
192 direct mail as defined by this section if the charges are  
193 separately stated on an invoice or similar billing document  
194 given to the purchaser. If a shipment includes exempt property  
195 and taxable property, the seller shall tax only the percentage  
196 of the delivery charge allocated to the taxable property The  
197 seller shall allocate the delivery charge by using:

198 (a) A percentage based on the total sales prices of all  
199 property in the shipment; or

200 (b) A percentage based on the total weight of the taxable  
201 property compared to the total weight of all property in the  
202 shipment.

203        ~~(13)(5)~~ The term "Department" means the Department of  
204 Revenue.

205        ~~(14)(17)~~ "Diesel fuel" means any liquid product, gas  
206 product, or combination thereof used in an internal combustion  
207 engine or motor to propel any form of vehicle, machine, or  
208 mechanical contrivance. This term includes, but is not limited  
209 to, all forms of fuel commonly or commercially known or sold as  
210 diesel fuel or kerosene. However, the term "diesel fuel" does  
211 not include butane gas, propane gas, or any other form of  
212 liquefied petroleum gas or compressed natural gas.

213        (15) "Direct mail" means printed material delivered or  
214 distributed by the United States Postal Service or other  
215 delivery service to a mass audience or to addressees on a  
216 mailing list provided by the purchaser or at the direction of  
217 the purchaser when the cost of the items are not billed directly  
218 to the recipients. The term "direct mail" includes tangible  
219 personal property supplied directly or indirectly by the  
220 purchaser to the direct mail seller for inclusion in the package  
221 containing the printed material. The term "direct mail" does not  
222 include multiple items of printed material delivered to a single  
223 address.

224        (16) "Electronic" means relating to technology having  
225 electrical, digital, magnetic, wireless, optical,  
226 electromagnetic, or similar capabilities.

227        ~~(17)(6)~~ "Enterprise zone" means an area of the state  
228 designated pursuant to s. 290.0065. This subsection expires on  
229 the date specified in s. 290.016 for the expiration of the  
230 Florida Enterprise Zone Act.

231        (18)~~(7)~~ "Factory-built building" means a structure  
232 manufactured in a manufacturing facility for installation or  
233 erection as a finished building; "factory-built building"  
234 includes, but is not limited to, residential, commercial,  
235 institutional, storage, and industrial structures.

236        (19)~~(28)~~ "Farmer" means a person who is directly engaged  
237 in the business of producing crops, livestock, or other  
238 agricultural commodities. The term includes, but is not limited  
239 to, horse breeders, nurserymen, dairy farmers, poultry farmers,  
240 cattle ranchers, apiarists, and persons raising fish.

241        (20)~~(31)~~ "Forest" means the land stocked by trees of any  
242 size used in the production of forest products, or formerly  
243 having such tree cover, and not currently developed for  
244 nonforest use.

245        (21)~~(8)~~ "In this state" or "in the state" means within the  
246 state boundaries of Florida as defined in s. 1, Art. II of the  
247 State Constitution and includes all territory within these  
248 limits owned by or ceded to the United States.

249        (22)~~(9)~~ The term "intoxicating beverages" or "alcoholic  
250 beverages" referred to in this chapter includes all such  
251 beverages as are so defined or may be hereafter defined by the  
252 laws of the state.

253        (23)~~(10)~~ "Lease," "let," or "rental" means leasing or  
254 renting of living quarters or sleeping or housekeeping  
255 accommodations in hotels, apartment houses, roominghouses,  
256 tourist or trailer camps and real property, the same being  
257 defined as follows:

258            (a) Every building or other structure kept, used,  
259 maintained, or advertised as, or held out to the public to be, a

260 place where sleeping accommodations are supplied for pay to  
261 transient or permanent guests or tenants, in which 10 or more  
262 rooms are furnished for the accommodation of such guests, and  
263 having one or more dining rooms or cafes where meals or lunches  
264 are served to such transient or permanent guests; such sleeping  
265 accommodations and dining rooms or cafes being conducted in the  
266 same building or buildings in connection therewith, shall, for  
267 the purpose of this chapter, be deemed a hotel.

268 (b) Any building, or part thereof, where separate  
269 accommodations for two or more families living independently of  
270 each other are supplied to transient or permanent guests or  
271 tenants shall for the purpose of this chapter be deemed an  
272 apartment house.

273 (c) Every house, boat, vehicle, motor court, trailer  
274 court, or other structure or any place or location kept, used,  
275 maintained, or advertised as, or held out to the public to be, a  
276 place where living quarters or sleeping or housekeeping  
277 accommodations are supplied for pay to transient or permanent  
278 guests or tenants, whether in one or adjoining buildings, shall  
279 for the purpose of this chapter be deemed a roominghouse.

280 (d) In all hotels, apartment houses, and roominghouses  
281 within the meaning of this chapter, the parlor, dining room,  
282 sleeping porches, kitchen, office, and sample rooms shall be  
283 construed to mean "rooms."

284 (e) A "tourist camp" is a place where two or more tents,  
285 tent houses, or camp cottages are located and offered by a  
286 person or municipality for sleeping or eating accommodations,  
287 most generally to the transient public for either a direct money

288 consideration or an indirect benefit to the lessor or owner in  
289 connection with a related business.

290 (f) A "trailer camp," "mobile home park," or "recreational  
291 vehicle park" is a place where space is offered, with or without  
292 service facilities, by any persons or municipality to the public  
293 for the parking and accommodation of two or more automobile  
294 trailers, mobile homes, or recreational vehicles which are used  
295 for lodging, for either a direct money consideration or an  
296 indirect benefit to the lessor or owner in connection with a  
297 related business, such space being hereby defined as living  
298 quarters, and the rental price thereof shall include all service  
299 charges paid to the lessor.

300 (g)1. "Lease," "let," or "rental" also means any transfer  
301 of possession or control of tangible personal property for a  
302 fixed or indeterminate term for consideration. A clause for a  
303 future option to purchase or to extend an agreement does not  
304 preclude an agreement from being a lease or rental. This  
305 definition shall be used for purposes of the sales and use tax  
306 regardless of whether a transaction is characterized as a lease  
307 or rental under generally accepted accounting principles, the  
308 Internal Revenue Code, the Uniform Commercial Code, or other  
309 provisions of federal, state, or local law. This term includes  
310 agreements covering motor vehicles and trailers if the amount of  
311 consideration may be increased or decreased by reference to the  
312 amount realized upon sale or disposition of the property as  
313 provided in 26 U.S.C. s. 7701(h)(1). This term does not include:

314 a. A transfer of possession or control of property under a  
315 security agreement or deferred payment plan that requires the  
316 transfer of title upon completion of the required payments;

317 b. A transfer or possession or control of property under  
318 an agreement that requires the transfer of title upon completion  
319 of required payments and payment of an option price does not  
320 exceed the greater of \$100 or one percent of the total required  
321 payments; or

322 c. The provision of tangible personal property along with  
323 an operator for a fixed or indeterminate period of time. A  
324 condition of this exclusion is that the operator is necessary  
325 for the equipment to perform as designed. For the purpose of  
326 this sub-subparagraph, an operator must do more than maintain,  
327 inspect, or set-up the tangible personal property ~~the leasing or~~  
328 ~~rental of tangible personal property and the possession or use~~  
329 ~~thereof by the lessee or rentee for a consideration, without~~  
330 ~~transfer of the title of such property, except as expressly~~  
331 ~~provided to the contrary herein.~~

332 2. The term "lease," "let," or "rental" does not mean  
333 hourly, daily, or mileage charges, to the extent that such  
334 charges are subject to the jurisdiction of the United States  
335 Interstate Commerce Commission, when such charges are paid by  
336 reason of the presence of railroad cars owned by another on the  
337 tracks of the taxpayer, or charges made pursuant to car service  
338 agreements. The term "lease," "let," "rental," or "license" does  
339 not include payments made to an owner of high-voltage bulk  
340 transmission facilities in connection with the possession or  
341 control of such facilities by a regional transmission  
342 organization, independent system operator, or similar entity  
343 under the jurisdiction of the Federal Energy Regulatory  
344 Commission. However, where two taxpayers, in connection with the  
345 interchange of facilities, rent or lease property, each to the

346 other, for use in providing or furnishing any of the services  
347 mentioned in s. 166.231, the term "lease or rental" means only  
348 the net amount of rental involved.

349 (h) "Real property" means the surface land, improvements  
350 thereto, and fixtures, and is synonymous with "realty" and "real  
351 estate."

352 (i) "License," as used in this chapter with reference to  
353 the use of real property, means the granting of a privilege to  
354 use or occupy a building or a parcel of real property for any  
355 purpose.

356 (j) Privilege, franchise, or concession fees, or fees for  
357 a license to do business, paid to an airport are not payments  
358 for leasing, letting, renting, or granting a license for the use  
359 of real property.

360 ~~(24)(29)~~ "Livestock" includes all animals of the equine,  
361 bovine, or swine class, including goats, sheep, mules, horses,  
362 hogs, cattle, ostriches, and other grazing animals raised for  
363 commercial purposes. The term "livestock" shall also include  
364 fish raised for commercial purposes.

365 (25)(a) "Model 1 seller" means a seller that has selected  
366 a certified service provider as the seller's agent to perform  
367 all of the seller's sales and use tax functions, other than the  
368 seller's obligation to remit tax on the seller's purchases.

369 (b) "Model 2 seller" means a seller that has selected a  
370 certified automated system to perform part of the seller's sales  
371 and use tax functions, but retains responsibility for remitting  
372 the tax.

373 (c) "Model 3 seller" means a seller that has sales in at  
374 least five member states, has total annual sales revenue of at

375 least \$500 million, has a proprietary system that calculates the  
376 amount of tax due each jurisdiction, and has entered into a  
377 performance agreement with the member states that establishes a  
378 tax performance standard for the seller. As used in this  
379 definition, a seller includes an affiliated group of sellers  
380 using the same proprietary system.

381 (26)-(11) "Motor fuel" means and includes what is commonly  
382 known and sold as gasoline and fuels containing a mixture of  
383 gasoline and other products.

384 (27)-(12) "Person" includes any individual, firm,  
385 copartnership, joint adventure, association, corporation,  
386 estate, trust, business trust, receiver, syndicate, or other  
387 group or combination acting as a unit and also includes any  
388 political subdivision, municipality, state agency, bureau, or  
389 department and includes the plural as well as the singular  
390 number.

391 (28)-(30) "Power farm equipment" means moving or stationary  
392 equipment that contains within itself the means for its own  
393 propulsion or power and moving or stationary equipment that is  
394 dependent upon an external power source to perform its  
395 functions.

396 (29) "Prewritten computer software" means computer  
397 software, including prewritten upgrades, which is not designed  
398 and developed by the author or other creator to the  
399 specifications of a specific purchaser. The combining of two or  
400 more prewritten computer software programs or prewritten  
401 portions of such programs does not cause the combination to be  
402 other than prewritten computer software. Prewritten computer  
403 software includes software designed and developed by the author

404 or other creator to the specifications of a specific purchaser  
405 when such software is sold to a person other than the specific  
406 purchaser. Where a person modifies or enhances computer software  
407 of which the person is not the author or creator, the person  
408 shall be deemed to be the author or creator only of such  
409 person's modifications or enhancements. Prewritten computer  
410 software or a prewritten portion of such software that is  
411 modified or enhanced to any degree, if such modification or  
412 enhancement is designed and developed to the specifications of a  
413 specific purchaser, remains prewritten computer software;  
414 provided, when there is a reasonable, separately stated charge  
415 or an invoice or other statement of the price given to the  
416 purchaser for such modification or enhancement, such  
417 modification or enhancement shall not constitute prewritten  
418 computer software.

419 (30)-(33) "Qualified aircraft" means any aircraft having a  
420 maximum certified takeoff weight of less than 10,000 pounds and  
421 equipped with twin turbofan engines that meet Stage IV noise  
422 requirements that is used by a business operating as an on-  
423 demand air carrier under Federal Aviation Administration  
424 Regulation Title 14, chapter I, part 135, Code of Federal  
425 Regulations, that owns or leases and operates a fleet of at  
426 least 25 of such aircraft in this state.

427 (31)-(13) "Retailer" means and includes every person  
428 engaged in the business of making sales at retail or for  
429 distribution, or use, or consumption, or storage to be used or  
430 consumed in this state.

431 (32)-(14)(a) "Retail sale" or a "sale at retail" means a  
432 sale to a consumer or to any person for any purpose other than

433 for resale in the form of tangible personal property or services  
434 taxable under this chapter, and includes all such transactions  
435 that may be made in lieu of retail sales or sales at retail. A  
436 sale for resale includes a sale of qualifying property. As used  
437 in this paragraph, the term "qualifying property" means tangible  
438 personal property, other than electricity, which is used or  
439 consumed by a government contractor in the performance of a  
440 qualifying contract as defined in s. 212.08(17)(c), to the  
441 extent that the cost of the property is allocated or charged as  
442 a direct item of cost to such contract, title to which property  
443 vests in or passes to the government under the contract. The  
444 term "government contractor" includes prime contractors and  
445 subcontractors. As used in this paragraph, a cost is a "direct  
446 item of cost" if it is a "direct cost" as defined in 48 C.F.R.  
447 s. 9904.418-30(a)(2), or similar successor provisions, including  
448 costs identified specifically with a particular contract.

449 (b) The terms "retail sales," "sales at retail," "use,"  
450 "storage," and "consumption" include the sale, use, storage, or  
451 consumption of all tangible advertising materials imported or  
452 caused to be imported into this state. Tangible advertising  
453 material includes displays, display containers, brochures,  
454 catalogs, price lists, point-of-sale advertising, and technical  
455 manuals or any tangible personal property which does not  
456 accompany the product to the ultimate consumer.

457 (c) "Retail sales," "sale at retail," "use," "storage,"  
458 and "consumption" do not include materials, containers, labels,  
459 sacks, bags, or similar items intended to accompany a product  
460 sold to a customer without which delivery of the product would  
461 be impracticable because of the character of the contents and be

462 used one time only for packaging tangible personal property for  
463 sale or for the convenience of the customer or for packaging in  
464 the process of providing a service taxable under this chapter.  
465 When a separate charge for packaging materials is made, the  
466 charge shall be considered part of the sales price or rental  
467 charge for purposes of determining the applicability of tax. The  
468 terms do not include the sale, use, storage, or consumption of  
469 industrial materials, including chemicals and fuels except as  
470 provided herein, for future processing, manufacture, or  
471 conversion into articles of tangible personal property for  
472 resale when such industrial materials, including chemicals and  
473 fuels except as provided herein, become a component or  
474 ingredient of the finished product. However, the terms include  
475 the sale, use, storage, or consumption of tangible personal  
476 property, including machinery and equipment or parts thereof,  
477 purchased electricity, and fuels used to power machinery, when  
478 such items are used and dissipated in fabricating, converting,  
479 or processing tangible personal property for sale, even though  
480 they may become ingredients or components of the tangible  
481 personal property for sale through accident, wear, tear,  
482 erosion, corrosion, or similar means. The terms do not include  
483 the sale of materials to a registered repair facility for use in  
484 repairing a motor vehicle, airplane, or boat, when such  
485 materials are incorporated into and sold as part of the repair.  
486 Such a sale shall be deemed a purchase for resale by the repair  
487 facility, even though every material is not separately stated or  
488 separately priced on the repair invoice.

489 (d) "Gross sales" means the sum total of all sales of  
490 tangible personal property as defined herein, without any

491 deduction whatsoever of any kind or character, except as  
492 provided in this chapter.

493 (e) The term "retail sale" includes a mail order sale, as  
494 defined in s. 212.0596(1).

495 (33)~~(15)~~ "Sale" means and includes:

496 (a) Any transfer of title or possession, or both,  
497 exchange, barter, license, lease, or rental, conditional or  
498 otherwise, in any manner or by any means whatsoever, of tangible  
499 personal property for a consideration.

500 (b) The rental of living quarters or sleeping or  
501 housekeeping accommodations in hotels, apartment houses or  
502 roominghouses, or tourist or trailer camps, as hereinafter  
503 defined in this chapter.

504 (c) The producing, fabricating, processing, printing, or  
505 imprinting of tangible personal property for a consideration for  
506 consumers who furnish either directly or indirectly the  
507 materials used in the producing, fabricating, processing,  
508 printing, or imprinting.

509 (d) The furnishing, preparing, or serving for a  
510 consideration of any tangible personal property for consumption  
511 on or off the premises of the person furnishing, preparing, or  
512 serving such tangible personal property which includes the sale  
513 of meals or prepared food by an employer to his or her  
514 employees.

515 (e) A transaction whereby the possession of property is  
516 transferred but the seller retains title as security for the  
517 payment of the price.

518 (34) (a) ~~(16)~~ "Sales price" applies to the measure subject  
519 to the tax imposed by this chapter and means the total amount of

520 consideration, including cash, credit, property, and services,  
521 for which tangible personal property or personal services are  
522 sold, leased, or rented, valued in money, whether received in  
523 money or otherwise, without any deduction for the following:

- 524 1. The seller's cost of the property sold;
- 525 2. The cost of materials used, labor or service cost,  
526 interest, losses, all costs of transportation to the seller, all  
527 taxes imposed on the seller, and any other expense of the  
528 seller;
- 529 3. Charges by the seller for any services necessary to  
530 complete the sale, other than delivery and installation charges;
- 531 4. Delivery charges; or
- 532 5. Installation charges.

533 (b) The term "sales price" does not include:

- 534 1. Trade-ins allowed and taken at the time of sale if the  
535 amount is separately stated on the invoice, bill of sale, or  
536 similar document given to the purchaser;
- 537 2. Discounts, including cash, term, or coupons, which are  
538 not reimbursed by a third party, are allowed by a seller, and  
539 taken by a purchaser at the time of sale;
- 540 3. Interest, financing, and carrying charges from credit  
541 extended on the sale of personal property or services, if the  
542 amount is separately stated on the invoice, bill of sale, or  
543 similar document given to the purchaser;
- 544 4. Any taxes legally imposed directly on the consumer  
545 which are separately stated on the invoice, bill of sale, or  
546 similar document given to the purchaser; or ~~means the total~~  
547 ~~amount paid for tangible personal property, including any~~  
548 ~~services that are a part of the sale, valued in money, whether~~

549 ~~paid in money or otherwise, and includes any amount for which~~  
550 ~~credit is given to the purchaser by the seller, without any~~  
551 ~~deduction therefrom on account of the cost of the property sold,~~  
552 ~~the cost of materials used, labor or service cost, interest~~  
553 ~~charged, losses, or any other expense whatsoever. "Sales price"~~  
554 ~~also includes the consideration for a transaction which requires~~  
555 ~~both labor and material to alter, remodel, maintain, adjust, or~~  
556 ~~repair tangible personal property. Trade ins or discounts~~  
557 ~~allowed and taken at the time of sale shall not be included~~  
558 ~~within the purview of this subsection. "Sales price" also~~  
559 ~~includes the full face value of any coupon used by a purchaser~~  
560 ~~to reduce the price paid to a retailer for an item of tangible~~  
561 ~~personal property; where the retailer will be reimbursed for~~  
562 ~~such coupon, in whole or in part, by the manufacturer of the~~  
563 ~~item of tangible personal property; or whenever it is not~~  
564 ~~practicable for the retailer to determine, at the time of sale,~~  
565 ~~the extent to which reimbursement for the coupon will be made.~~  
566 ~~The term "sales price" does not include federal excise taxes~~  
567 ~~imposed upon the retailer on the sale of tangible personal~~  
568 ~~property. The term "sales price" does include federal~~  
569 ~~manufacturers' excise taxes, even if the federal tax is listed~~  
570 ~~as a separate item on the invoice. To the extent required by~~  
571 ~~federal law, the term "sales price" does not include~~

572 5. Charges for Internet access services which are not  
573 itemized on the customer's bill, but which can be reasonably  
574 identified from the selling dealer's books and records kept in  
575 the regular course of business. The dealer may support the  
576 allocation of charges with books and records kept in the regular

577 course of business covering the dealer's entire service area,  
578 including territories outside this state.

579 (35)~~(25)~~ "Sea trial" means a voyage for the purpose of  
580 testing repair or modification work, which is in length and  
581 scope reasonably necessary to test repairs or modifications, or  
582 a voyage for the purpose of ascertaining the seaworthiness of a  
583 vessel. If the sea trial is to test repair or modification work,  
584 the owner or repair facility shall certify, in a form required  
585 by the department, what repairs have been tested. The owner and  
586 the repair facility may also be required to certify that the  
587 length and scope of the voyage were reasonably necessary to test  
588 the repairs or modifications.

589 (36) "Seller" means a person making sales, leases, or  
590 rentals of personal property or services.

591 (37)~~(26)~~ "Solar energy system" means the equipment and  
592 requisite hardware that provide and are used for collecting,  
593 transferring, converting, storing, or using incident solar  
594 energy for water heating, space heating, cooling, or other  
595 applications that would otherwise require the use of a  
596 conventional source of energy such as petroleum products,  
597 natural gas, manufactured gas, or electricity.

598 (38)~~(23)~~ "Space flight" means any flight designed for  
599 suborbital, orbital, or interplanetary travel of a space  
600 vehicle, satellite, or station of any kind.

601 (39)~~(22)~~ "Spaceport activities" means activities directed  
602 or sponsored by Space Florida on spaceport territory pursuant to  
603 its powers and responsibilities under the Space Florida Act.

604 (40)~~(18)~~ "Storage" means and includes any keeping or  
605 retention in this state of tangible personal property for use or

606 consumption in this state or for any purpose other than sale at  
607 retail in the regular course of business.

608 ~~(41)-(19)~~ "Tangible personal property" means and includes  
609 personal property which may be seen, weighed, measured, or  
610 touched or is in any manner perceptible to the senses, including  
611 electric power or energy, water, gas, steam, prewritten computer  
612 software, boats, motor vehicles and mobile homes as defined in  
613 s. 320.01(1) and (2), aircraft as defined in s. 330.27, and all  
614 other types of vehicles. The term "tangible personal property"  
615 does not include stocks, bonds, notes, insurance, or other  
616 obligations or securities or pari-mutuel tickets sold or issued  
617 under the racing laws of the state.

618 ~~(42)-(20)~~ "Use" means and includes the exercise of any  
619 right or power over tangible personal property incident to the  
620 ownership thereof, or interest therein, except that it does not  
621 include the sale at retail of that property in the regular  
622 course of business. The term "use" does not include the loan of  
623 an automobile by a motor vehicle dealer to a high school for use  
624 in its driver education and safety program. The term "use" does  
625 not include a contractor's use of "qualifying property" as  
626 defined by paragraph (14)(a).

627 ~~(43)-(21)~~ The term "use tax" referred to in this chapter  
628 includes the use, the consumption, the distribution, and the  
629 storage as herein defined.

630 Section 2. The amendment of the terms "lease," "let," and  
631 "rental" in s. 212.02, Florida Statutes, made by this act  
632 applies prospectively only, from January 1, 2009, and does not  
633 apply retroactively to leases or rentals existing before that  
634 date.

635 Section 3. Subsection (6) of section 212.0306, Florida  
 636 Statutes, is amended to read:

637 212.0306 Local option food and beverage tax; procedure for  
 638 levying; authorized uses; administration.--

639 (6) Any county levying a tax authorized by this section  
 640 must locally administer the tax using the powers and duties  
 641 enumerated for local administration of the tourist development  
 642 tax by s. 125.0104, 1992 Supplement to the Florida Statutes  
 643 1991. ~~The county's ordinance shall also provide for brackets~~  
 644 ~~applicable to taxable transactions.~~

645 Section 4. Paragraph (b) of subsection (1) of section  
 646 212.04, Florida Statutes, is amended to read:

647 212.04 Admissions tax; rate, procedure, enforcement.--

648 (1)

649 (b) For the exercise of such privilege, a tax is levied at  
 650 the rate of 6 percent of sales price, or the actual value  
 651 received from such admissions, which 6 percent shall be added to  
 652 and collected with all such admissions from the purchaser  
 653 thereof, and such tax shall be paid for the exercise of the  
 654 privilege as defined in the preceding paragraph. Each ticket  
 655 must show on its face the actual sales price of the admission,  
 656 or each dealer selling the admission must prominently display at  
 657 the box office or other place where the admission charge is made  
 658 a notice disclosing the price of the admission, and the tax  
 659 shall be computed and collected on the basis of the actual price  
 660 of the admission charged by the dealer. The sale price or actual  
 661 value of admission shall, for the purpose of this chapter, be  
 662 that price remaining after deduction of federal taxes and state  
 663 or locally imposed or authorized seat surcharges, taxes, or

664 fees, if any, imposed upon such admission. The sale price or  
665 actual value does not include separately stated ticket service  
666 charges that are imposed by a facility ticket office or a  
667 ticketing service and added to a separately stated, established  
668 ticket price. ~~The rate of tax on each admission shall be~~  
669 ~~according to the brackets established by s. 212.12(9).~~

670 Section 5. Paragraphs (c) and (e) of subsection (1) and  
671 subsection (4) of section 212.05, Florida Statutes, are amended  
672 to read:

673 212.05 Sales, storage, use tax.--It is hereby declared to  
674 be the legislative intent that every person is exercising a  
675 taxable privilege who engages in the business of selling  
676 tangible personal property at retail in this state, including  
677 ~~the business of making mail order sales,~~ or who rents or  
678 furnishes any of the things or services taxable under this  
679 chapter, or who stores for use or consumption in this state any  
680 item or article of tangible personal property as defined herein  
681 and who leases or rents such property within the state.

682 (1) For the exercise of such privilege, a tax is levied on  
683 each taxable transaction or incident, which tax is due and  
684 payable as follows:

685 (c) At the rate of 6 percent of the gross proceeds derived  
686 from the lease or rental of tangible personal property, as  
687 defined herein.; ~~however, the following special provisions apply~~  
688 ~~to the lease or rental of motor vehicles:~~

689 1. ~~When a motor vehicle is leased or rented for a period~~  
690 ~~of less than 12 months:~~

691 ~~a. If the motor vehicle is rented in Florida, the entire~~  
 692 ~~amount of such rental is taxable, even if the vehicle is dropped~~  
 693 ~~off in another state.~~

694 ~~b. If the motor vehicle is rented in another state and~~  
 695 ~~dropped off in Florida, the rental is exempt from Florida tax.~~

696 ~~2. Except as provided in subparagraph 3., for the lease or~~  
 697 ~~rental of a motor vehicle for a period of not less than 12~~  
 698 ~~months, sales tax is due on the lease or rental payments if the~~  
 699 ~~vehicle is registered in this state; provided, however, that no~~  
 700 ~~tax shall be due if the taxpayer documents use of the motor~~  
 701 ~~vehicle outside this state and tax is being paid on the lease or~~  
 702 ~~rental payments in another state.~~

703 ~~3. The tax imposed by this chapter does not apply to the~~  
 704 ~~lease or rental of a commercial motor vehicle as defined in s.~~  
 705 ~~316.003(66)(a) to one lessee or rentee for a period of not less~~  
 706 ~~than 12 months when tax was paid on the purchase price of such~~  
 707 ~~vehicle by the lessor. To the extent tax was paid with respect~~  
 708 ~~to the purchase of such vehicle in another state, territory of~~  
 709 ~~the United States, or the District of Columbia, the Florida tax~~  
 710 ~~payable shall be reduced in accordance with the provisions of s.~~  
 711 ~~212.06(7). This subparagraph shall only be available when the~~  
 712 ~~lease or rental of such property is an established business or~~  
 713 ~~part of an established business or the same is incidental or~~  
 714 ~~germane to such business.~~

715 (e)1. At the rate of 6 percent on charges for:

716 a. Prepaid calling arrangements. The tax on charges for  
 717 prepaid calling arrangements shall be collected at the time of  
 718 sale and remitted by the selling dealer.

719 (I) "Prepaid calling arrangement" means the separately  
720 stated retail sale by advance payment of communications services  
721 that consist exclusively of telephone calls originated by using  
722 an access number, authorization code, or other means that may be  
723 manually, electronically, or otherwise entered and that are sold  
724 in predetermined units or dollars whose number declines with use  
725 in a known amount.

726 (II) The sale or recharge of the prepaid calling  
727 arrangement is deemed to take place in accordance with s.  
728 212.06(3)(d). In the case of a sale of a mobile communications  
729 service that is a prepaid calling arrangement, the retail sale  
730 may be deemed to have occurred at ~~If the sale or recharge of the~~  
731 ~~prepaid calling arrangement does not take place at the dealer's~~  
732 ~~place of business, it shall be deemed to take place at the~~  
733 ~~customer's shipping address or, if no item is shipped, at the~~  
734 ~~customer's address or~~ the location associated with the  
735 customer's mobile telephone number.

736 (III) The sale or recharge of a prepaid calling  
737 arrangement shall be treated as a sale of tangible personal  
738 property for purposes of this chapter, whether or not a tangible  
739 item evidencing such arrangement is furnished to the purchaser,  
740 and such sale within this state subjects the selling dealer to  
741 the jurisdiction of this state for purposes of this subsection.

742 b. The installation of telecommunication and telegraphic  
743 equipment.

744 c. Electrical power or energy, except that the tax rate  
745 for charges for electrical power or energy is 7 percent.

746 2. The provisions of s. 212.17(3), regarding credit for  
747 tax paid on charges subsequently found to be worthless, shall be

748 equally applicable to any tax paid under the provisions of this  
749 section on charges for prepaid calling arrangements,  
750 telecommunication or telegraph services, or electric power  
751 subsequently found to be uncollectible. The word "charges" in  
752 this paragraph does not include any excise or similar tax levied  
753 by the Federal Government, any political subdivision of the  
754 state, or any municipality upon the purchase, sale, or recharge  
755 of prepaid calling arrangements or upon the purchase or sale of  
756 telecommunication, television system program, or telegraph  
757 service or electric power, which tax is collected by the seller  
758 from the purchaser.

759 ~~(4) The tax imposed pursuant to this chapter shall be due~~  
760 ~~and payable according to the brackets set forth in s. 212.12.~~

761 Section 6. Subsections (6) through (11) of section  
762 212.0506, Florida Statutes, are amended to read:

763 212.0506 Taxation of service warranties.--

764 ~~(6) This tax shall be due and payable according to the~~  
765 ~~brackets set forth in s. 212.12.~~

766 (6)~~(7)~~ This tax shall not apply to any portion of the  
767 consideration received by any person in connection with the  
768 issuance of any service warranty contract upon which such person  
769 is required to pay any premium tax imposed under the Florida  
770 Insurance Code or under s. 634.313(1).

771 (7)~~(8)~~ If a transaction involves both the issuance of a  
772 service warranty that is subject to such tax and the issuance of  
773 a warranty, guaranty, extended warranty or extended guaranty,  
774 contract, agreement, or other written promise that is not  
775 subject to such tax, the consideration shall be separately  
776 identified and stated with respect to the taxable and nontaxable

777 portions of the transaction. If the consideration is separately  
778 apportioned and identified in good faith, such tax shall apply  
779 to the transaction to the extent that the consideration received  
780 or to be received in connection with the transaction is payment  
781 for a service warranty subject to such tax. If the consideration  
782 is not apportioned in good faith, the department may reform the  
783 contract; such reformation by the department is to be considered  
784 prima facie correct, and the burden to show the contrary rests  
785 upon the dealer. If the consideration for such a transaction is  
786 not separately identified and stated, the entire transaction is  
787 taxable.

788 (8)~~(9)~~ Any claim which arises under a service warranty  
789 taxable under this section, which claim is paid directly by the  
790 person issuing such warranty, is not subject to any tax imposed  
791 under this chapter.

792 (9)~~(10)~~ Materials and supplies used in the performance of  
793 a factory or manufacturer's warranty are exempt if the contract  
794 is furnished at no extra charge with the equipment guaranteed  
795 thereunder and such materials and supplies are paid for by the  
796 factory or manufacturer.

797 (10)~~(11)~~ Any duties imposed by this chapter upon dealers  
798 of tangible personal property with respect to collecting and  
799 remitting taxes; making returns; keeping books, records, and  
800 accounts; and complying with the rules and regulations of the  
801 department apply to all dealers as defined in s. 212.06(2)(1).

802 Section 7. Section 212.054, Florida Statutes, is amended  
803 to read:

804 212.054 Discretionary sales surtax; limitations,  
805 administration, and collection.--

806 (1) No general excise tax on sales shall be levied by the  
807 governing body of any county unless specifically authorized in  
808 s. 212.055. Any general excise tax on sales authorized pursuant  
809 to said section shall be administered and collected exclusively  
810 as provided in this section.

811 (2)(a) The tax imposed by the governing body of any county  
812 authorized to so levy pursuant to s. 212.055 shall be a  
813 discretionary surtax on all transactions occurring in the county  
814 which transactions are subject to the state tax imposed on  
815 sales, use, services, rentals, admissions, and other  
816 transactions by this chapter and communications services as  
817 defined for purposes of chapter 202. The surtax, if levied,  
818 shall be computed as the applicable rate or rates authorized  
819 pursuant to s. 212.055 times the amount of taxable sales and  
820 taxable purchases representing such transactions. If the surtax  
821 is levied on the sale of an item of tangible personal property  
822 or on the sale of a service, the surtax shall be computed by  
823 multiplying the rate imposed by the county within which the sale  
824 occurs by the amount of the taxable sale. The sale of an item of  
825 tangible personal property or the sale of a service is not  
826 subject to the surtax if the property, the service, or the  
827 tangible personal property representing the service is delivered  
828 within a county that does not impose a discretionary sales  
829 surtax.

830 (b) However:

831 1. The sales amount above \$5,000 on a motor vehicle,  
832 aircraft, boat, manufactured home, or mobile home is ~~any item of~~  
833 ~~tangible personal property shall not be~~ subject to the surtax.  
834 ~~However, charges for prepaid calling arrangements, as defined in~~

835 ~~s. 212.05(1)(e)1.a., shall be subject to the surtax.~~ For  
836 purposes of administering the \$5,000 limitation ~~on an item of~~  
837 ~~tangible personal property~~, if two or more of such taxable items  
838 ~~of tangible personal property~~ are sold to the same purchaser at  
839 the same time and, under generally accepted business practice or  
840 industry standards or usage, are normally sold in bulk ~~or are~~  
841 ~~items that, when assembled, comprise a working unit or part of a~~  
842 ~~working unit~~, such items must be considered a single item for  
843 purposes of the \$5,000 limitation when supported by a charge  
844 ticket, sales slip, invoice, or other tangible evidence of a  
845 single sale or rental.

846 2. In the case of utility services covering a period  
847 starting before and ending after the effective date of the  
848 surtax, the rate applies as follows:

849 a. In the case of a rate adoption or increase, the new  
850 rate applies to the first billing period starting on or after  
851 the effective date of the surtax adoption or increase.

852 b. In the case of a rate decrease or termination, the new  
853 rate applies to bills rendered on or after the effective date of  
854 the rate change billed on or after the effective date of any  
855 ~~such surtax, the entire amount of the charge for utility~~  
856 ~~services shall be subject to the surtax. In the case of utility~~  
857 ~~services billed after the last day the surtax is in effect, the~~  
858 ~~entire amount of the charge on said items shall not be subject~~  
859 ~~to the surtax.~~

860  
861 "Utility service," as used in this section, does not include any  
862 communications services as defined in chapter 202.

863 3. In the case of written contracts which are signed prior  
864 to the effective date of any such surtax for the construction of  
865 improvements to real property or for remodeling of existing  
866 structures, the surtax shall be paid by the contractor  
867 responsible for the performance of the contract. However, the  
868 contractor may apply for one refund of any such surtax paid on  
869 materials necessary for the completion of the contract. Any  
870 application for refund shall be made no later than 15 months  
871 following initial imposition of the surtax in that county. The  
872 application for refund shall be in the manner prescribed by the  
873 department by rule. A complete application shall include proof  
874 of the written contract and of payment of the surtax. The  
875 application shall contain a sworn statement, signed by the  
876 applicant or its representative, attesting to the validity of  
877 the application. The department shall, within 30 days after  
878 approval of a complete application, certify to the county  
879 information necessary for issuance of a refund to the applicant.  
880 Counties are hereby authorized to issue refunds for this purpose  
881 and shall set aside from the proceeds of the surtax a sum  
882 sufficient to pay any refund lawfully due. Any person who  
883 fraudulently obtains or attempts to obtain a refund pursuant to  
884 this subparagraph, in addition to being liable for repayment of  
885 any refund fraudulently obtained plus a mandatory penalty of 100  
886 percent of the refund, is guilty of a felony of the third  
887 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
888 775.084.

889 4. In the case of any vessel, railroad, or motor vehicle  
890 common carrier entitled to partial exemption from tax imposed  
891 under this chapter pursuant to s. 212.08(4), (8), or (9), the

892 basis for imposition of surtax shall be the same as provided in  
 893 s. 212.08 and the ratio shall be applied each month to total  
 894 purchases in this state of property qualified for proration  
 895 which is delivered or sold in the taxing county to establish the  
 896 portion used and consumed in intracounty movement and subject to  
 897 surtax.

898 (3) Except as otherwise provided in this section, a surtax  
 899 applies to a retail sale, lease, or rental of tangible personal  
 900 property, a digital good, or a service when, under s. 212.06(3),  
 901 the transaction occurs in a county that imposes a surtax under  
 902 s. 212.055.

903 (4)(3) To determine whether a transaction occurs in a  
 904 county imposing a surtax, the following provisions apply ~~For the~~  
 905 ~~purpose of this section, a transaction shall be deemed to have~~  
 906 ~~occurred in a county imposing the surtax when:~~

907 ~~(a)1. The retail sale of a modular or manufactured home,~~  
 908 ~~not including a mobile home, occurs in the county to which the~~  
 909 ~~house is delivered includes an item of tangible personal~~  
 910 ~~property, a service, or tangible personal property representing~~  
 911 ~~a service, and the item of tangible personal property, the~~  
 912 ~~service, or the tangible personal property representing the~~  
 913 ~~service is delivered within the county. If there is no~~  
 914 ~~reasonable evidence of delivery of a service, the sale of a~~  
 915 ~~service is deemed to occur in the county in which the purchaser~~  
 916 ~~accepts the bill of sale.~~

917 ~~(b)2. The retail sale, excluding a lease or rental, of any~~  
 918 ~~motor vehicle that does not qualify as transportation equipment,~~  
 919 ~~as defined in s. 212.06(3)(g), or the retail sale of a of any~~  
 920 ~~motor vehicle or mobile home of a class or type that which is~~

921 required to be registered in this state or in any other state  
922 occurs ~~shall be deemed to have occurred only~~ in the county  
923 identified from ~~as~~ the residential ~~residence~~ address of the  
924 purchaser on the registration or title document for the ~~such~~  
925 property.

926 (c) A lease or rental of real property occurs in the  
927 county in which the real property is located. ~~The consumer of~~  
928 ~~utility services is located in the county.~~

929 (d)(h) A ~~The~~ transient rental transaction occurs in the  
930 county in which the rental property is located.

931 (e)(b) Admission charged for an event occurs ~~The event for~~  
932 ~~which an admission is charged is located~~ in the county in which  
933 the event is held.

934 (f) A transaction made from a coin-operated amusement or  
935 vending machine occurs in the county in which the machine is  
936 located.

937 (g)(m) An ~~The florist taking the~~ original order to sell  
938 tangible personal property taken by a florist occurs ~~is located~~  
939 in the county in which the florist taking the order is located,  
940 ~~notwithstanding any other provision of this section.~~

941 (h)(d)1. The retail sale, excluding a lease or rental, of  
942 any aircraft that does not qualify as transportation equipment,  
943 as defined in s. 212.06(3)(g), or of any boat of a class or type  
944 that is required to be registered, licensed, titled, or  
945 documented in this state or by the United States Government  
946 occurs in the county to which the aircraft<sup>2</sup> or boat is  
947 delivered.

948 2. The user of any aircraft or boat of a class or type  
949 that ~~which~~ is required to be registered, licensed, titled, or

950 documented in this state or by the United States Government  
951 imported into the county for use, consumption, distribution, or  
952 storage to be used or consumed occurs in the county in which the  
953 user is located ~~in the county~~.

954 ~~3.2-~~ However, it shall be presumed that such items used  
955 outside the county imposing the surtax for 6 months or longer  
956 before being imported into the county were not purchased for use  
957 in the county, except as provided in s. 212.06(8)(b).

958 ~~4.3-~~ This paragraph does not apply to the use or  
959 consumption of items upon which a like tax of equal or greater  
960 amount has been lawfully imposed and paid outside the county.

961 ~~(i)-(e)~~ The purchase purchaser of any motor vehicle or  
962 mobile home of a class or type that ~~which~~ is required to be  
963 registered in this state occurs in the county identified from  
964 the residential address of the purchaser ~~is a resident of the~~  
965 ~~taxing county as determined by the address appearing on or to be~~  
966 ~~reflected~~ on the registration document for the ~~such~~ property.

967 ~~(j)-(f)~~1. The use, consumption, distribution, or storage of  
968 a ~~Any~~ motor vehicle or mobile home of a class or type that ~~which~~  
969 is required to be registered in this state and that is imported  
970 from another state occurs in the county to which it is imported  
971 ~~into the taxing county by a user residing therein for the~~  
972 ~~purpose of use, consumption, distribution, or storage in the~~  
973 ~~taxing county~~.

974 2. However, it shall be presumed that such items used  
975 outside the taxing county for 6 months or longer before being  
976 imported into the county were not purchased for use in the  
977 county.

978 ~~(g) The real property which is leased or rented is located~~  
979 ~~in the county.~~

980 ~~(i) The delivery of any aircraft or boat of a class or~~  
981 ~~type which is required to be registered, licensed, titled, or~~  
982 ~~documented in this state or by the United States Government is~~  
983 ~~to a location in the county. However, this paragraph does not~~  
984 ~~apply to the use or consumption of items upon which a like tax~~  
985 ~~of equal or greater amount has been lawfully imposed and paid~~  
986 ~~outside the county.~~

987 (k)-(j) A transaction occurs in a county imposing the  
988 surtax when the dealer owing a use tax on purchases or leases is  
989 located in the county.

990 ~~(k) The delivery of tangible personal property other than~~  
991 ~~that described in paragraph (d), paragraph (e), or paragraph (f)~~  
992 ~~is made to a location outside the county, but the property is~~  
993 ~~brought into the county within 6 months after delivery, in which~~  
994 ~~event, the owner must pay the surtax as a use tax.~~

995 ~~(l) The coin operated amusement or vending machine is~~  
996 ~~located in the county.~~

997 (5)-(4)(a) The department shall administer, collect, and  
998 enforce the tax authorized under s. 212.055 pursuant to the same  
999 procedures used in the administration, collection, and  
1000 enforcement of the general state sales tax imposed under the  
1001 provisions of this chapter, except as provided in this section.  
1002 The provisions of this chapter regarding interest and penalties  
1003 on delinquent taxes shall apply to the surtax. Discretionary  
1004 sales surtaxes shall not be included in the computation of  
1005 estimated taxes pursuant to s. 212.11. Notwithstanding any other  
1006 provision of law, a dealer need not separately state the amount

1007 of the surtax on the charge ticket, sales slip, invoice, or  
1008 other tangible evidence of sale. For the purposes of this  
1009 section and s. 212.055, the "proceeds" of any surtax means all  
1010 funds collected and received by the department pursuant to a  
1011 specific authorization and levy under s. 212.055, including any  
1012 interest and penalties on delinquent surtaxes.

1013 (b) The proceeds of a discretionary sales surtax collected  
1014 by the selling dealer located in a county which imposes the  
1015 surtax shall be returned, less the cost of administration, to  
1016 the county where the selling dealer is located. The proceeds  
1017 shall be transferred to the Discretionary Sales Surtax Clearing  
1018 Trust Fund. A separate account shall be established in such  
1019 trust fund for each county imposing a discretionary surtax. The  
1020 amount deducted for the costs of administration shall not exceed  
1021 3 percent of the total revenue generated for all counties  
1022 levying a surtax authorized in s. 212.055. The amount deducted  
1023 for the costs of administration shall be used only for those  
1024 costs which are solely and directly attributable to the surtax.  
1025 The total cost of administration shall be prorated among those  
1026 counties levying the surtax on the basis of the amount collected  
1027 for a particular county to the total amount collected for all  
1028 counties. No later than March 1 of each year, the department  
1029 shall submit a written report which details the expenses and  
1030 amounts deducted for the costs of administration to the  
1031 President of the Senate, the Speaker of the House of  
1032 Representatives, and the governing authority of each county  
1033 levying a surtax. The department shall distribute the moneys in  
1034 the trust fund each month to the appropriate counties, unless  
1035 otherwise provided in s. 212.055.

1036 (c)1. Any dealer located in a county that does not impose  
1037 a discretionary sales surtax but who collects the surtax due to  
1038 sales of tangible personal property or services delivered  
1039 outside the county shall remit monthly the proceeds of the  
1040 surtax to the department to be deposited into an account in the  
1041 Discretionary Sales Surtax Clearing Trust Fund which is separate  
1042 from the county surtax collection accounts. The department shall  
1043 distribute funds in this account using a distribution factor  
1044 determined for each county that levies a surtax and multiplied  
1045 by the amount of funds in the account and available for  
1046 distribution. The distribution factor for each county equals the  
1047 product of:

1048 a. The county's latest official population determined  
1049 pursuant to s. 186.901;

1050 b. The county's rate of surtax; and

1051 c. The number of months the county has levied a surtax  
1052 during the most recent distribution period;

1053  
1054 divided by the sum of all such products of the counties levying  
1055 the surtax during the most recent distribution period.

1056 2. The department shall compute distribution factors for  
1057 eligible counties once each quarter and make appropriate  
1058 quarterly distributions.

1059 3. A county that fails to timely provide the information  
1060 required by this section to the department authorizes the  
1061 department, by such action, to use the best information  
1062 available to it in distributing surtax revenues to the county.  
1063 If this information is unavailable to the department, the  
1064 department may partially or entirely disqualify the county from

1065 receiving surtax revenues under this paragraph. A county that  
1066 fails to provide timely information waives its right to  
1067 challenge the department's determination of the county's share,  
1068 if any, of revenues provided under this paragraph.

1069 ~~(5) No discretionary sales surtax or increase or decrease~~  
1070 ~~in the rate of any discretionary sales surtax shall take effect~~  
1071 ~~on a date other than January 1. No discretionary sales surtax~~  
1072 ~~shall terminate on a day other than December 31.~~

1073 (6) The governing body of any county levying a  
1074 discretionary sales surtax shall enact an ordinance levying the  
1075 surtax in accordance with the procedures described in s.  
1076 125.66(2).

1077 (7)(a) Any adoption, repeal, or rate change of the surtax  
1078 by the governing body of any county levying a discretionary  
1079 sales surtax or the school board of any county levying the  
1080 school capital outlay surtax authorized by s. 212.055(6) is  
1081 effective on January 1. A county or school board adopting,  
1082 repealing, or changing the rate of such tax shall notify the  
1083 department within 10 days after final adoption by ordinance or  
1084 referendum of an adoption, repeal imposition, termination, or  
1085 rate change of the surtax, but no later than October 20 ~~November~~  
1086 ~~16~~ immediately preceding such April 1 ~~prior to the effective~~  
1087 ~~date~~. The notice must specify the time period during which the  
1088 surtax will be in effect and the rate and must include a copy of  
1089 the ordinance and such other information as the department  
1090 requires by rule. Failure to timely provide such notification to  
1091 the department shall result in the delay of the effective date  
1092 for a period of 1 year.

1093 (b) In addition to the notification required by paragraph  
1094 (a), the governing body of any county proposing to levy a  
1095 discretionary sales surtax or the school board of any county  
1096 proposing to levy the school capital outlay surtax authorized by  
1097 s. 212.055(6) shall notify the department by October 1 if the  
1098 referendum or consideration of the ordinance that would result  
1099 in imposition, termination, or rate change of the surtax is  
1100 scheduled to occur on or after October 1 of that year. Failure  
1101 to timely provide such notification to the department shall  
1102 result in the delay of the effective date for a period of 1  
1103 year.

1104 (c) The department shall provide notice of the adoption,  
1105 repeal, or rate change of the surtax to affected sellers by  
1106 November 1 immediately preceding the January 1 effective date.

1107 (d) Notwithstanding any ordinance provision to the  
1108 contrary regarding the termination date of a surtax, a surtax  
1109 may be terminated only on a March 31st. A surtax imposed before  
1110 January 1, 2009, for which an ordinance provides a different  
1111 termination date shall terminate on the March 31st following the  
1112 termination date established in the ordinance.

1113 (8) With respect to any motor vehicle or mobile home of a  
1114 class or type which is required to be registered in this state,  
1115 the tax due on a transaction occurring in the taxing county as  
1116 herein provided shall be collected from the purchaser or user  
1117 incident to the titling and registration of such property,  
1118 irrespective of whether such titling or registration occurs in  
1119 the taxing county.

1120 (9) The executive director is authorized to certify vendor  
1121 databases and to purchase, or otherwise make available, a

1122 database, or databases, singly or in combination, that describe  
1123 boundary changes for all taxing jurisdictions, including a  
1124 description of the change and the effective date of a boundary  
1125 change, that provide all sales and use tax rates by  
1126 jurisdiction, that assign to each five digit and nine digit zip  
1127 code the proper rate and jurisdiction and apply the lowest  
1128 combined rate imposed in the zip code area if the area includes  
1129 more than one tax rate in any level of taxing jurisdiction and  
1130 that use address-based boundary database records for assigning  
1131 taxing jurisdictions and associated tax rates.

1132 (a) A seller or certified service provider that collects  
1133 and remits the state tax and any local tax imposed by this  
1134 chapter shall be held harmless from any tax, interest, and  
1135 penalties due solely as a result of relying on erroneous data on  
1136 tax rates, boundaries, or taxing jurisdiction assignments  
1137 provided by the state if the seller or certified service  
1138 provider exercises due diligence in applying one or more of the  
1139 following methods to determine the taxing jurisdiction and tax  
1140 rate for a transaction:

1141 1. Employing an electronic database provided by the  
1142 department under subsection (9); or

1143 2. Employing a state certified database.

1144 (b) If a seller or certified service provider is unable to  
1145 determine the applicable rate and jurisdiction using an address-  
1146 based database record after exercising due diligence, the seller  
1147 or certified service provider may apply the nine digit zip code  
1148 designation applicable to a purchaser.

1149 (c) If a nine digit zip code designation is not available  
1150 for a street address or if a seller or certified service

1151 provider is unable to determine the nine digit zip code  
1152 designation applicable to a purchase after exercising due  
1153 diligence to determine the designation, the seller or certified  
1154 service provider may apply the rate for the five digit zip code  
1155 area.

1156 (d) There is a rebuttable presumption that a seller or  
1157 certified service provider has exercised due diligence if the  
1158 seller or certified service provider has attempted to determine  
1159 the tax rate and jurisdiction by using state certified software  
1160 that makes this assignment from the address and zip code  
1161 information applicable to the purchase.

1162 (e) There is a rebuttable presumption that a seller or  
1163 certified service provider has exercised due diligence if the  
1164 seller has attempted to determine the nine digit zip code  
1165 designation by using state certified software that makes this  
1166 designation from the street address and the five digit zip code  
1167 applicable to a purchase.

1168 (f) If a seller or certified service provider does not use  
1169 one of the methods specified in paragraph (a), the seller or  
1170 certified service provider may be held liable to the department  
1171 for tax, interest, and penalties that are due for charging and  
1172 collecting the incorrect amount of tax.

1173 (10) A purchaser shall be held harmless from tax, interest  
1174 and penalties for having failed to pay the correct amount of  
1175 sales or use tax due solely as a result of any of the following  
1176 circumstances:

1177 (a) The seller or certified service provider relied on  
1178 erroneous data on tax rates, boundaries, or taxing jurisdiction  
1179 assignments provided by the state;

1180 (b) A purchaser holding a direct pay permit relied on  
 1181 erroneous data on tax rates, boundaries, or taxing jurisdiction  
 1182 assignments provided by the state; or

1183 (c) A purchaser relied on erroneous data supplied in a  
 1184 database described in (9)(a).

1185 Section 8. Section 212.0596, Florida Statutes, is amended  
 1186 to read:

1187 ~~212.0596 Taxation of mail order sales.—~~

1188 ~~(1) For purposes of this chapter, a "mail order sale" is a~~  
 1189 ~~sale of tangible personal property, ordered by mail or other~~  
 1190 ~~means of communication, from a dealer who receives the order in~~  
 1191 ~~another state of the United States, or in a commonwealth,~~  
 1192 ~~territory, or other area under the jurisdiction of the United~~  
 1193 ~~States, and transports the property or causes the property to be~~  
 1194 ~~transported, whether or not by mail, from any jurisdiction of~~  
 1195 ~~the United States, including this state, to a person in this~~  
 1196 ~~state, including the person who ordered the property.~~

1197 ~~(2) Every dealer as defined in s. 212.06(2)(c) who makes a~~  
 1198 ~~mail order sale is subject to the power of this state to levy~~  
 1199 ~~and collect the tax imposed by this chapter when:~~

1200 ~~(a) The dealer is a corporation doing business under the~~  
 1201 ~~laws of this state or a person domiciled in, a resident of, or a~~  
 1202 ~~citizen of, this state;~~

1203 ~~(b) The dealer maintains retail establishments or offices~~  
 1204 ~~in this state, whether the mail order sales thus subject to~~  
 1205 ~~taxation by this state result from or are related in any other~~  
 1206 ~~way to the activities of such establishments or offices;~~

1207 ~~(c) The dealer has agents in this state who solicit~~  
 1208 ~~business or transact business on behalf of the dealer, whether~~

1209 ~~the mail order sales thus subject to taxation by this state~~  
1210 ~~result from or are related in any other way to such solicitation~~  
1211 ~~or transaction of business, except that a printer who mails or~~  
1212 ~~delivers for an out of state print purchaser material the~~  
1213 ~~printer printed for it shall not be deemed to be the print~~  
1214 ~~purchaser's agent for purposes of this paragraph;~~

1215 ~~(d) The property was delivered in this state in~~  
1216 ~~fulfillment of a sales contract that was entered into in this~~  
1217 ~~state, in accordance with applicable conflict of laws rules,~~  
1218 ~~when a person in this state accepted an offer by ordering the~~  
1219 ~~property;~~

1220 ~~(e) The dealer, by purposefully or systematically~~  
1221 ~~exploiting the market provided by this state by any media-~~  
1222 ~~assisted, media facilitated, or media solicited means,~~  
1223 ~~including, but not limited to, direct mail advertising,~~  
1224 ~~unsolicited distribution of catalogs, computer assisted~~  
1225 ~~shopping, television, radio, or other electronic media, or~~  
1226 ~~magazine or newspaper advertisements or other media, creates~~  
1227 ~~nexus with this state;~~

1228 ~~(f) Through compact or reciprocity with another~~  
1229 ~~jurisdiction of the United States, that jurisdiction uses its~~  
1230 ~~taxing power and its jurisdiction over the retailer in support~~  
1231 ~~of this state's taxing power;~~

1232 ~~(g) The dealer consents, expressly or by implication, to~~  
1233 ~~the imposition of the tax imposed by this chapter;~~

1234 ~~(h) The dealer is subject to service of process under s.~~  
1235 ~~48.181;~~

1236 ~~(i) The dealer's mail order sales are subject to the power~~  
1237 ~~of this state to tax sales or to require the dealer to collect~~  
1238 ~~use taxes under a statute or statutes of the United States;~~

1239 ~~(j) The dealer owns real property or tangible personal~~  
1240 ~~property that is physically in this state, except that a dealer~~  
1241 ~~whose only property (including property owned by an affiliate)~~  
1242 ~~in this state is located at the premises of a printer with which~~  
1243 ~~the vendor has contracted for printing, and is either a final~~  
1244 ~~printed product, or property which becomes a part of the final~~  
1245 ~~printed product, or property from which the printed product is~~  
1246 ~~produced, is not deemed to own such property for purposes of~~  
1247 ~~this paragraph;~~

1248 ~~(k) The dealer, while not having nexus with this state on~~  
1249 ~~any of the bases described in paragraphs (a) (j) or paragraph~~  
1250 ~~(l), is a corporation that is a member of an affiliated group of~~  
1251 ~~corporations, as defined in s. 1504(a) of the Internal Revenue~~  
1252 ~~Code, whose members are includable under s. 1504(b) of the~~  
1253 ~~Internal Revenue Code and whose members are eligible to file a~~  
1254 ~~consolidated tax return for federal corporate income tax~~  
1255 ~~purposes and any parent or subsidiary corporation in the~~  
1256 ~~affiliated group has nexus with this state on one or more of the~~  
1257 ~~bases described in paragraphs (a) (j) or paragraph (l); or~~

1258 ~~(l) The dealer or the dealer's activities have sufficient~~  
1259 ~~connection with or relationship to this state or its residents~~  
1260 ~~of some type other than those described in paragraphs (a) (k) to~~  
1261 ~~create nexus empowering this state to tax its mail order sales~~  
1262 ~~or to require the dealer to collect sales tax or accrue use tax.~~

1263 ~~(3) Every dealer engaged in the business of making mail~~  
1264 ~~order sales is subject to the requirements of this chapter for~~

1265 ~~cooperation of dealers in collection of taxes and in~~  
1266 ~~administration of this chapter, except that no fee shall be~~  
1267 ~~imposed upon such dealer for carrying out any required activity.~~

1268 ~~(4) The department shall, with the consent of another~~  
1269 ~~jurisdiction of the United States whose cooperation is needed,~~  
1270 ~~enforce this chapter in that jurisdiction, either directly or,~~  
1271 ~~at the option of that jurisdiction, through its officers or~~  
1272 ~~employees.~~

1273 ~~(5) The tax required under this section to be collected~~  
1274 ~~and any amount unreturned to a purchaser that is not tax but was~~  
1275 ~~collected from the purchaser under the representation that it~~  
1276 ~~was tax constitute funds of the State of Florida from the moment~~  
1277 ~~of collection.~~

1278 ~~(6) Notwithstanding other provisions of law, a dealer who~~  
1279 ~~makes a mail order sale in this state is exempt from collecting~~  
1280 ~~and remitting any local option surtax on the sale, unless the~~  
1281 ~~dealer is located in a county that imposes a surtax within the~~  
1282 ~~meaning of s. 212.054(3)(a), the order is placed through the~~  
1283 ~~dealer's location in such county, and the property purchased is~~  
1284 ~~delivered into such county or into another county in this state~~  
1285 ~~that levies the surtax, in which case the provisions of s.~~  
1286 ~~212.054(3)(a) are applicable.~~

1287 ~~(7) The department may establish by rule procedures for~~  
1288 ~~collecting the use tax from unregistered persons who but for~~  
1289 ~~their mail order purchases would not be required to remit sales~~  
1290 ~~or use tax directly to the department. The procedures may~~  
1291 ~~provide for waiver of registration and registration fees,~~  
1292 ~~provisions for irregular remittance of tax, elimination of the~~

1293 ~~collection allowance, and nonapplication of local option~~  
 1294 ~~surtaxes.~~

1295 Section 9. Paragraph (c) of subsection (2), subsection  
 1296 (3), and paragraph (a) of subsection (5) of section 212.06,  
 1297 Florida Statutes, are amended, and subsection (17) is added to  
 1298 that section, to read:

1299 212.06 Sales, storage, use tax; collectible from dealers;  
 1300 "dealer" defined; dealers to collect from purchasers;  
 1301 legislative intent as to scope of tax.--

1302 (2)

1303 (c) The term "dealer" is further defined to mean every  
 1304 person, as used in this chapter, who sells at retail or who  
 1305 offers for sale at retail, or who has in his or her possession  
 1306 for sale at retail; or for use, consumption, or distribution; or  
 1307 for storage to be used or consumed in this state, tangible  
 1308 personal property as defined herein, ~~including a retailer who~~  
 1309 ~~transacts a mail order sale.~~

1310 (3)(a) Except as provided in paragraph (b), every dealer  
 1311 making sales, whether within or outside the state, of tangible  
 1312 personal property for distribution, storage, or use or other  
 1313 consumption, in this state, shall, at the time of making sales,  
 1314 collect the tax imposed by this chapter from the purchaser.

1315 (b)1. Notwithstanding subsection (17), a purchaser of  
 1316 direct mail which is not a holder of a direct-pay permit shall  
 1317 provide to the seller in conjunction with the purchase a direct  
 1318 mail form or information to show the jurisdictions to which the  
 1319 direct mail is delivered to recipients. Upon receipt of the  
 1320 direct mail form, the seller is relieved of all obligations to  
 1321 collect, pay, or remit the applicable tax, and the purchaser is

1322 obligated to pay or remit the applicable tax on a direct-pay  
 1323 basis. A direct mail form remains in effect for all future sales  
 1324 of direct mail by the seller to the purchaser until it is  
 1325 revoked in writing.

1326 2. Upon receipt of information from the purchaser showing  
 1327 the jurisdictions to which the direct mail is delivered to  
 1328 recipients, the seller shall collect the tax according to the  
 1329 delivery information provided by the purchaser. In the absence  
 1330 of bad faith, the seller is relieved of any further obligation  
 1331 to collect tax on any transaction for which the seller has  
 1332 collected tax pursuant to the delivery information provided by  
 1333 the purchaser.

1334 3. If the purchaser of direct mail does not have a direct-  
 1335 pay permit and does not provide the seller with a direct mail  
 1336 form or delivery information as required by subparagraph 1., the  
 1337 seller shall collect the tax according to subparagraph (17)(d)5.  
 1338 This paragraph does not limit a purchaser's obligation for sales  
 1339 or use tax to any state to which the direct mail is delivered.

1340 4. If a purchaser of direct mail provides the seller with  
 1341 documentation of direct-pay authority, the purchaser is not  
 1342 required to provide a direct mail form or delivery information  
 1343 to the seller ~~A purchaser of printed materials shall have sole~~  
 1344 ~~responsibility for the taxes imposed by this chapter on those~~  
 1345 ~~materials when the printer of the materials delivers them to the~~  
 1346 ~~United States Postal Service for mailing to persons other than~~  
 1347 ~~the purchaser located within and outside this state. Printers of~~  
 1348 ~~materials delivered by mail to persons other than the purchaser~~  
 1349 ~~located within and outside this state shall have no obligation~~  
 1350 ~~or responsibility for the payment or collection of any taxes~~

1351 ~~imposed under this chapter on those materials. However, printers~~  
1352 ~~are obligated to collect the taxes imposed by this chapter on~~  
1353 ~~printed materials when all, or substantially all, of the~~  
1354 ~~materials will be mailed to persons located within this state.~~  
1355 ~~For purposes of the printer's tax collection obligation, there~~  
1356 ~~is a rebuttable presumption that all materials printed at a~~  
1357 ~~facility are mailed to persons located within the same state as~~  
1358 ~~that in which the facility is located. A certificate provided by~~  
1359 ~~the purchaser to the printer concerning the delivery of the~~  
1360 ~~printed materials for that purchase or all purchases shall be~~  
1361 ~~sufficient for purposes of rebutting the presumption created~~  
1362 ~~herein.~~

1363 5.2. The Department of Revenue is authorized to adopt  
1364 rules and forms to implement the provisions of this paragraph.

1365 (5) (a) ~~1. Except as provided in subparagraph 2.,~~ It is not  
1366 the intention of this chapter to levy a tax upon tangible  
1367 personal property imported, produced, or manufactured in this  
1368 state for export, provided that tangible personal property may  
1369 not be considered as being imported, produced, or manufactured  
1370 for export unless the importer, producer, or manufacturer  
1371 delivers the same to a licensed exporter for exporting or to a  
1372 common carrier for shipment outside the state or mails the same  
1373 by United States mail to a destination outside the state; or, in  
1374 the case of aircraft being exported under their own power to a  
1375 destination outside the continental limits of the United States,  
1376 by submission to the department of a duly signed and validated  
1377 United States customs declaration, showing the departure of the  
1378 aircraft from the continental United States; and further with  
1379 respect to aircraft, the canceled United States registry of said

1380 aircraft; or in the case of parts and equipment installed on  
1381 aircraft of foreign registry, by submission to the department of  
1382 documentation, the extent of which shall be provided by rule,  
1383 showing the departure of the aircraft from the continental  
1384 United States; nor is it the intention of this chapter to levy a  
1385 tax on any sale which the state is prohibited from taxing under  
1386 the Constitution or laws of the United States. Every retail sale  
1387 made to a person physically present at the time of sale shall be  
1388 presumed to have been delivered in this state.

1389 ~~2.a. Notwithstanding subparagraph 1., a tax is levied on~~  
1390 ~~each sale of tangible personal property to be transported to a~~  
1391 ~~cooperating state as defined in sub-subparagraph c., at the rate~~  
1392 ~~specified in sub-subparagraph d. However, a Florida dealer will~~  
1393 ~~be relieved from the requirements of collecting taxes pursuant~~  
1394 ~~to this subparagraph if the Florida dealer obtains from the~~  
1395 ~~purchaser an affidavit setting forth the purchaser's name,~~  
1396 ~~address, state taxpayer identification number, and a statement~~  
1397 ~~that the purchaser is aware of his or her state's use tax laws,~~  
1398 ~~is a registered dealer in Florida or another state, or is~~  
1399 ~~purchasing the tangible personal property for resale or is~~  
1400 ~~otherwise not required to pay the tax on the transaction. The~~  
1401 ~~department may, by rule, provide a form to be used for the~~  
1402 ~~purposes set forth herein.~~

1403 ~~b. For purposes of this subparagraph, "a cooperating~~  
1404 ~~state" is one determined by the executive director of the~~  
1405 ~~department to cooperate satisfactorily with this state in~~  
1406 ~~collecting taxes on mail order sales. No state shall be so~~  
1407 ~~determined unless it meets all the following minimum~~  
1408 ~~requirements:~~

1409 ~~(I) It levies and collects taxes on mail order sales of~~  
1410 ~~property transported from that state to persons in this state,~~  
1411 ~~as described in s. 212.0596, upon request of the department.~~

1412 ~~(II) The tax so collected shall be at the rate specified~~  
1413 ~~in s. 212.05, not including any local option or tourist or~~  
1414 ~~convention development taxes collected pursuant to s. 125.0104~~  
1415 ~~or this chapter.~~

1416 ~~(III) Such state agrees to remit to the department all~~  
1417 ~~taxes so collected no later than 30 days from the last day of~~  
1418 ~~the calendar quarter following their collection.~~

1419 ~~(IV) Such state authorizes the department to audit dealers~~  
1420 ~~within its jurisdiction who make mail order sales that are the~~  
1421 ~~subject of s. 212.0596, or makes arrangements deemed adequate by~~  
1422 ~~the department for auditing them with its own personnel.~~

1423 ~~(V) Such state agrees to provide to the department records~~  
1424 ~~obtained by it from retailers or dealers in such state showing~~  
1425 ~~delivery of tangible personal property into this state upon~~  
1426 ~~which no sales or use tax has been paid in a manner similar to~~  
1427 ~~that provided in sub subparagraph g.~~

1428 ~~e. For purposes of this subparagraph, "sales of tangible~~  
1429 ~~personal property to be transported to a cooperating state"~~  
1430 ~~means mail order sales to a person who is in the cooperating~~  
1431 ~~state at the time the order is executed, from a dealer who~~  
1432 ~~receives that order in this state.~~

1433 ~~d. The tax levied by sub subparagraph a. shall be at the~~  
1434 ~~rate at which such a sale would have been taxed pursuant to the~~  
1435 ~~cooperating state's tax laws if consummated in the cooperating~~  
1436 ~~state by a dealer and a purchaser, both of whom were physically~~  
1437 ~~present in that state at the time of the sale.~~

1438 ~~e. The tax levied by sub subparagraph a., when collected,~~  
 1439 ~~shall be held in the State Treasury in trust for the benefit of~~  
 1440 ~~the cooperating state and shall be paid to it at a time agreed~~  
 1441 ~~upon between the department, acting for this state, and the~~  
 1442 ~~cooperating state or the department or agency designated by it~~  
 1443 ~~to act for it; however, such payment shall in no event be made~~  
 1444 ~~later than 30 days from the last day of the calendar quarter~~  
 1445 ~~after the tax was collected. Funds held in trust for the benefit~~  
 1446 ~~of a cooperating state shall not be subject to the service~~  
 1447 ~~charges imposed by s. 215.20.~~

1448 ~~f. The department is authorized to perform such acts and~~  
 1449 ~~to provide such cooperation to a cooperating state with~~  
 1450 ~~reference to the tax levied by sub subparagraph a. as is~~  
 1451 ~~required of the cooperating state by sub subparagraph b.~~

1452 ~~g. In furtherance of this act, dealers selling tangible~~  
 1453 ~~personal property for delivery in another state shall make~~  
 1454 ~~available to the department, upon request of the department,~~  
 1455 ~~records of all tangible personal property so sold. Such records~~  
 1456 ~~shall include a description of the property, the name and~~  
 1457 ~~address of the purchaser, the name and address of the person to~~  
 1458 ~~whom the property was sent, the purchase price of the property,~~  
 1459 ~~information regarding whether sales tax was paid in this state~~  
 1460 ~~on the purchase price, and such other information as the~~  
 1461 ~~department may by rule prescribe.~~

1462 (17) This subsection shall be used to determine the  
 1463 location where a transaction occurs for purposes of applying the  
 1464 tax imposed by this chapter.

1465 (a) For purposes of this subsection, the terms "receive"  
 1466 and "receipt" mean:

- 1467 1. Taking possession of tangible personal property;
- 1468 2. Making first use of services; or
- 1469 3. Taking possession or making first use of digital goods,
- 1470 whichever occurs first.

1471

1472 The terms do not include possession by a shipping company on

1473 behalf of the purchaser.

1474 (b) For purposes of this subsection, the term "product"

1475 means tangible personal property, a digital good, or a service.

1476 (c) This section does not apply to the sales or use taxes

1477 levied on:

1478 1. The retail sale or transfer of a boat, modular home,

1479 manufactured home, or mobile home.

1480 2. The retail sale, excluding a lease or rental, of a

1481 motor vehicle or aircraft that does not qualify as

1482 transportation equipment, as defined in paragraph (g). The lease

1483 or rental of these items shall be deemed to have occurred in

1484 accordance with paragraph (f).

1485 3. The retail sale of tangible personal property by a

1486 florist.

1487

1488 Such retail sales are deemed to take place at the location

1489 determined under s. 212.054(4).

1490 (d) The retail sale of a product, excluding a lease or

1491 rental, shall be deemed to take place:

1492 1. When the product is received by the purchaser at a

1493 business location of the seller, at that business location;

1494 2. When the product is not received by the purchaser at a

1495 business location of the seller, at the location where receipt

1496 by the purchaser, or the purchaser's donee, designated as such  
1497 by the purchaser, occurs, including the location indicated by  
1498 instructions for delivery to the purchaser or donee, known to  
1499 the seller;

1500 3. When subparagraphs 1. and 2. do not apply, at the  
1501 location indicated by an address for the purchaser which is  
1502 available from the business records of the seller which are  
1503 maintained in the ordinary course of the seller's business, when  
1504 use of this address does not constitute bad faith;

1505 4. When subparagraphs 1., 2., and 3. do not apply, at the  
1506 location indicated by an address for the purchaser obtained  
1507 during the consummation of the sale, including the address of a  
1508 purchaser's payment instrument, if no other address is  
1509 available, when use of this address does not constitute bad  
1510 faith; or

1511 5. When subparagraphs 1., 2., 3., and 4. do not apply,  
1512 including when the seller is without sufficient information to  
1513 apply the previous paragraphs, the address from which tangible  
1514 personal property was shipped, from which the digital good or  
1515 the computer software delivered electronically was first  
1516 available for transmission by the seller, or from which the  
1517 service was provided, disregarding any location that merely  
1518 provided the digital transfer of the product sold.

1519 (e) The lease or rental of tangible personal property,  
1520 other than property identified in paragraphs (f) and (g), shall  
1521 be deemed to have occurred as follows:

1522 1. For a lease or rental that requires recurring periodic  
1523 payments, the first periodic payment is deemed to take place in  
1524 accordance with paragraph (d), notwithstanding the exclusion of

1525 lease or rental in paragraph (d). Subsequent periodic payments  
1526 are deemed to have occurred at the primary property location for  
1527 each period covered by the payment. The primary property  
1528 location is determined by an address for the property provided  
1529 by the lessee which is available to the lessor from its records  
1530 maintained in the ordinary course of business, when use of this  
1531 address does not constitute bad faith. The property location is  
1532 not altered by intermittent use of the property at different  
1533 locations, such as use of business property that accompanies  
1534 employees on business trips and service calls.

1535 2. For a lease or rental that does not require recurring  
1536 periodic payments, the payment is deemed to take place in  
1537 accordance with paragraph (d), notwithstanding the exclusion of  
1538 a lease or rental in paragraph (d).

1539 3. This paragraph does not affect the imposition or  
1540 computation of sales or use tax on leases or rentals based on a  
1541 lump sum or accelerated basis or on the acquisition of property  
1542 for lease.

1543 (f) The lease or rental of a motor vehicle or aircraft  
1544 that does not qualify as transportation equipment, as defined in  
1545 paragraph (g), shall be sourced as follows:

1546 1. For a lease or rental that requires recurring periodic  
1547 payments, each periodic payment is deemed to take place at the  
1548 primary property location. The primary property location shall  
1549 be determined by an address for the property provided by the  
1550 lessee which is available to the lessor from its records  
1551 maintained in the ordinary course of business, when use of this  
1552 address does not constitute bad faith. This location may not be  
1553 altered by intermittent use at different locations.

1554 2. For a lease or rental that does not require recurring  
1555 periodic payments, the payment is deemed to take place in  
1556 accordance with paragraph (d), notwithstanding the exclusion of  
1557 a lease or rental in paragraph (d).

1558 3. This paragraph does not affect the imposition or  
1559 computation of sales or use tax on leases or rentals based on a  
1560 lump sum or accelerated basis or on the acquisition of property  
1561 for lease.

1562 (g) The retail sale, including a lease or rental, of  
1563 transportation equipment shall be deemed to take place in  
1564 accordance with paragraph (d), notwithstanding the exclusion of  
1565 a lease or rental in paragraph (d). The term "transportation  
1566 equipment" means:

1567 1. Locomotives and rail cars that are used for the  
1568 carriage of persons or property in interstate commerce;

1569 2. Trucks and truck tractors with a Gross Vehicle Weight  
1570 Rating (GVWR) of 10,001 pounds or greater, trailers,  
1571 semitrailers, or passenger buses that are registered through the  
1572 International Registration Plan and operated under authority of  
1573 a carrier authorized and certificated by the United States  
1574 Department of Transportation or another federal authority to  
1575 engage in the carriage of persons or property in interstate  
1576 commerce;

1577 3. Aircraft that are operated by air carriers authorized  
1578 and certificated by the United States Department of  
1579 Transportation or another federal or a foreign authority to  
1580 engage in the carriage of persons or property in interstate or  
1581 foreign commerce; or

1582 4. Containers designed for use on and component parts  
 1583 attached or secured on the items set forth in subparagraphs 1.  
 1584 through 3.

1585 Section 10. Paragraph (c) of subsection (1) of section  
 1586 212.07, Florida Statutes, is amended, and subsection (10) is  
 1587 added to that section to read:

1588 212.07 Sales, storage, use tax; tax added to purchase  
 1589 price; dealer not to absorb; liability of purchasers who cannot  
 1590 prove payment of the tax; penalties; general exemptions.—

1591 (1)

1592 (c) Unless the purchaser of tangible personal property  
 1593 that is incorporated into tangible personal property  
 1594 manufactured, produced, compounded, processed, or fabricated for  
 1595 one's own use and subject to the tax imposed under s.  
 1596 212.06(1)(b) or is purchased for export under s. 212.06(5)(a) ~~s.~~  
 1597 ~~212.06(5)(a)1.~~ extends a certificate in compliance with the  
 1598 rules of the department, the dealer shall himself or herself be  
 1599 liable for and pay the tax.

1600 (10)(a) The executive director is authorized to maintain  
 1601 and publish a taxability matrix in a downloadable format that  
 1602 has been approved by the governing board of the Agreement.

1603 (b) The state shall provide notice of changes to the  
 1604 taxability of the products or services listed in the taxability  
 1605 matrix.

1606 (c) A seller or certified service provider who collects  
 1607 and remits the state and local tax imposed by this chapter,  
 1608 shall be held harmless from tax, interest, and penalties for  
 1609 having charged and collected the incorrect amount of sales or

1610 use tax due solely as a result of relying on erroneous data  
 1611 provided by the state in the taxability matrix.

1612 (d) A purchaser shall be held harmless from penalties for  
 1613 having failed to pay the correct amount of sales or use tax due  
 1614 solely as a result of any of the following circumstances:

1615 1. The seller or certified service provider relied on  
 1616 erroneous data provided by the state in the taxability matrix  
 1617 completed by the state;

1618 2. A purchaser relied on erroneous data provided by the  
 1619 state in the taxability matrix completed by the state;

1620 3. A purchaser holding a direct pay permit relied on  
 1621 erroneous data provided by the state in the taxability matrix  
 1622 completed by the state.

1623 (e) A purchaser shall be held harmless from tax and  
 1624 interest for having failed to pay the correct amount of sales or  
 1625 use tax due solely as a result of the state's erroneous  
 1626 classification in the taxability matrix of terms included in the  
 1627 library of definitions as "taxable" or "exempt," "included in  
 1628 sales price" or "excluded from sales price" or "included in the  
 1629 definition" or "excluded from the definition."

1630 Section 11. Subsections (1) and (2) of section 212.08,  
 1631 Florida Statutes, are amended to read:

1632 212.08 Sales, rental, use, consumption, distribution, and  
 1633 storage tax; specified exemptions.--The sale at retail, the  
 1634 rental, the use, the consumption, the distribution, and the  
 1635 storage to be used or consumed in this state of the following  
 1636 are hereby specifically exempt from the tax imposed by this  
 1637 chapter.

1638 (1) EXEMPTIONS; GENERAL GROCERIES.--

1639 (a) Food and food ingredients ~~products~~ for human  
 1640 consumption are exempt from the tax imposed by this chapter.

1641 (b) For the purpose of this chapter, as used in this  
 1642 subsection, the term "food and food ingredients ~~products~~" means  
 1643 substances, whether in liquid, concentrated, solid, frozen,  
 1644 dried, or dehydrated form, which are sold for ingestion or  
 1645 chewing by humans and are consumed for their taste or  
 1646 nutritional value ~~edible commodities, whether processed, cooked,~~  
 1647 ~~raw, canned, or in any other form, which are generally regarded~~  
 1648 ~~as food~~. This includes, but is not limited to, all of the  
 1649 following:

1650 1. ~~Cereals and cereal products, baked goods,~~  
 1651 ~~oleomargarine, meat and meat products, fish and seafood~~  
 1652 ~~products, frozen foods and dinners, poultry, eggs and egg~~  
 1653 ~~products, vegetables and vegetable products, fruit and fruit~~  
 1654 ~~products, spices, salt, sugar and sugar products, milk and dairy~~  
 1655 ~~products, and products intended to be mixed with milk.~~

1656 2. ~~Natural fruit or vegetable juices or their concentrates~~  
 1657 ~~or reconstituted natural concentrated fruit or vegetable juices,~~  
 1658 ~~whether frozen or unfrozen, dehydrated, powdered, granulated,~~  
 1659 ~~sweetened or unsweetened, seasoned with salt or spice, or~~  
 1660 ~~unseasoned; coffee, coffee substitutes, or cocoa; and tea,~~  
 1661 ~~unless it is sold in a liquid form.~~

1662 1.3. Bakery products sold by bakeries, pastry shops, or  
 1663 like establishments, if sold without eating utensils. For  
 1664 purposes of this subparagraph, bakery products include bread,  
 1665 rolls, buns, biscuits, bagels, croissants, pastries, doughnuts,  
 1666 danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and  
 1667 tortillas ~~that do not have eating facilities.~~

1668        2. Dietary supplements. The term "dietary supplements"  
 1669 means any product, other than tobacco, intended to supplement  
 1670 the diet which contains one or more of the following dietary  
 1671 ingredients: a vitamin; a mineral; an herb or other botanical;  
 1672 an amino acid; a dietary substance for use by humans to  
 1673 supplement the diet by increasing the total dietary intake; or a  
 1674 concentrate, metabolite, constituent, extract, or combination of  
 1675 any ingredient described in this subparagraph which is intended  
 1676 for ingestion in tablet, capsule, powder, softgel, gelcap, or  
 1677 liquid form or, if not intended for ingestion in such a form, is  
 1678 not represented as conventional food and is not represented for  
 1679 use as a sole item of a meal or of the diet, and which is  
 1680 required to be labeled as a dietary supplement, identifiable by  
 1681 the supplemental facts panel found on the label and as required  
 1682 pursuant to 21 C.F.R. s. 101.36.

1683        (c) The exemption provided by this subsection does not  
 1684 apply:

1685        ~~1. When the food products are sold as meals for~~  
 1686 ~~consumption on or off the premises of the dealer.~~

1687        ~~2. When the food products are furnished, prepared, or~~  
 1688 ~~served for consumption at tables, chairs, or counters or from~~  
 1689 ~~trays, glasses, dishes, or other tableware, whether provided by~~  
 1690 ~~the dealer or by a person with whom the dealer contracts to~~  
 1691 ~~furnish, prepare, or serve food products to others.~~

1692        ~~3. When the food products are ordinarily sold for~~  
 1693 ~~immediate consumption on the seller's premises or near a~~  
 1694 ~~location at which parking facilities are provided primarily for~~  
 1695 ~~the use of patrons in consuming the products purchased at the~~  
 1696 ~~location, even though such products are sold on a "take out" or~~

1697 ~~"to go" order and are actually packaged or wrapped and taken~~  
 1698 ~~from the premises of the dealer.~~

1699 ~~4. To sandwiches sold ready for immediate consumption on~~  
 1700 ~~or off the seller's premises.~~

1701 ~~5. When the food products are sold ready for immediate~~  
 1702 ~~consumption within a place, the entrance to which is subject to~~  
 1703 ~~an admission charge.~~

1704 1.6. When the food and food ingredients products are sold  
 1705 as hot prepared food products. As used in this subparagraph, the  
 1706 term "prepared food" means food sold in a heated state or heated  
 1707 by the seller; two or more food ingredients mixed or combined by  
 1708 the seller for sale as a single item; or food sold with eating  
 1709 utensils provided by the seller, including plates, knives,  
 1710 forks, spoons, glasses, cups, napkins, or straws. A plate does  
 1711 not include a container or packaging used to transport the food.  
 1712 The term "prepared food" does not include food that is only cut,  
 1713 repackaged, or pasteurized by the seller and eggs, fish, meat,  
 1714 poultry, and foods containing such raw animal foods requiring  
 1715 cooking by the consumer as recommended by the Food and Drug  
 1716 Administration in chapter 3, part 401.11 of its food code so as  
 1717 to prevent food-borne illnesses. For purposes of this  
 1718 subparagraph, the term "prepared food" includes sandwiches sold  
 1719 for immediate consumption and a combination of hot and cold food  
 1720 items or components for which a single price has been  
 1721 established for the combination and the food products are sold  
 1722 in such combination, such as a meal; a specialty dish or  
 1723 serving; a sandwich or pizza; an ice cream cone, sundae, or  
 1724 banana split; or food sold in an unheated state by weight or

1725 volume as a single item, including cold components or side  
1726 items.

1727 ~~2.7. To soft drinks, which include, but are not limited~~  
1728 ~~to, any nonalcoholic beverage, any preparation or beverage~~  
1729 ~~commonly referred to as a "soft drink," or any noncarbonated~~  
1730 ~~drink made from milk derivatives or tea, when sold in cans or~~  
1731 ~~similar containers. The term "soft drinks" means nonalcoholic~~  
1732 beverages that contain natural or artificial sweeteners. Soft  
1733 drinks do not include beverages that contain milk or milk  
1734 products, soy, rice, or similar milk substitutes, or greater  
1735 than 50 percent of vegetable or fruit juice by volume.

1736 ~~8. To ice cream, frozen yogurt, and similar frozen dairy~~  
1737 ~~or nondairy products in cones, small cups, or pints, popsicles,~~  
1738 ~~frozen fruit bars, or other novelty items, whether or not sold~~  
1739 ~~separately.~~

1740 ~~9. To food prepared, whether on or off the premises, and~~  
1741 ~~sold for immediate consumption. This does not apply to food~~  
1742 ~~prepared off the premises and sold in the original sealed~~  
1743 ~~container, or the slicing of products into smaller portions.~~

1744 ~~3.10. When the food and food ingredients products are sold~~  
1745 ~~through a vending machine, pushcart, motor vehicle, or any other~~  
1746 ~~form of vehicle.~~

1747 ~~4.11. To candy and any similar product regarded as candy~~  
1748 ~~or confection, based on its normal use, as indicated on the~~  
1749 ~~label or advertising thereof. The term "candy" means a~~  
1750 preparation of sugar, honey, or other natural or artificial  
1751 sweeteners in combination with chocolate, fruits, nuts, or other  
1752 ingredients or flavorings in the form of bars, drops, or pieces.

1753 Candy does not include any preparation that contains flour and  
 1754 does not require refrigeration.

1755 5. To Tobacco.

1756 ~~12. To bakery products sold by bakeries, pastry shops, or~~  
 1757 ~~like establishments that have eating facilities, except when~~  
 1758 ~~sold for consumption off the seller's premises.~~

1759 ~~13. When food products are served, prepared, or sold in or~~  
 1760 ~~by restaurants, lunch counters, cafeterias, hotels, taverns, or~~  
 1761 ~~other like places of business.~~

1762 ~~(d) As used in this subsection, the term:~~

1763 ~~1. "For consumption off the seller's premises" means that~~  
 1764 ~~the food or drink is intended by the customer to be consumed at~~  
 1765 ~~a place away from the dealer's premises.~~

1766 ~~2. "For consumption on the seller's premises" means that~~  
 1767 ~~the food or drink sold may be immediately consumed on the~~  
 1768 ~~premises where the dealer conducts his or her business. In~~  
 1769 ~~determining whether an item of food is sold for immediate~~  
 1770 ~~consumption, there shall be considered the customary consumption~~  
 1771 ~~practices prevailing at the selling facility.~~

1772 ~~3. "Premises" shall be construed broadly, and means, but~~  
 1773 ~~is not limited to, the lobby, aisle, or auditorium of a theater;~~  
 1774 ~~the seating, aisle, or parking area of an arena, rink, or~~  
 1775 ~~stadium; or the parking area of a drive in or outdoor theater.~~  
 1776 ~~The premises of a caterer with respect to catered meals or~~  
 1777 ~~beverages shall be the place where such meals or beverages are~~  
 1778 ~~served.~~

1779 ~~4. "Hot prepared food products" means those products,~~  
 1780 ~~items, or components which have been prepared for sale in a~~  
 1781 ~~heated condition and which are sold at any temperature that is~~

1782 higher than the air temperature of the room or place where they  
 1783 are sold. "Hot prepared food products," for the purposes of this  
 1784 subsection, includes a combination of hot and cold food items or  
 1785 components where a single price has been established for the  
 1786 combination and the food products are sold in such combination,  
 1787 such as a hot meal, a hot specialty dish or serving, or a hot  
 1788 sandwich or hot pizza, including cold components or side items.

1789 (d)~~(e)~~1. Food or drinks not exempt under paragraphs (a),  
 1790 (b), and (c), ~~and (d)~~ shall be exempt, notwithstanding those  
 1791 paragraphs, when purchased with food coupons or Special  
 1792 Supplemental Food Program for Women, Infants, and Children  
 1793 vouchers issued under authority of federal law.

1794 2. This paragraph is effective only while federal law  
 1795 prohibits a state's participation in the federal food coupon  
 1796 program or Special Supplemental Food Program for Women, Infants,  
 1797 and Children if there is an official determination that state or  
 1798 local sales taxes are collected within that state on purchases  
 1799 of food or drinks with such coupons.

1800 3. This paragraph does ~~shall~~ not apply to any food or  
 1801 drinks on which federal law permits ~~shall permit~~ sales taxes  
 1802 without penalty, such as termination of the state's  
 1803 participation.

1804 (e) Dietary supplements that are sold as prepared food are  
 1805 not exempt.

1806 (2) EXEMPTIONS; MEDICAL.--

1807 (a) There shall be exempt from the tax imposed by this  
 1808 chapter:

1809 1. Any drug;

1810 2. Any durable medical equipment, mobility enhancing  
 1811 equipment, or prosthetic device ~~any medical products and~~  
 1812 ~~supplies or medicine~~ dispensed according to an individual  
 1813 prescription or prescriptions ~~written by a prescriber authorized~~  
 1814 ~~by law to prescribe medicinal drugs;~~

1815 3. Hypodermic needles; hypodermic syringes;

1816 4. Chemical compounds and test kits used for the diagnosis  
 1817 or treatment of human disease, illness, or injury and intended  
 1818 for one-time use;

1819 5. Over-the-counter drugs and common household remedies  
 1820 ~~recommended and generally sold for internal or external use in~~  
 1821 ~~the cure, mitigation, treatment, or prevention of illness or~~  
 1822 ~~disease in human beings, but not including grooming and hygiene~~  
 1823 products;

1824 6. Band-Aids, gauze, bandages, adhesive tape;

1825 7. Hearing aids;

1826 8. Dental prosthesis; or

1827 9. Funerals. However, tangible personal property used by  
 1828 funeral directors in their business are taxable.

1829  
 1830 ~~cosmetics or toilet articles, notwithstanding the presence of~~  
 1831 ~~medicinal ingredients therein, according to a list prescribed~~  
 1832 ~~and approved by the Department of Health, which list shall be~~  
 1833 ~~certified to the Department of Revenue from time to time and~~  
 1834 ~~included in the rules promulgated by the Department of Revenue.~~  
 1835 ~~There shall also be exempt from the tax imposed by this chapter~~  
 1836 ~~artificial eyes and limbs; orthopedic shoes; prescription~~  
 1837 ~~eyeglasses and items incidental thereto or which become a part~~  
 1838 ~~thereof; dentures; hearing aids; crutches; prosthetic and~~

1839 ~~orthopedic appliances; and funerals.~~ In addition, any items  
1840 intended for one-time use which transfer essential optical  
1841 characteristics to contact lenses are ~~shall be~~ exempt from the  
1842 tax imposed by this chapter; however, this exemption applies  
1843 ~~shall apply~~ only after \$100,000 of the tax imposed by this  
1844 chapter on such items has been paid in any calendar year by a  
1845 taxpayer who claims the exemption in such year. ~~Funeral~~  
1846 ~~directors shall pay tax on all tangible personal property used~~  
1847 ~~by them in their business.~~

1848 (b) For the purposes of this subsection the term:

1849 1. "Drug" means a compound, substance, or preparation, and  
1850 any component of a compound, substance, or preparation, other  
1851 than food and food ingredients, dietary supplements, and  
1852 alcoholic beverages, which is:

1853 a. Recognized in the official United States Pharmacopoeia,  
1854 official Homeopathic Pharmacopoeia of the United States, or  
1855 official National Formulary, or the supplement to any of them;

1856 b. Intended for use in the diagnosis, cure, mitigation,  
1857 treatment, or prevention of disease; or

1858 c. Intended to affect the structure or any function of the  
1859 body.

1860 2. "Durable medical equipment" means equipment, including  
1861 repair and replacement parts to such equipment, but excluding  
1862 mobility-enhancing equipment, which can withstand repeated use,  
1863 is primarily and customarily used to serve a medical purpose,  
1864 generally is not useful to a person in the absence of illness or  
1865 injury, and is not worn on or in the body.

1866 3. "Mobility-enhancing equipment" means equipment,  
 1867 including repair and replacement parts to such equipment, but  
 1868 excluding durable medical equipment, which:  
 1869 a. Is primarily and customarily used to provide or  
 1870 increase the ability to move from one place to another and which  
 1871 is appropriate for use either in a home or a motor vehicle.  
 1872 b. Is not generally used by persons with normal mobility.  
 1873 c. Does not include any motor vehicle or any equipment on  
 1874 a motor vehicle normally provided by a motor vehicle  
 1875 manufacturer.  
 1876 4. "Prosthetic device" means a replacement, corrective, or  
 1877 supportive device, including repair or replacement parts to such  
 1878 equipment, other than a hearing aid or a dental prosthesis,  
 1879 which is worn on or in the body to:  
 1880 a. Artificially replace a missing portion of the body;  
 1881 b. Prevent or correct physical deformity or malfunction;  
 1882 or  
 1883 c. Support a weak or deformed portion of the body.  
 1884 5. "Grooming and hygiene products" mean soaps and cleaning  
 1885 solutions, shampoo, toothpaste, mouthwash, antiperspirants, and  
 1886 suntan lotions and screens, regardless of whether the items meet  
 1887 the definition of an over-the-counter drug.  
 1888 6. "Over-the-counter drug" means a drug the packaging for  
 1889 which contains a label that identifies the product as a drug as  
 1890 required by 21 C.F.R. s. 201.66. The over-the-counter drug label  
 1891 includes a drug facts panel or a statement of the active  
 1892 ingredients, with a list of those ingredients contained in the  
 1893 compound, substance, or preparation. ~~"Prosthetic and orthopedic~~  
 1894 ~~appliances" means any apparatus, instrument, device, or~~

1895 ~~equipment used to replace or substitute for any missing part of~~  
1896 ~~the body, to alleviate the malfunction of any part of the body,~~  
1897 ~~or to assist any disabled person in leading a normal life by~~  
1898 ~~facilitating such person's mobility. Such apparatus, instrument,~~  
1899 ~~device, or equipment shall be exempted according to an~~  
1900 ~~individual prescription or prescriptions written by a physician~~  
1901 ~~licensed under chapter 458, chapter 459, chapter 460, chapter~~  
1902 ~~461, or chapter 466, or according to a list prescribed and~~  
1903 ~~approved by the Department of Health, which list shall be~~  
1904 ~~certified to the Department of Revenue from time to time and~~  
1905 ~~included in the rules promulgated by the Department of Revenue.~~

1906 2. ~~"Cosmetics" means articles intended to be rubbed,~~  
1907 ~~poured, sprinkled, or sprayed on, introduced into, or otherwise~~  
1908 ~~applied to the human body for cleansing, beautifying, promoting~~  
1909 ~~attractiveness, or altering the appearance and also means~~  
1910 ~~articles intended for use as a compound of any such articles,~~  
1911 ~~including, but not limited to, cold creams, suntan lotions,~~  
1912 ~~makeup, and body lotions.~~

1913 3. ~~"Toilet articles" means any article advertised or held~~  
1914 ~~out for sale for grooming purposes and those articles that are~~  
1915 ~~customarily used for grooming purposes, regardless of the name~~  
1916 ~~by which they may be known, including, but not limited to, soap,~~  
1917 ~~toothpaste, hair spray, shaving products, colognes, perfumes,~~  
1918 ~~shampoo, deodorant, and mouthwash.~~

1919 7.4. "Prescription" means an order, formula, or recipe  
1920 issued in any form of oral, written, electronic, or other means  
1921 of transmission by a practitioner licensed under chapter 458,  
1922 chapter 459, chapter 460, chapter 461, or chapter 466. The term  
1923 also includes an orally transmitted order by the lawfully

1924 designated agent of such practitioner. The term also includes an  
 1925 order written or transmitted by a practitioner licensed to  
 1926 practice in a jurisdiction other than this state, but only if  
 1927 the pharmacist called upon to dispense the order determines, in  
 1928 the exercise of his or her professional judgment, that the order  
 1929 is valid and necessary for the treatment of a chronic or  
 1930 recurrent illness. ~~includes any order for drugs or medicinal~~  
 1931 ~~supplies written or transmitted by any means of communication by~~  
 1932 ~~a duly licensed practitioner authorized by the laws of the state~~  
 1933 ~~to prescribe such drugs or medicinal supplies and intended to be~~  
 1934 ~~dispensed by a pharmacist. The term also includes an orally~~  
 1935 ~~transmitted order by the lawfully designated agent of such~~  
 1936 ~~practitioner. The term also includes an order written or~~  
 1937 ~~transmitted by a practitioner licensed to practice in a~~  
 1938 ~~jurisdiction other than this state, but only if the pharmacist~~  
 1939 ~~called upon to dispense such order determines, in the exercise~~  
 1940 ~~of his or her professional judgment, that the order is valid and~~  
 1941 ~~necessary for the treatment of a chronic or recurrent illness.~~  
 1942 ~~The term also includes a pharmacist's order for a product~~  
 1943 ~~selected from the formulary created pursuant to s. 465.186. A~~  
 1944 ~~prescription may be retained in written form, or the pharmacist~~  
 1945 ~~may cause it to be recorded in a data processing system,~~  
 1946 ~~provided that such order can be produced in printed form upon~~  
 1947 ~~lawful request.~~

1948 (c) Chlorine is ~~shall~~ not be exempt from the tax imposed  
 1949 by this chapter when used for the treatment of water in swimming  
 1950 pools.

1951 ~~(d) Lithotripters are exempt.~~

1952 (d)(e) Human organs are exempt.

1953           ~~(f) Sales of drugs to or by physicians, dentists,~~  
1954 ~~veterinarians, and hospitals in connection with medical~~  
1955 ~~treatment are exempt.~~

1956           ~~(g) Medical products and supplies used in the cure,~~  
1957 ~~mitigation, alleviation, prevention, or treatment of injury,~~  
1958 ~~disease, or incapacity which are temporarily or permanently~~  
1959 ~~incorporated into a patient or client by a practitioner of the~~  
1960 ~~healing arts licensed in the state are exempt.~~

1961           ~~(h) The purchase by a veterinarian of commonly recognized~~  
1962 ~~substances possessing curative or remedial properties which are~~  
1963 ~~ordered and dispensed as treatment for a diagnosed health~~  
1964 ~~disorder by or on the prescription of a duly licensed~~  
1965 ~~veterinarian, and which are applied to or consumed by animals~~  
1966 ~~for alleviation of pain or the cure or prevention of sickness,~~  
1967 ~~disease, or suffering are exempt. Also exempt are the purchase~~  
1968 ~~by a veterinarian of antiseptics, absorbent cotton, gauze for~~  
1969 ~~bandages, lotions, vitamins, and worm remedies.~~

1970           ~~(i) X ray opaques, also known as opaque drugs and~~  
1971 ~~radiopaque, such as the various opaque dyes and barium sulphate,~~  
1972 ~~when used in connection with medical X rays for treatment of~~  
1973 ~~bodies of humans and animals, are exempt.~~

1974           (e)(j) Parts, special attachments, special lettering, and  
1975 other like items that are added to or attached to tangible  
1976 personal property so that a handicapped person can use them are  
1977 exempt when such items are purchased by a person pursuant to an  
1978 individual prescription.

1979           (f)(k) This subsection shall be strictly construed and  
1980 enforced.

1981 Section 12. Section 212.094, Florida Statutes, is created  
 1982 to read:

1983 212.094 Purchaser requests for refunds from dealers.--

1984 (1) If a purchaser seeks from a dealer a refund of or  
 1985 credit against a tax collected under this chapter by that  
 1986 dealer, the purchaser shall submit a written request for the  
 1987 refund or credit to the dealer in accordance with this section.  
 1988 The request must contain all the information necessary for the  
 1989 dealer to determine the validity of the purchaser's request.

1990 (2) The purchaser may not take any other action against  
 1991 the dealer with respect to the requested refund or credit until  
 1992 the dealer has had 60 days following receipt of a completed  
 1993 request in which to respond.

1994 (3) This section does not change the law regarding  
 1995 standing to claim a refund.

1996 Section 13. Paragraphs (d) and (e) are added to subsection  
 1997 (1) and subsections (5) and (9) through (14) of section 212.12,  
 1998 Florida Statutes, are amended to read:

1999 212.12 Dealer's credit for collecting tax; penalties for  
 2000 noncompliance; powers of Department of Revenue in dealing with  
 2001 delinquents; computing tax due ~~brackets applicable to taxable~~  
 2002 ~~transactions~~; records required.--

2003 (1) Notwithstanding any other provision of law and for the  
 2004 purpose of compensating persons granting licenses for and the  
 2005 lessors of real and personal property taxed hereunder, for the  
 2006 purpose of compensating dealers in tangible personal property,  
 2007 for the purpose of compensating dealers providing communication  
 2008 services and taxable services, for the purpose of compensating  
 2009 owners of places where admissions are collected, and for the

2010 purpose of compensating remitters of any taxes or fees reported  
2011 on the same documents utilized for the sales and use tax, as  
2012 compensation for the keeping of prescribed records, filing  
2013 timely tax returns, and the proper accounting and remitting of  
2014 taxes by them, such seller, person, lessor, dealer, owner, and  
2015 remitter (except dealers who make mail order sales) shall be  
2016 allowed 2.5 percent of the amount of the tax due and accounted  
2017 for and remitted to the department, in the form of a deduction  
2018 in submitting his or her report and paying the amount due by him  
2019 or her; the department shall allow such deduction of 2.5 percent  
2020 of the amount of the tax to the person paying the same for  
2021 remitting the tax and making of tax returns in the manner herein  
2022 provided, for paying the amount due to be paid by him or her,  
2023 and as further compensation to dealers in tangible personal  
2024 property for the keeping of prescribed records and for  
2025 collection of taxes and remitting the same. However, if the  
2026 amount of the tax due and remitted to the department for the  
2027 reporting period exceeds \$1,200, no allowance shall be allowed  
2028 for all amounts in excess of \$1,200. ~~The executive director of~~  
2029 ~~the department is authorized to negotiate a collection~~  
2030 ~~allowance, pursuant to rules promulgated by the department, with~~  
2031 ~~a dealer who makes mail order sales. The rules of the department~~  
2032 ~~shall provide guidelines for establishing the collection~~  
2033 ~~allowance based upon the dealer's estimated costs of collecting~~  
2034 ~~the tax, the volume and value of the dealer's mail order sales~~  
2035 ~~to purchasers in this state, and the administrative and legal~~  
2036 ~~costs and likelihood of achieving collection of the tax absent~~  
2037 ~~the cooperation of the dealer. However, in no event shall the~~

2038 ~~collection allowance negotiated by the executive director exceed~~  
2039 ~~10 percent of the tax remitted for a reporting period.~~

2040 (a) The Department of Revenue may deny the collection  
2041 allowance if a taxpayer files an incomplete return or if the  
2042 required tax return or tax is delinquent at the time of payment.

2043 1. An "incomplete return" is, for purposes of this  
2044 chapter, a return which is lacking such uniformity,  
2045 completeness, and arrangement that the physical handling,  
2046 verification, review of the return, or determination of other  
2047 taxes and fees reported on the return may not be readily  
2048 accomplished.

2049 2. The department shall adopt rules requiring such  
2050 information as it may deem necessary to ensure that the tax  
2051 levied hereunder is properly collected, reviewed, compiled,  
2052 reported, and enforced, including, but not limited to: the  
2053 amount of gross sales; the amount of taxable sales; the amount  
2054 of tax collected or due; the amount of lawful refunds,  
2055 deductions, or credits claimed; the amount claimed as the  
2056 dealer's collection allowance; the amount of penalty and  
2057 interest; the amount due with the return; and such other  
2058 information as the Department of Revenue may specify. The  
2059 department shall require that transient rentals and agricultural  
2060 equipment transactions be separately shown. Sales made through  
2061 vending machines as defined in s. 212.0515 must be separately  
2062 shown on the return. Sales made through coin-operated amusement  
2063 machines as defined by s. 212.02 and the number of machines  
2064 operated must be separately shown on the return or on a form  
2065 prescribed by the department. If a separate form is required,  
2066 the same penalties for late filing, incomplete filing, or

2067 failure to file as provided for the sales tax return shall apply  
2068 to said form.

2069 (b) The collection allowance and other credits or  
2070 deductions provided in this chapter shall be applied  
2071 proportionally to any taxes or fees reported on the same  
2072 documents used for the sales and use tax.

2073 (c)1. A dealer entitled to the collection allowance  
2074 provided in this section may elect to forego the collection  
2075 allowance and direct that said amount be transferred into the  
2076 Educational Enhancement Trust Fund. Such an election must be  
2077 made with the timely filing of a return and may not be rescinded  
2078 once made. If a dealer who makes such an election files a  
2079 delinquent return, underpays the tax, or files an incomplete  
2080 return, the amount transferred into the Educational Enhancement  
2081 Trust Fund shall be the amount of the collection allowance  
2082 remaining after resolution of liability for all of the tax,  
2083 interest, and penalty due on that return or underpayment of tax.  
2084 The Department of Education shall distribute the remaining  
2085 amount from the trust fund to the school districts that have  
2086 adopted resolutions stating that those funds will be used to  
2087 ensure that up-to-date technology is purchased for the  
2088 classrooms in the district and that teachers are trained in the  
2089 use of that technology. Revenues collected in districts that do  
2090 not adopt such a resolution shall be equally distributed to  
2091 districts that have adopted such resolutions.

2092 2. This paragraph applies to all taxes, surtaxes, and any  
2093 local option taxes administered under this chapter and remitted  
2094 directly to the department. This paragraph does not apply to any  
2095 locally imposed and self-administered convention development

2096 tax, tourist development tax, or tourist impact tax administered  
2097 under this chapter.

2098 3. Revenues from the dealer-collection allowances shall be  
2099 transferred quarterly from the General Revenue Fund to the  
2100 Educational Enhancement Trust Fund. The Department of Revenue  
2101 shall provide to the Department of Education quarterly  
2102 information about such revenues by county to which the  
2103 collection allowance was attributed.

2104  
2105 Notwithstanding any provision of chapter 120 to the contrary,  
2106 the Department of Revenue may adopt rules to carry out the  
2107 amendment made by chapter 2006-52, Laws of Florida, to this  
2108 section.

2109 (d) Notwithstanding paragraphs (a) and (b), a Model 1  
2110 seller under the Streamlined Sales and Use Tax Agreement is not  
2111 entitled to the collection allowance described in paragraphs (a)  
2112 and (b).

2113 (e)1. In addition to any collection allowance that may be  
2114 provided under this subsection, the department may provide the  
2115 monetary allowances required to be provided by the state to  
2116 certified service providers and voluntary sellers pursuant to  
2117 Article VI of the Streamlined Sales and Use Tax Agreement, as  
2118 amended.

2119 2. Such monetary allowances must be in the form of  
2120 collection allowances that certified service providers or  
2121 voluntary sellers are permitted to retain from the tax revenues  
2122 collected on remote sales to be remitted to the state pursuant  
2123 to this chapter.

2124 3. For purposes of this paragraph, the term "voluntary  
2125 seller" or "volunteer seller" means a seller that is not  
2126 required to register in this state to collect the tax imposed by  
2127 this chapter. The term "remote sales" means revenues generated  
2128 by such a seller for this state for which the seller is not  
2129 required to register to collect the tax imposed by this chapter.

2130 (5) (a) The department is authorized to audit or inspect  
2131 the records and accounts of dealers defined herein, ~~including~~  
2132 ~~audits or inspections of dealers who make mail order sales to~~  
2133 ~~the extent permitted by another state,~~ and to correct by credit  
2134 any overpayment of tax, and, in the event of a deficiency, an  
2135 assessment shall be made and collected. No administrative  
2136 finding of fact is necessary prior to the assessment of any tax  
2137 deficiency.

2138 (b) In the event any dealer or other person charged herein  
2139 fails or refuses to make his or her records available for  
2140 inspection so that no audit or examination has been made of the  
2141 books and records of such dealer or person, fails or refuses to  
2142 register as a dealer, fails to make a report and pay the tax as  
2143 provided by this chapter, makes a grossly incorrect report or  
2144 makes a report that is false or fraudulent, then, in such event,  
2145 it shall be the duty of the department to make an assessment  
2146 from an estimate based upon the best information then available  
2147 to it for the taxable period of retail sales of such dealer, the  
2148 gross proceeds from rentals, the total admissions received,  
2149 amounts received from leases of tangible personal property by  
2150 such dealer, or of the cost price of all articles of tangible  
2151 personal property imported by the dealer for use or consumption  
2152 or distribution or storage to be used or consumed in this state,

2153 or of the sales or cost price of all services the sale or use of  
2154 which is taxable under this chapter, together with interest,  
2155 plus penalty, if such have accrued, as the case may be. Then the  
2156 department shall proceed to collect such taxes, interest, and  
2157 penalty on the basis of such assessment which shall be  
2158 considered prima facie correct, and the burden to show the  
2159 contrary shall rest upon the dealer, seller, owner, or lessor,  
2160 as the case may be.

2161 (9) Taxes imposed by this chapter upon the privilege of  
2162 the use, consumption, storage for consumption, or sale of  
2163 tangible personal property, admissions, license fees, rentals,  
2164 communication services, and upon the sale or use of services as  
2165 herein taxed shall be collected upon the basis of an addition of  
2166 the tax imposed by this chapter to the total price of such  
2167 admissions, license fees, rentals, communication or other  
2168 services, or sale price of such article or articles that are  
2169 purchased, sold, or leased at any one time by or to a customer  
2170 or buyer; the dealer, or person charged herein, is required to  
2171 pay a privilege tax in the amount of the tax imposed by this  
2172 chapter on the total of his or her gross sales of tangible  
2173 personal property, admissions, license fees, rentals, and  
2174 communication services or to collect a tax upon the sale or use  
2175 of services, and such person or dealer shall add the tax imposed  
2176 by this chapter to the price, license fee, rental, or  
2177 admissions, and communication or other services and collect the  
2178 total sum from the purchaser, admittee, licensee, lessee, or  
2179 consumer. In computing the tax due or to be collected as the  
2180 result of any transaction, the seller may elect to compute the  
2181 tax due on a transaction on an per item basis or on an invoice

2182 basis. The tax rate shall be the sum of the applicable state and  
2183 local rates, if any, and the tax computation shall be carried to  
2184 the third decimal place. Whenever the third decimal place is  
2185 greater than four, the tax shall be rounded to the next whole  
2186 cent. ~~The department shall make available in an electronic~~  
2187 ~~format or otherwise the tax amounts and the following brackets~~  
2188 ~~applicable to all transactions taxable at the rate of 6 percent:~~  
2189       ~~(a) On single sales of less than 10 cents, no tax shall be~~  
2190 ~~added.~~  
2191       ~~(b) On single sales in amounts from 10 cents to 16 cents,~~  
2192 ~~both inclusive, 1 cent shall be added for taxes.~~  
2193       ~~(c) On sales in amounts from 17 cents to 33 cents, both~~  
2194 ~~inclusive, 2 cents shall be added for taxes.~~  
2195       ~~(d) On sales in amounts from 34 cents to 50 cents, both~~  
2196 ~~inclusive, 3 cents shall be added for taxes.~~  
2197       ~~(e) On sales in amounts from 51 cents to 66 cents, both~~  
2198 ~~inclusive, 4 cents shall be added for taxes.~~  
2199       ~~(f) On sales in amounts from 67 cents to 83 cents, both~~  
2200 ~~inclusive, 5 cents shall be added for taxes.~~  
2201       ~~(g) On sales in amounts from 84 cents to \$1, both~~  
2202 ~~inclusive, 6 cents shall be added for taxes.~~  
2203       ~~(h) On sales in amounts of more than \$1, 6 percent shall~~  
2204 ~~be charged upon each dollar of price, plus the appropriate~~  
2205 ~~bracket charge upon any fractional part of a dollar.~~  
2206       ~~(10) In counties which have adopted a discretionary sales~~  
2207 ~~surtax at the rate of 1 percent, the department shall make~~  
2208 ~~available in an electronic format or otherwise the tax amounts~~  
2209 ~~and the following brackets applicable to all taxable~~

2210 ~~transactions that would otherwise have been transactions taxable~~  
 2211 ~~at the rate of 6 percent:~~

2212 ~~(a) On single sales of less than 10 cents, no tax shall be~~  
 2213 ~~added.~~

2214 ~~(b) On single sales in amounts from 10 cents to 14 cents,~~  
 2215 ~~both inclusive, 1 cent shall be added for taxes.~~

2216 ~~(c) On sales in amounts from 15 cents to 28 cents, both~~  
 2217 ~~inclusive, 2 cents shall be added for taxes.~~

2218 ~~(d) On sales in amounts from 29 cents to 42 cents, both~~  
 2219 ~~inclusive, 3 cents shall be added for taxes.~~

2220 ~~(e) On sales in amounts from 43 cents to 57 cents, both~~  
 2221 ~~inclusive, 4 cents shall be added for taxes.~~

2222 ~~(f) On sales in amounts from 58 cents to 71 cents, both~~  
 2223 ~~inclusive, 5 cents shall be added for taxes.~~

2224 ~~(g) On sales in amounts from 72 cents to 85 cents, both~~  
 2225 ~~inclusive, 6 cents shall be added for taxes.~~

2226 ~~(h) On sales in amounts from 86 cents to \$1, both~~  
 2227 ~~inclusive, 7 cents shall be added for taxes.~~

2228 ~~(i) On sales in amounts from \$1 up to, and including, the~~  
 2229 ~~first \$5,000 in price, 7 percent shall be charged upon each~~  
 2230 ~~dollar of price, plus the appropriate bracket charge upon any~~  
 2231 ~~fractional part of a dollar.~~

2232 ~~(j) On sales in amounts of more than \$5,000 in price, 7~~  
 2233 ~~percent shall be added upon the first \$5,000 in price, and 6~~  
 2234 ~~percent shall be added upon each dollar of price in excess of~~  
 2235 ~~the first \$5,000 in price, plus the bracket charges upon any~~  
 2236 ~~fractional part of a dollar as provided for in subsection (9).~~

2237 ~~(11) The department shall make available in an electronic~~  
 2238 ~~format or otherwise the tax amounts and brackets applicable to~~

2239 all taxable transactions that occur in counties that have a  
2240 surtax at a rate other than 1 percent which transactions would  
2241 otherwise have been transactions taxable at the rate of 6  
2242 percent. Likewise, the department shall make available in an  
2243 electronic format or otherwise the tax amounts and brackets  
2244 applicable to transactions taxable at 7 percent pursuant to s.  
2245 212.05(1)(e) and on transactions which would otherwise have been  
2246 so taxable in counties which have adopted a discretionary sales  
2247 surtax.

2248 (10)~~(12)~~ It is hereby declared to be the legislative  
2249 intent that, whenever in the construction, administration, or  
2250 enforcement of this chapter there may be any question respecting  
2251 a duplication of the tax, the end consumer, or last retail sale,  
2252 be the sale intended to be taxed and insofar as may be  
2253 practicable there be no duplication or pyramiding of the tax.

2254 (11)~~(13)~~ In order to aid the administration and  
2255 enforcement of the provisions of this chapter with respect to  
2256 the rentals and license fees, each lessor or person granting the  
2257 use of any hotel, apartment house, roominghouse, tourist or  
2258 trailer camp, real property, or any interest therein, or any  
2259 portion thereof, inclusive of owners; property managers;  
2260 lessors; landlords; hotel, apartment house, and roominghouse  
2261 operators; and all licensed real estate agents within the state  
2262 leasing, granting the use of, or renting such property, shall be  
2263 required to keep a record of each and every such lease, license,  
2264 or rental transaction which is taxable under this chapter, in  
2265 such a manner and upon such forms as the department may  
2266 prescribe, and to report such transaction to the department or  
2267 its designated agents, and to maintain such records as long as

2268 required by s. 213.35, subject to the inspection of the  
2269 department and its agents. Upon the failure by such owner;  
2270 property manager; lessor; landlord; hotel, apartment house,  
2271 roominghouse, tourist or trailer camp operator; or real estate  
2272 agent to keep and maintain such records and to make such reports  
2273 upon the forms and in the manner prescribed, such owner;  
2274 property manager; lessor; landlord; hotel, apartment house,  
2275 roominghouse, tourist or trailer camp operator; receiver of rent  
2276 or license fees; or real estate agent is guilty of a misdemeanor  
2277 of the second degree, punishable as provided in s. 775.082 or s.  
2278 775.083, for the first offense; for subsequent offenses, they  
2279 are each guilty of a misdemeanor of the first degree, punishable  
2280 as provided in s. 775.082 or s. 775.083. If, however, any  
2281 subsequent offense involves intentional destruction of such  
2282 records with an intent to evade payment of or deprive the state  
2283 of any tax revenues, such subsequent offense shall be a felony  
2284 of the third degree, punishable as provided in s. 775.082 or s.  
2285 775.083.

2286 (12)~~(14)~~ If it is determined upon audit that a dealer has  
2287 collected and remitted taxes by applying the applicable tax rate  
2288 to each transaction as described in subsection (9) and rounding  
2289 the tax due to the nearest whole cent rather than applying the  
2290 appropriate bracket system provided by law or department rule,  
2291 the dealer shall not be held liable for additional tax, penalty,  
2292 and interest resulting from such failure if:

2293 (a) The dealer acted in a good faith belief that rounding  
2294 to the nearest whole cent was the proper method of determining  
2295 the amount of tax due on each taxable transaction.

2296 (b) The dealer timely reported and remitted all taxes  
2297 collected on each taxable transaction.

2298 (c) The dealer agrees in writing to future compliance with  
2299 the laws and rules concerning brackets applicable to the  
2300 dealer's transactions.

2301 Section 14. Subsection (3) of section 212.17, Florida  
2302 Statutes, is amended to read:

2303 212.17 Credits for returned goods, rentals, or admissions;  
2304 goods acquired for dealer's own use and subsequently resold;  
2305 additional powers of department.--

2306 (3) A dealer who has paid the tax imposed by this chapter  
2307 on tangible personal property or services may take a credit or  
2308 obtain a refund for any tax paid by the dealer on the unpaid  
2309 balance due on worthless accounts within 12 months following the  
2310 month in which the bad debt has been charged off for federal  
2311 income tax purposes. A dealer that has paid the tax imposed by  
2312 this chapter on tangible personal property or services and that  
2313 is not required to file federal income tax returns may take a  
2314 credit against or obtain a refund for any tax paid by the dealer  
2315 on the unpaid balance due on worthless accounts within 12 months  
2316 following the month in which the bad debt is written off as  
2317 uncollectible in the dealer's books and records and would be  
2318 eligible for a bad-debt deduction for federal income tax  
2319 purposes if the dealer was required to file a federal income tax  
2320 return.

2321 (a) A dealer that is taking a credit against or obtaining  
2322 a refund on worthless accounts shall base the bad-debt-recovery  
2323 calculation in accordance with 26 U.S.C. s. 166.

2324 (b) Notwithstanding paragraph (a), the amount calculated  
2325 pursuant to 26 U.S.C. s. 166 shall be adjusted to exclude  
2326 financing charges or interest; sales or use taxes charged on the  
2327 purchase price; uncollectible amounts on property that remains  
2328 in the possession of the seller until the full purchase price is  
2329 paid; expenses incurred in attempting to collect any debt; and  
2330 repossessed property.

2331 (c) When the amount of bad debt exceeds the amount of  
2332 taxable sales for the period during which the bad debt is  
2333 written off, a refund claim must be filed, notwithstanding s.  
2334 215.26(2), within 3 years after the due date of the return on  
2335 which the bad debt could first be claimed.

2336 (d) If any accounts so charged off for which a credit or  
2337 refund has been obtained are thereafter in whole or in part paid  
2338 to the dealer, the amount so paid shall be included in the first  
2339 return filed after such collection and the tax paid accordingly.

2340 (e) If filing responsibilities have been assumed by a  
2341 certified service provider, the certified service provider shall  
2342 claim, on behalf of the seller, any bad-debt allowance provided  
2343 by this subsection. The certified service provider shall credit  
2344 or refund to the seller the full amount of any bad-debt  
2345 allowance or refund received.

2346 (f) For the purposes of reporting a payment received on a  
2347 previously claimed bad debt, any payments made on a debt or  
2348 account shall first be applied proportionally to the taxable  
2349 price of the property or service and the sales tax on such  
2350 property, and second to any interest, service charges, and any  
2351 other charges.

2352       (g) In situations in which the books and records of the  
2353 party claiming the bad-debt allowance support an allocation of  
2354 the bad debts among states that are members of the Streamlined  
2355 Sales and Use Tax Agreement, the allocation is permitted among  
2356 those states.

2357       Section 15. Paragraph (a) of subsection (3) of section  
2358 212.18, Florida Statutes, is amended to read:

2359       212.18 Administration of law; registration of dealers;  
2360 rules.--

2361       (3) (a) Every person desiring to engage in or conduct  
2362 business in this state as a dealer, as defined in this chapter,  
2363 or to lease, rent, or let or grant licenses in living quarters  
2364 or sleeping or housekeeping accommodations in hotels, apartment  
2365 houses, roominghouses, or tourist or trailer camps that are  
2366 subject to tax under s. 212.03, or to lease, rent, or let or  
2367 grant licenses in real property, as defined in this chapter, and  
2368 every person who sells or receives anything of value by way of  
2369 admissions, must file with the department an application for a  
2370 certificate of registration for each place of business, showing  
2371 the names of the persons who have interests in such business and  
2372 their residences, the address of the business, and such other  
2373 data as the department may reasonably require. However, owners  
2374 and operators of vending machines or newspaper rack machines are  
2375 required to obtain only one certificate of registration for each  
2376 county in which such machines are located. The department, by  
2377 rule, may authorize a dealer that uses independent sellers to  
2378 sell its merchandise to remit tax on the retail sales price  
2379 charged to the ultimate consumer in lieu of having the  
2380 independent seller register as a dealer and remit the tax. The

2381 department may appoint the county tax collector as the  
2382 department's agent to accept applications for registrations. The  
2383 application must be made to the department before the person,  
2384 firm, copartnership, or corporation may engage in such business,  
2385 and it must be accompanied by a registration fee of \$5. ~~However,~~  
2386 ~~a registration fee is not required to accompany an application~~  
2387 ~~to engage in or conduct business to make mail order sales.~~ The  
2388 department may waive the registration fee for applications  
2389 submitted through the department's Internet registration process  
2390 or central electronic registration system provided by member  
2391 states of the Streamlined Sales and Use Tax Agreement.

2392 Section 16. Section 212.20, Florida Statutes, is amended  
2393 to read:

2394 212.20 Funds collected, disposition; additional powers of  
2395 department; operational expense; refund of taxes adjudicated  
2396 unconstitutionally collected.—

2397 (1) The department shall pay over to the Chief Financial  
2398 Officer of the state all funds received and collected by it  
2399 under the provisions of this chapter, to be credited to the  
2400 account of the General Revenue Fund of the state.

2401 (2) The department is authorized to employ all necessary  
2402 assistants to administer this chapter properly and is also  
2403 authorized to purchase all necessary supplies and equipment  
2404 which may be required for this purpose.

2405 (3) The estimated amount of money needed for the  
2406 administration of this chapter shall be included by the  
2407 department in its annual legislative budget request for the  
2408 operation of its office.

2409 ~~(4) When there has been a final adjudication that any tax~~  
 2410 ~~pursuant to s. 212.0596 was levied, collected, or both, contrary~~  
 2411 ~~to the Constitution of the United States or the State~~  
 2412 ~~Constitution, the department shall, in accordance with rules,~~  
 2413 ~~determine, based upon claims for refund and other evidence and~~  
 2414 ~~information, who paid such tax or taxes, and refund to each such~~  
 2415 ~~person the amount of tax paid. For purposes of this subsection,~~  
 2416 ~~a "final adjudication" is a decision of a court of competent~~  
 2417 ~~jurisdiction from which no appeal can be taken or from which the~~  
 2418 ~~official or officials of this state with authority to make such~~  
 2419 ~~decisions has or have decided not to appeal.~~

2420 (4)~~(5)~~ For the purposes of this section:

2421 (a) "Proceeds" means all tax or fee revenue collected or  
 2422 received by the department, including interest and penalties.

2423 (b) "Reallocate" means reduction of the accounts of  
 2424 initial deposit and redeposit into the indicated account.

2425 (5)~~(6)~~ Distribution of all proceeds under this chapter and  
 2426 s. 202.18(1)(b) and (2)(b) shall be as follows:

2427 (a) Proceeds from the convention development taxes  
 2428 authorized under s. 212.0305 shall be reallocated to the  
 2429 Convention Development Tax Clearing Trust Fund.

2430 (b) Proceeds from discretionary sales surtaxes imposed  
 2431 pursuant to ss. 212.054 and 212.055 shall be reallocated to the  
 2432 Discretionary Sales Surtax Clearing Trust Fund.

2433 (c) Proceeds from the fees imposed under ss.  
 2434 212.05(1)(h)3. and 212.18(3) shall remain with the General  
 2435 Revenue Fund.

2436 (d) The proceeds of all other taxes and fees imposed  
2437 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)  
2438 and (2)(b) shall be distributed as follows:

2439 1. In any fiscal year, the greater of \$500 million, minus  
2440 an amount equal to 4.6 percent of the proceeds of the taxes  
2441 collected pursuant to chapter 201, or 5 percent of all other  
2442 taxes and fees imposed pursuant to this chapter or remitted  
2443 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in  
2444 monthly installments into the General Revenue Fund.

2445 2. Two-tenths of one percent shall be transferred to the  
2446 Ecosystem Management and Restoration Trust Fund to be used for  
2447 water quality improvement and water restoration projects.

2448 3. After the distribution under subparagraphs 1. and 2.,  
2449 8.814 percent of the amount remitted by a sales tax dealer  
2450 located within a participating county pursuant to s. 218.61  
2451 shall be transferred into the Local Government Half-cent Sales  
2452 Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to  
2453 be transferred pursuant to this subparagraph to the Local  
2454 Government Half-cent Sales Tax Clearing Trust Fund shall be  
2455 reduced by 0.1 percent, and the department shall distribute this  
2456 amount to the Public Employees Relations Commission Trust Fund  
2457 less \$5,000 each month, which shall be added to the amount  
2458 calculated in subparagraph 4. and distributed accordingly.

2459 4. After the distribution under subparagraphs 1., 2., and  
2460 3., 0.095 percent shall be transferred to the Local Government  
2461 Half-cent Sales Tax Clearing Trust Fund and distributed pursuant  
2462 to s. 218.65.

2463 5. After the distributions under subparagraphs 1., 2., 3.,  
2464 and 4., 2.0440 percent of the available proceeds pursuant to

2465 this paragraph shall be transferred monthly to the Revenue  
 2466 Sharing Trust Fund for Counties pursuant to s. 218.215.

2467 6. After the distributions under subparagraphs 1., 2., 3.,  
 2468 and 4., 1.3409 percent of the available proceeds pursuant to  
 2469 this paragraph shall be transferred monthly to the Revenue  
 2470 Sharing Trust Fund for Municipalities pursuant to s. 218.215. If  
 2471 the total revenue to be distributed pursuant to this  
 2472 subparagraph is at least as great as the amount due from the  
 2473 Revenue Sharing Trust Fund for Municipalities and the former  
 2474 Municipal Financial Assistance Trust Fund in state fiscal year  
 2475 1999-2000, no municipality shall receive less than the amount  
 2476 due from the Revenue Sharing Trust Fund for Municipalities and  
 2477 the former Municipal Financial Assistance Trust Fund in state  
 2478 fiscal year 1999-2000. If the total proceeds to be distributed  
 2479 are less than the amount received in combination from the  
 2480 Revenue Sharing Trust Fund for Municipalities and the former  
 2481 Municipal Financial Assistance Trust Fund in state fiscal year  
 2482 1999-2000, each municipality shall receive an amount  
 2483 proportionate to the amount it was due in state fiscal year  
 2484 1999-2000.

2485 7. Of the remaining proceeds:

2486 a. In each fiscal year, the sum of \$29,915,500 shall be  
 2487 divided into as many equal parts as there are counties in the  
 2488 state, and one part shall be distributed to each county. The  
 2489 distribution among the several counties shall begin each fiscal  
 2490 year on or before January 5th and shall continue monthly for a  
 2491 total of 4 months. If a local or special law required that any  
 2492 moneys accruing to a county in fiscal year 1999-2000 under the  
 2493 then-existing provisions of s. 550.135 be paid directly to the

2494 district school board, special district, or a municipal  
2495 government, such payment shall continue until such time that the  
2496 local or special law is amended or repealed. The state covenants  
2497 with holders of bonds or other instruments of indebtedness  
2498 issued by local governments, special districts, or district  
2499 school boards prior to July 1, 2000, that it is not the intent  
2500 of this subparagraph to adversely affect the rights of those  
2501 holders or relieve local governments, special districts, or  
2502 district school boards of the duty to meet their obligations as  
2503 a result of previous pledges or assignments or trusts entered  
2504 into which obligated funds received from the distribution to  
2505 county governments under then-existing s. 550.135. This  
2506 distribution specifically is in lieu of funds distributed under  
2507 s. 550.135 prior to July 1, 2000.

2508       b. The department shall distribute \$166,667 monthly  
2509 pursuant to s. 288.1162 to each applicant that has been  
2510 certified as a "facility for a new professional sports  
2511 franchise" or a "facility for a retained professional sports  
2512 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be  
2513 distributed monthly by the department to each applicant that has  
2514 been certified as a "facility for a retained spring training  
2515 franchise" pursuant to s. 288.1162; however, not more than  
2516 \$416,670 may be distributed monthly in the aggregate to all  
2517 certified facilities for a retained spring training franchise.  
2518 Distributions shall begin 60 days following such certification  
2519 and shall continue for not more than 30 years. Nothing contained  
2520 in this paragraph shall be construed to allow an applicant  
2521 certified pursuant to s. 288.1162 to receive more in

2522 distributions than actually expended by the applicant for the  
 2523 public purposes provided for in s. 288.1162(6).

2524 c. Beginning 30 days after notice by the Office of  
 2525 Tourism, Trade, and Economic Development to the Department of  
 2526 Revenue that an applicant has been certified as the professional  
 2527 golf hall of fame pursuant to s. 288.1168 and is open to the  
 2528 public, \$166,667 shall be distributed monthly, for up to 300  
 2529 months, to the applicant.

2530 d. Beginning 30 days after notice by the Office of  
 2531 Tourism, Trade, and Economic Development to the Department of  
 2532 Revenue that the applicant has been certified as the  
 2533 International Game Fish Association World Center facility  
 2534 pursuant to s. 288.1169, and the facility is open to the public,  
 2535 \$83,333 shall be distributed monthly, for up to 168 months, to  
 2536 the applicant. This distribution is subject to reduction  
 2537 pursuant to s. 288.1169. A lump sum payment of \$999,996 shall be  
 2538 made, after certification and before July 1, 2000.

2539 8. All other proceeds shall remain with the General  
 2540 Revenue Fund.

2541 Section 17. Section 213.052, Florida Statutes, is created  
 2542 to read:

2543 213.052 Notice of state rate changes.--

2544 (1) A sales or use tax rate change imposed under chapter  
 2545 212 is effective on January 1, April 1, July 1, or October 1.  
 2546 The Department of Revenue shall provide notice of such rate  
 2547 change to all affected sellers 60 days before the effective date  
 2548 of the rate change.

2549 (2) Failure of a seller to receive notice does not relieve  
 2550 the seller of its obligation to collect sales or use tax.

2551 Section 18. Section 213.0521, Florida Statutes, is created  
 2552 to read:

2553 213.0521 Effective date of state rate changes.--The  
 2554 effective date for services covering a period starting before  
 2555 and ending after the statutory effective date is as follows:

2556 (1) For a rate increase, the new rate applies to the first  
 2557 billing period starting on or after the effective date.

2558 (2) For a rate decrease, the new rate applies to bills  
 2559 rendered on or after the effective date.

2560 Section 19. Section 213.215, Florida Statutes, is created  
 2561 to read:

2562 213.215 Sales and use tax amnesty upon registration in  
 2563 accordance with Streamlined Sales and Use Tax Agreement.--

2564 (1) Amnesty shall be provided for uncollected or unpaid  
 2565 sales or use tax to a seller who registers to pay or to collect  
 2566 and remit applicable sales or use tax in accordance with the  
 2567 terms of the Streamlined Sales and Use Tax Agreement authorized  
 2568 under s. 213.256, if the seller was not registered with the  
 2569 Department of Revenue in the 12-month period preceding the  
 2570 effective date of participation in the agreement by this state.

2571 (2) The amnesty precludes assessment for uncollected or  
 2572 unpaid sales or use tax, together with penalty or interest for  
 2573 sales made during the period the seller was not registered with  
 2574 the Department of Revenue, if registration occurs within 12  
 2575 months after the effective date of this state's participation in  
 2576 the agreement.

2577 (3) The amnesty is not available to a seller with respect  
 2578 to any matter for which the seller received notice of the  
 2579 commencement of an audit if the audit is not yet finally

2580 resolved, including any related administrative and judicial  
 2581 processes.

2582 (4) The amnesty is not available for sales or use taxes  
 2583 already paid or remitted to the state or to taxes collected by  
 2584 the seller.

2585 (5) The amnesty is fully effective, absent the seller's  
 2586 fraud or intentional misrepresentation of a material fact, as  
 2587 long as the seller continues registration and continues payment  
 2588 or collection and remittance of applicable sales or use taxes  
 2589 for at least 36 months.

2590 (6) The amnesty applies only to sales or use taxes due  
 2591 from a seller in its capacity as a seller and not to sales or  
 2592 use taxes due from a seller in its capacity as a buyer.

2593 Section 20. Subsections (1) and (2) of section 213.256,  
 2594 Florida Statutes, are amended to read:

2595 213.256 Simplified Sales and Use Tax Administration Act.--

2596 (1) As used in this section and s. 213.2567, the term:

2597 (a) "Department" means the Department of Revenue.

2598 (b) "Agent" means , for purposes of carrying out the  
 2599 responsibilities placed on a dealer, a person appointed to the  
 2600 seller to represent the seller before the department.

2601 (c)~~(b)~~ "Agreement" means the Streamlined Sales and Use Tax  
 2602 Agreement as amended on September 20, 2007 and adopted on  
 2603 January 27, 2001, by the Executive Committee of the National  
 2604 Conference of State Legislatures.

2605 (d)~~(c)~~ "Certified automated system" means software  
 2606 certified jointly by the state states that are signatories to  
 2607 the agreement to calculate the tax imposed by each jurisdiction

2608 on a transaction, determine the amount of tax to remit to the  
2609 appropriate state, and maintain a record of the transaction.

2610 ~~(e)-(d)~~ "Certified service provider" means an agent  
2611 ~~certified jointly by the states that are signatories to the~~  
2612 ~~agreement~~ to perform all of the seller's sales tax functions  
2613 other than the seller's obligation to remit tax on its own  
2614 purchases.

2615 (f)1. "Model 1 seller" means a seller that has selected a  
2616 certified service provider as the seller's agent to perform all  
2617 of the seller's sales and use tax functions other than the  
2618 seller's obligation to remit tax on the seller's purchases.

2619 2. "Model 2 seller" means a seller that has selected a  
2620 certified automated system to perform part of the seller's sales  
2621 and use tax functions, but retains responsibility for remitting  
2622 the tax.

2623 3. "Model 3 seller" means a seller that has sales in at  
2624 least five member states, has total annual sales revenue of at  
2625 least \$500 million, has a proprietary system that calculates the  
2626 amount of tax due each jurisdiction, and has entered into a  
2627 performance agreement with the member states which establishes a  
2628 tax performance standard for the seller. As used in this  
2629 paragraph, a seller includes an affiliated group of sellers  
2630 using the same proprietary system.

2631 (g)-(e) "Person" means an individual, trust, estate,  
2632 fiduciary, partnership, limited liability company, limited  
2633 liability partnership, corporation, or any other legal entity.

2634 (h) "Registered under this agreement" means registration  
2635 by a seller with the member states under the central  
2636 registration system.

2637 (i)~~(f)~~ "Sales tax" means the tax levied under chapter 212.

2638 (j)~~(g)~~ "Seller" means any person making sales, leases, or  
2639 rentals of personal property or services.

2640 (k)~~(h)~~ "State" means any state of the United States and  
2641 the District of Columbia.

2642 (1)~~(i)~~ "Use tax" means the tax levied under chapter 212.

2643 (2) (a) The executive director of the department is  
2644 authorized to shall enter into agreement ~~the Streamlined Sales~~  
2645 ~~and Use Tax Agreement~~ with one or more states to simplify and  
2646 modernize sales and use tax administration in order to  
2647 substantially reduce the burden of tax compliance for all  
2648 sellers and for all types of commerce. In furtherance of the  
2649 agreement, the executive director of the department or his or  
2650 her designee shall act jointly with other states that are  
2651 members of the agreement to establish standards for  
2652 certification of a certified service provider and certified  
2653 automated systems ~~system~~ and central registration systems and  
2654 establish performance standards for multistate sellers.

2655 (b) The executive director of the department or his or her  
2656 designee shall take other actions reasonably required to  
2657 administer this section. Other actions authorized by this  
2658 section include, but are not limited to, the adoption of rules  
2659 and the joint procurement, with other member states, of goods  
2660 and services in furtherance of the cooperative agreement.

2661 (c) The executive director of the department or his or her  
2662 designee may represent this state before the other states that  
2663 are signatories to the agreement.

2664 (d) The executive director of the department or his or her  
2665 designee is authorized to prepare and submit from time to time

2666 such reports and certifications as may be determined necessary  
2667 according to the terms of an agreement and to enter into such  
2668 other agreements with the governing board, member states and  
2669 service providers as are determined by the executive director to  
2670 facilitate the administration of the tax laws of this state.

2671 Section 21. Section 213.2567, Florida Statutes, is created  
2672 to read:

2673 213.2567 Simplified Sales and Use Tax registration,  
2674 certification, liability, and audit.--

2675 (1) A seller that registers under the agreement agrees to  
2676 collect and remit sales and use taxes for this state. Withdrawal  
2677 or revocation of this state does not relieve a seller of its  
2678 responsibility to remit taxes previously or subsequently  
2679 collected on behalf of the state.

2680 (a) When registering, the seller may select a model 1,  
2681 model 2, or model 3 method of remittance or other method allowed  
2682 by state law to remit the taxes collected.

2683 (b) A seller may be registered by an agent. Such an  
2684 appointment must be in writing and submitted to a member state.

2685 (2)(a) A certified service provider is the agent of a  
2686 model 1 seller with whom the certified service provider has  
2687 contracted for the collection and remittance of sales and use  
2688 taxes. As the model 1 seller's agent, the certified service  
2689 provider is liable for sales and use tax due this state on all  
2690 sales transactions it processes for the model 1 seller, except  
2691 as set out in paragraph (b).

2692 (b) A model 1 seller is not liable to the state for sales  
2693 or use tax due on transactions processed by the certified  
2694 service provider unless the model 1 seller has misrepresented

2695 the type of items it sells or has committed fraud. In the  
2696 absence of probable cause to believe that the model 1 seller has  
2697 committed fraud or made a material misrepresentation, the model  
2698 1 seller is not subject to audit on the transactions processed  
2699 by the certified service provider. A model 1 seller is subject  
2700 to audit for transactions that have not been processed by the  
2701 certified service provider. The member states acting jointly may  
2702 perform a system check of the model 1 seller and review the  
2703 model 1 seller's procedures to determine if the certified  
2704 service provider's system is functioning properly and to  
2705 determine the extent to which the model 1 seller's transactions  
2706 are being processed by the certified service provider.

2707 (3) A person that provides a certified automated system is  
2708 responsible for the proper functioning of that system and is  
2709 liable to this state for underpayments of tax attributable to  
2710 errors in the functioning of the certified automated system. A  
2711 model 2 seller that uses a certified automated system remains  
2712 responsible and is liable to this state for reporting and  
2713 remitting tax.

2714 (4) A model 3 seller is liable for the failure of the  
2715 proprietary system to meet the performance standard.

2716 (5) The executive director of the department or his or her  
2717 designee may certify a person as a certified service provider if  
2718 the person meets all of the following requirements:

2719 (a) Uses a certified automated system;

2720 (b) Integrates its certified automated system with the  
2721 system of a seller for whom the person collects tax so that the  
2722 tax due on a sale is determined at the time of the sale;

2723 (c) Agrees to remit the taxes it collects at the time and  
2724 in the manner specified by chapter 212;

2725 (d) Agrees to file returns on behalf of the sellers for  
2726 whom it collects tax;

2727 (e) Agrees to protect the privacy of tax information it  
2728 obtains in accordance with s. 213.053; and

2729 (f) Enters into a contract with the department and agrees  
2730 to comply with the terms of the contract.

2731 (6) The executive director of the department or his or her  
2732 designee may certify a software program as a certified automated  
2733 system if it is determined that the program meets all of the  
2734 following requirements:

2735 (a) Determines the applicable state and local sales and  
2736 use tax rate for a transaction in accordance with s. 212.06(3)  
2737 and (4);

2738 (b) Determines whether an item is exempt from tax;

2739 (c) Determines the amount of tax to be remitted for each  
2740 taxpayer for a reporting period; and

2741 (d) Can generate reports and returns as required by the  
2742 governing board.

2743 (7) The department may by rule establish one or more sales  
2744 tax performance standards for model 3 sellers.

2745 (8) Disclosure of information necessary under this section  
2746 must be made according to a written agreement between the  
2747 executive director of the department or his or her designee and  
2748 the certified service provider. The certified service provider  
2749 is bound by the same requirements of confidentiality as the  
2750 department employees. Breach of confidentiality is a misdemeanor

2751 of the first degree, punishable as provided in s. 775.082 or s.  
2752 775.083.

2753 Section 22. It is the intent of the Legislature to urge  
2754 the United States Congress to consider adequate protections for  
2755 small businesses engaging in both offline and online  
2756 transactions from added costs, administrative burdens, and  
2757 requirements imposed on intermediaries relating to the  
2758 collection and remittance of sales and use tax.

2759 Section 23. Emergency rules.--The executive director of  
2760 the Department of Revenue is authorized, and all conditions are  
2761 deemed met, to adopt emergency rules, under sections 120.536(1)  
2762 and 120.54(4), Florida Statutes, to implement this act.  
2763 Notwithstanding any other law, the emergency rules shall remain  
2764 effective for 6 months after the date of adoption and may be  
2765 renewed during the pendency of procedures to adopt rules  
2766 addressing the subject of the emergency rules.

2767 Section 24. Paragraph (a) of subsection (5) of section  
2768 11.45, Florida Statutes, is amended to read:

2769 (5) PETITION FOR AN AUDIT BY THE AUDITOR GENERAL.--

2770 (a) The Legislative Auditing Committee shall direct the  
2771 Auditor General to make an audit of any municipality whenever  
2772 petitioned to do so by at least 20 percent of the registered  
2773 electors in the last general election of that municipality  
2774 pursuant to this subsection. The supervisor of elections of the  
2775 county in which the municipality is located shall certify  
2776 whether or not the petition contains the signatures of at least  
2777 20 percent of the registered electors of the municipality. After  
2778 the completion of the audit, the Auditor General shall determine  
2779 whether the municipality has the fiscal resources necessary to

2780 pay the cost of the audit. The municipality shall pay the cost  
2781 of the audit within 90 days after the Auditor General's  
2782 determination that the municipality has the available resources.  
2783 If the municipality fails to pay the cost of the audit, the  
2784 Department of Revenue shall, upon certification of the Auditor  
2785 General, withhold from that portion of the distribution pursuant  
2786 to s. 212.20(5)(d)6. ~~s. 212.20(6)(d)6.~~ which is distributable to  
2787 such municipality, a sum sufficient to pay the cost of the audit  
2788 and shall deposit that sum into the General Revenue Fund of the  
2789 state.

2790 Section 25. Subsection (6) of section 196.012, Florida  
2791 Statutes, is amended to read:

2792 196.012 Definitions.--For the purpose of this chapter, the  
2793 following terms are defined as follows, except where the context  
2794 clearly indicates otherwise:

2795 (6) Governmental, municipal, or public purpose or function  
2796 shall be deemed to be served or performed when the lessee under  
2797 any leasehold interest created in property of the United States,  
2798 the state or any of its political subdivisions, or any  
2799 municipality, agency, special district, authority, or other  
2800 public body corporate of the state is demonstrated to perform a  
2801 function or serve a governmental purpose which could properly be  
2802 performed or served by an appropriate governmental unit or which  
2803 is demonstrated to perform a function or serve a purpose which  
2804 would otherwise be a valid subject for the allocation of public  
2805 funds. For purposes of the preceding sentence, an activity  
2806 undertaken by a lessee which is permitted under the terms of its  
2807 lease of real property designated as an aviation area on an  
2808 airport layout plan which has been approved by the Federal

2809 Aviation Administration and which real property is used for the  
2810 administration, operation, business offices and activities  
2811 related specifically thereto in connection with the conduct of  
2812 an aircraft full service fixed base operation which provides  
2813 goods and services to the general aviation public in the  
2814 promotion of air commerce shall be deemed an activity which  
2815 serves a governmental, municipal, or public purpose or function.  
2816 Any activity undertaken by a lessee which is permitted under the  
2817 terms of its lease of real property designated as a public  
2818 airport as defined in s. 332.004(14) by municipalities,  
2819 agencies, special districts, authorities, or other public bodies  
2820 corporate and public bodies politic of the state, a spaceport as  
2821 defined in s. 331.303, or which is located in a deepwater port  
2822 identified in s. 403.021(9)(b) and owned by one of the foregoing  
2823 governmental units, subject to a leasehold or other possessory  
2824 interest of a nongovernmental lessee that is deemed to perform  
2825 an aviation, airport, aerospace, maritime, or port purpose or  
2826 operation shall be deemed an activity that serves a  
2827 governmental, municipal, or public purpose. The use by a lessee,  
2828 licensee, or management company of real property or a portion  
2829 thereof as a convention center, visitor center, sports facility  
2830 with permanent seating, concert hall, arena, stadium, park, or  
2831 beach is deemed a use that serves a governmental, municipal, or  
2832 public purpose or function when access to the property is open  
2833 to the general public with or without a charge for admission. If  
2834 property deeded to a municipality by the United States is  
2835 subject to a requirement that the Federal Government, through a  
2836 schedule established by the Secretary of the Interior, determine  
2837 that the property is being maintained for public historic

2838 preservation, park, or recreational purposes and if those  
2839 conditions are not met the property will revert back to the  
2840 Federal Government, then such property shall be deemed to serve  
2841 a municipal or public purpose. The term "governmental purpose"  
2842 also includes a direct use of property on federal lands in  
2843 connection with the Federal Government's Space Exploration  
2844 Program or spaceport activities as defined in s. 212.02~~(22)~~.  
2845 Real property and tangible personal property owned by the  
2846 Federal Government or Space Florida and used for defense and  
2847 space exploration purposes or which is put to a use in support  
2848 thereof shall be deemed to perform an essential national  
2849 governmental purpose and shall be exempt. "Owned by the lessee"  
2850 as used in this chapter does not include personal property,  
2851 buildings, or other real property improvements used for the  
2852 administration, operation, business offices and activities  
2853 related specifically thereto in connection with the conduct of  
2854 an aircraft full service fixed based operation which provides  
2855 goods and services to the general aviation public in the  
2856 promotion of air commerce provided that the real property is  
2857 designated as an aviation area on an airport layout plan  
2858 approved by the Federal Aviation Administration. For purposes of  
2859 determination of "ownership," buildings and other real property  
2860 improvements which will revert to the airport authority or other  
2861 governmental unit upon expiration of the term of the lease shall  
2862 be deemed "owned" by the governmental unit and not the lessee.  
2863 Providing two-way telecommunications services to the public for  
2864 hire by the use of a telecommunications facility, as defined in  
2865 s. 364.02~~(15)~~, and for which a certificate is required under  
2866 chapter 364 does not constitute an exempt use for purposes of s.

2867 196.199, unless the telecommunications services are provided by  
 2868 the operator of a public-use airport, as defined in s. 332.004,  
 2869 for the operator's provision of telecommunications services for  
 2870 the airport or its tenants, concessionaires, or licensees, or  
 2871 unless the telecommunications services are provided by a public  
 2872 hospital.

2873 Section 26. Paragraph (b) of subsection (1) and paragraph  
 2874 (b) of subsection (2) of section 202.18, Florida Statutes, are  
 2875 amended to read:

2876 (1) The proceeds of the taxes remitted under s.  
 2877 202.12(1)(a) shall be divided as follows:

2878 (b) The remaining portion shall be distributed according  
 2879 to s. 212.20(5) ~~s. 212.20(6)~~.

2880 (2) The proceeds of the taxes remitted under s.  
 2881 202.12(1)(b) shall be divided as follows:

2882 (b) Sixty-three percent of the remainder shall be  
 2883 allocated to the state and distributed pursuant to 212.20(5) ~~s.~~  
 2884 ~~212.20(6)~~, except that the proceeds allocated pursuant to s.  
 2885 212.20(5)(d)3. ~~s. 212.20(6)(d)3.~~ shall be prorated to the  
 2886 participating counties in the same proportion as that month's  
 2887 collection of the taxes and fees imposed pursuant to chapter 212  
 2888 and paragraph (1)(b).

2889 Section 27. Paragraphs (f), (g), (h), and (i) of  
 2890 subsection (1) of section 203.01, Florida Statutes, are amended  
 2891 to read:

2892 203.01 Tax on gross receipts for utility and  
 2893 communications services.--

2894 (1)

2895 (f) Any person who imports into this state electricity,  
2896 natural gas, or manufactured gas, or severs natural gas, for  
2897 that person's own use or consumption as a substitute for  
2898 purchasing utility, transportation, or delivery services taxable  
2899 under this chapter and who cannot demonstrate payment of the tax  
2900 imposed by this chapter must register with the Department of  
2901 Revenue and pay into the State Treasury each month an amount  
2902 equal to the cost price of such electricity, natural gas, or  
2903 manufactured gas times the rate set forth in paragraph (b),  
2904 reduced by the amount of any like tax lawfully imposed on and  
2905 paid by the person from whom the electricity, natural gas, or  
2906 manufactured gas was purchased or any person who provided  
2907 delivery service or transportation service in connection with  
2908 the electricity, natural gas, or manufactured gas. For purposes  
2909 of this paragraph, the term "cost price" has the meaning  
2910 ascribed in s. 212.02~~(4)~~. The methods of demonstrating proof of  
2911 payment and the amount of such reductions in tax shall be made  
2912 according to rules of the Department of Revenue.

2913 (g) Electricity produced by cogeneration or by small power  
2914 producers which is transmitted and distributed by a public  
2915 utility between two locations of a customer of the utility  
2916 pursuant to s. 366.051 is subject to the tax imposed by this  
2917 section. The tax shall be applied to the cost price of such  
2918 electricity as provided in s. 212.02~~(4)~~ and shall be paid each  
2919 month by the producer of such electricity.

2920 (h) Electricity produced by cogeneration or by small power  
2921 producers during the 12-month period ending June 30 of each year  
2922 which is in excess of nontaxable electricity produced during the  
2923 12-month period ending June 30, 1990, is subject to the tax

2924 imposed by this section. The tax shall be applied to the cost  
2925 price of such electricity as provided in s. 212.02~~(4)~~ and shall  
2926 be paid each month, beginning with the month in which total  
2927 production exceeds the production of nontaxable electricity for  
2928 the 12-month period ending June 30, 1990. For purposes of this  
2929 paragraph, "nontaxable electricity" means electricity produced  
2930 by cogeneration or by small power producers which is not subject  
2931 to tax under paragraph (g). Taxes paid pursuant to paragraph (g)  
2932 may be credited against taxes due under this paragraph.

2933 Electricity generated as part of an industrial manufacturing  
2934 process which manufactures products from phosphate rock, raw  
2935 wood fiber, paper, citrus, or any agricultural product shall not  
2936 be subject to the tax imposed by this paragraph. "Industrial  
2937 manufacturing process" means the entire process conducted at the  
2938 location where the process takes place.

2939 (i) Any person other than a cogenerator or small power  
2940 producer described in paragraph (h) who produces for his or her  
2941 own use electrical energy which is a substitute for electrical  
2942 energy produced by an electric utility as defined in s. 366.02  
2943 is subject to the tax imposed by this section. The tax shall be  
2944 applied to the cost price of such electrical energy as provided  
2945 in s. 212.02~~(4)~~ and shall be paid each month. The provisions of  
2946 this paragraph do not apply to any electrical energy produced  
2947 and used by an electric utility.

2948 Section 28. Paragraph (a) of subsection (1) of section  
2949 212.031, Florida Statutes, is amended to read:

2950 212.031 Tax on rental or license fee for use of real  
2951 property.--

2952 (1)(a) It is declared to be the legislative intent that  
 2953 every person is exercising a taxable privilege who engages in  
 2954 the business of renting, leasing, letting, or granting a license  
 2955 for the use of any real property unless such property is:

- 2956 1. Assessed as agricultural property under s. 193.461.
- 2957 2. Used exclusively as dwelling units.
- 2958 3. Property subject to tax on parking, docking, or storage  
 2959 spaces under s. 212.03(6).
- 2960 4. Recreational property or the common elements of a  
 2961 condominium when subject to a lease between the developer or  
 2962 owner thereof and the condominium association in its own right  
 2963 or as agent for the owners of individual condominium units or  
 2964 the owners of individual condominium units. However, only the  
 2965 lease payments on such property shall be exempt from the tax  
 2966 imposed by this chapter, and any other use made by the owner or  
 2967 the condominium association shall be fully taxable under this  
 2968 chapter.
- 2969 5. A public or private street or right-of-way and poles,  
 2970 conduits, fixtures, and similar improvements located on such  
 2971 streets or rights-of-way, occupied or used by a utility or  
 2972 provider of communications services, as defined by s. 202.11,  
 2973 for utility or communications or television purposes. For  
 2974 purposes of this subparagraph, the term "utility" means any  
 2975 person providing utility services as defined in s. 203.012. This  
 2976 exception also applies to property, wherever located, on which  
 2977 the following are placed: towers, antennas, cables, accessory  
 2978 structures, or equipment, not including switching equipment,  
 2979 used in the provision of mobile communications services as  
 2980 defined in s. 202.11. For purposes of this chapter, towers used

2981 in the provision of mobile communications services, as defined  
2982 in s. 202.11, are considered to be fixtures.

2983 6. A public street or road which is used for  
2984 transportation purposes.

2985 7. Property used at an airport exclusively for the purpose  
2986 of aircraft landing or aircraft taxiing or property used by an  
2987 airline for the purpose of loading or unloading passengers or  
2988 property onto or from aircraft or for fueling aircraft.

2989 8.a. Property used at a port authority, as defined in s.  
2990 315.02(2), exclusively for the purpose of oceangoing vessels or  
2991 tugs docking, or such vessels mooring on property used by a port  
2992 authority for the purpose of loading or unloading passengers or  
2993 cargo onto or from such a vessel, or property used at a port  
2994 authority for fueling such vessels, or to the extent that the  
2995 amount paid for the use of any property at the port is based on  
2996 the charge for the amount of tonnage actually imported or  
2997 exported through the port by a tenant.

2998 b. The amount charged for the use of any property at the  
2999 port in excess of the amount charged for tonnage actually  
3000 imported or exported shall remain subject to tax except as  
3001 provided in sub-subparagraph a.

3002 9. Property used as an integral part of the performance of  
3003 qualified production services. As used in this subparagraph, the  
3004 term "qualified production services" means any activity or  
3005 service performed directly in connection with the production of  
3006 a qualified motion picture, as defined in s. 212.06(1)(b), and  
3007 includes:

3008 a. Photography, sound and recording, casting, location  
3009 managing and scouting, shooting, creation of special and optical

3010 effects, animation, adaptation (language, media, electronic, or  
3011 otherwise), technological modifications, computer graphics, set  
3012 and stage support (such as electricians, lighting designers and  
3013 operators, greensmen, prop managers and assistants, and grips),  
3014 wardrobe (design, preparation, and management), hair and makeup  
3015 (design, production, and application), performing (such as  
3016 acting, dancing, and playing), designing and executing stunts,  
3017 coaching, consulting, writing, scoring, composing,  
3018 choreographing, script supervising, directing, producing,  
3019 transmitting dailies, dubbing, mixing, editing, cutting,  
3020 looping, printing, processing, duplicating, storing, and  
3021 distributing;

3022       b. The design, planning, engineering, construction,  
3023 alteration, repair, and maintenance of real or personal property  
3024 including stages, sets, props, models, paintings, and facilities  
3025 principally required for the performance of those services  
3026 listed in sub-subparagraph a.; and

3027       c. Property management services directly related to  
3028 property used in connection with the services described in sub-  
3029 subparagraphs a. and b.

3030

3031 This exemption will inure to the taxpayer upon presentation of  
3032 the certificate of exemption issued to the taxpayer under the  
3033 provisions of s. 288.1258.

3034       10. Leased, subleased, licensed, or rented to a person  
3035 providing food and drink concessionaire services within the  
3036 premises of a convention hall, exhibition hall, auditorium,  
3037 stadium, theater, arena, civic center, performing arts center,  
3038 publicly owned recreational facility, or any business operated

3039 under a permit issued pursuant to chapter 550. A person  
3040 providing retail concessionaire services involving the sale of  
3041 food and drink or other tangible personal property within the  
3042 premises of an airport shall be subject to tax on the rental of  
3043 real property used for that purpose, but shall not be subject to  
3044 the tax on any license to use the property. For purposes of this  
3045 subparagraph, the term "sale" shall not include the leasing of  
3046 tangible personal property.

3047 11. Property occupied pursuant to an instrument calling  
3048 for payments which the department has declared, in a Technical  
3049 Assistance Advisement issued on or before March 15, 1993, to be  
3050 nontaxable pursuant to rule 12A-1.070(19)(c), Florida  
3051 Administrative Code; provided that this subparagraph shall only  
3052 apply to property occupied by the same person before and after  
3053 the execution of the subject instrument and only to those  
3054 payments made pursuant to such instrument, exclusive of renewals  
3055 and extensions thereof occurring after March 15, 1993.

3056 12. Rented, leased, subleased, or licensed to a  
3057 concessionaire by a convention hall, exhibition hall,  
3058 auditorium, stadium, theater, arena, civic center, performing  
3059 arts center, or publicly owned recreational facility, during an  
3060 event at the facility, to be used by the concessionaire to sell  
3061 souvenirs, novelties, or other event-related products. This  
3062 subparagraph applies only to that portion of the rental, lease,  
3063 or license payment which is based on a percentage of sales and  
3064 not based on a fixed price. This subparagraph is repealed July  
3065 1, 2009.

3066 13. Property used or occupied predominantly for space  
3067 flight business purposes. As used in this subparagraph, "space

3068 flight business" means the manufacturing, processing, or  
3069 assembly of a space facility, space propulsion system, space  
3070 vehicle, satellite, or station of any kind possessing the  
3071 capacity for space flight, as defined by s. 212.02~~(23)~~, or  
3072 components thereof, and also means the following activities  
3073 supporting space flight: vehicle launch activities, flight  
3074 operations, ground control or ground support, and all  
3075 administrative activities directly related thereto. Property  
3076 shall be deemed to be used or occupied predominantly for space  
3077 flight business purposes if more than 50 percent of the  
3078 property, or improvements thereon, is used for one or more space  
3079 flight business purposes. Possession by a landlord, lessor, or  
3080 licensor of a signed written statement from the tenant, lessee,  
3081 or licensee claiming the exemption shall relieve the landlord,  
3082 lessor, or licensor from the responsibility of collecting the  
3083 tax, and the department shall look solely to the tenant, lessee,  
3084 or licensee for recovery of such tax if it determines that the  
3085 exemption was not applicable.

3086 Section 29. Paragraph (c) of subsection (2) and paragraph  
3087 (c) of subsection (3) and of section 212.055, Florida Statutes,  
3088 are amended to read:

3089 212.055 Discretionary sales surtaxes; legislative intent;  
3090 authorization and use of proceeds.--It is the legislative intent  
3091 that any authorization for imposition of a discretionary sales  
3092 surtax shall be published in the Florida Statutes as a  
3093 subsection of this section, irrespective of the duration of the  
3094 levy. Each enactment shall specify the types of counties  
3095 authorized to levy; the rate or rates which may be imposed; the  
3096 maximum length of time the surtax may be imposed, if any; the

3097 procedure which must be followed to secure voter approval, if  
 3098 required; the purpose for which the proceeds may be expended;  
 3099 and such other requirements as the Legislature may provide.  
 3100 Taxable transactions and administrative procedures shall be as  
 3101 provided in s. 212.054.

3102 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

3103 (c) Pursuant to s. 212.054(5)~~(4)~~, the proceeds of the  
 3104 surtax levied under this subsection shall be distributed to the  
 3105 county and the municipalities within such county in which the  
 3106 surtax was collected, according to:

3107 1. An interlocal agreement between the county governing  
 3108 authority and the governing bodies of the municipalities  
 3109 representing a majority of the county's municipal population,  
 3110 which agreement may include a school district with the consent  
 3111 of the county governing authority and the governing bodies of  
 3112 the municipalities representing a majority of the county's  
 3113 municipal population; or

3114 2. If there is no interlocal agreement, according to the  
 3115 formula provided in s. 218.62.

3116  
 3117 Any change in the distribution formula must take effect on the  
 3118 first day of any month that begins at least 60 days after  
 3119 written notification of that change has been made to the  
 3120 department.

3121 (3) SMALL COUNTY SURTAX.--

3122 (c) Pursuant to s. 212.054(5)~~(4)~~, the proceeds of the  
 3123 surtax levied under this subsection shall be distributed to the  
 3124 county and the municipalities within the county in which the  
 3125 surtax was collected, according to:

3126 1. An interlocal agreement between the county governing  
3127 authority and the governing bodies of the municipalities  
3128 representing a majority of the county's municipal population,  
3129 which agreement may include a school district with the consent  
3130 of the county governing authority and the governing bodies of  
3131 the municipalities representing a majority of the county's  
3132 municipal population; or

3133 2. If there is no interlocal agreement, according to the  
3134 formula provided in s. 218.62.

3135  
3136 Any change in the distribution formula shall take effect on the  
3137 first day of any month that begins at least 60 days after  
3138 written notification of that change has been made to the  
3139 department.

3140 Section 30. Subsection (3) of section 212.13, Florida  
3141 Statutes, is amended to read:

3142 212.13 Records required to be kept; power to inspect;  
3143 audit procedure.--

3144 (3) For the purpose of enforcement of this chapter, every  
3145 manufacturer and seller of tangible personal property or  
3146 services licensed within this state is required to permit the  
3147 department to examine his or her books and records at all  
3148 reasonable hours, and, upon his or her refusal, the department  
3149 may require him or her to permit such examination by resort to  
3150 the circuit courts of this state, subject however to the right  
3151 of removal of the cause to the judicial circuit wherein such  
3152 person's business is located or wherein such person's books and  
3153 records are kept, provided further that such person's books and  
3154 records are kept within the state. When the dealer has made an

3155 allocation or attribution pursuant to the definition of sales  
3156 price in s. 212.02(16), the department may prescribe by rule the  
3157 books and records that must be made available during an audit of  
3158 the dealer's books and records and examples of methods for  
3159 determining the reasonableness thereof. Books and records kept  
3160 in the regular course of business include, but are not limited  
3161 to, general ledgers, price lists, cost records, customer  
3162 billings, billing system reports, tariffs, and other regulatory  
3163 filings and rules of regulatory authorities. Such record may be  
3164 required to be made available to the department in an electronic  
3165 format when so kept by the dealer. The dealer may support the  
3166 allocation of charges with books and records kept in the regular  
3167 course of business covering the dealer's entire service area,  
3168 including territories outside this state. During an audit, the  
3169 department may reasonably require production of any additional  
3170 books and records found necessary to assist in its  
3171 determination.

3172 Section 31. Subsection (1) of section 212.15, Florida  
3173 Statutes, is amended to read:

3174 212.15 Taxes declared state funds; penalties for failure  
3175 to remit taxes; due and delinquent dates; judicial review.—

3176 (1) The taxes imposed by this chapter shall, ~~except as~~  
3177 ~~provided in s. 212.06(5)(a)2.e.7,~~ become state funds at the  
3178 moment of collection and shall for each month be due to the  
3179 department on the first day of the succeeding month and be  
3180 delinquent on the 21st day of such month. All returns postmarked  
3181 after the 20th day of such month are delinquent.

3182 Section 32. Subsection (3) of subsection 218.245, Florida  
3183 Statutes, is amended to read:

3184 (3) Revenues attributed to the increase in distribution to  
 3185 the Revenue Sharing Trust Fund for Municipalities pursuant to s.  
 3186 212.20(5)(d)5. ~~s. 212.20(6)(d)6.~~ from 1.0715 percent to 1.3409  
 3187 percent provided in chapter 2003-402, Laws of Florida, shall be  
 3188 distributed to each eligible municipality and any unit of local  
 3189 government which is consolidated as provided by s. 9, Art. VIII  
 3190 of the State Constitution of 1885, as preserved by s. 6(e), Art.  
 3191 VIII, 1968 revised constitution, as follows: each eligible local  
 3192 government's allocation shall be based on the amount it received  
 3193 from the half-cent sales tax under s. 218.61 in the prior state  
 3194 fiscal year divided by the total receipts under s. 218.61 in the  
 3195 prior state fiscal year for all eligible local governments;  
 3196 provided, however, for the purpose of calculating this  
 3197 distribution, the amount received from the half-cent sales tax  
 3198 under s. 218.61 in the prior state fiscal year by a unit of  
 3199 local government which is consolidated as provided by s. 9, Art.  
 3200 VIII of the State Constitution of 1885, as amended, and as  
 3201 preserved by s. 6(e), Art. VIII, of the Constitution as revised  
 3202 in 1968, shall be reduced by 50 percent for such local  
 3203 government and for the total receipts. For eligible  
 3204 municipalities that began participating in the allocation of  
 3205 half-cent sales tax under s. 218.61 in the previous state fiscal  
 3206 year, their annual receipts shall be calculated by dividing  
 3207 their actual receipts by the number of months they participated,  
 3208 and the result multiplied by 12.

3209 Section 33. Subsection (6) of section 288.1169, Florida  
 3210 Statutes, is amended to read:

3211 (6) The Department of Commerce must recertify every 10  
 3212 years that the facility is open, that the International Game

3213 Fish Association World Center continues to be the only  
3214 international administrative headquarters, fishing museum, and  
3215 Hall of Fame in the United States recognized by the  
3216 International Game Fish Association, and that the project is  
3217 meeting the minimum projections for attendance or sales tax  
3218 revenues as required at the time of original certification. If  
3219 the facility is not recertified during this 10-year review as  
3220 meeting the minimum projections, then funding will be abated  
3221 until certification criteria are met. If the project fails to  
3222 generate \$1 million of annual revenues pursuant to paragraph  
3223 (2)(e), the distribution of revenues pursuant to s.  
3224 212.20(5)(d)7.d. ~~s. 212.20(6)(d)7.d.~~ shall be reduced to an  
3225 amount equal to \$83,333 multiplied by a fraction, the numerator  
3226 of which is the actual revenues generated and the denominator of  
3227 which is \$1 million. Such reduction shall remain in effect until  
3228 revenues generated by the project in a 12-month period equal or  
3229 exceed \$1 million.

3230 Section 34. Subsection (8) of section 551.102, Florida  
3231 Statutes, is amended to read:

3232 551.102 Definitions.--As used in this chapter, the term:

3233 (8) "Slot machine" means any mechanical or electrical  
3234 contrivance, terminal that may or may not be capable of  
3235 downloading slot games from a central server system, machine, or  
3236 other device that, upon insertion of a coin, bill, ticket,  
3237 token, or similar object or upon payment of any consideration  
3238 whatsoever, including the use of any electronic payment system  
3239 except a credit card or debit card, is available to play or  
3240 operate, the play or operation of which, whether by reason of  
3241 skill or application of the element of chance or both, may

3242 deliver or entitle the person or persons playing or operating  
3243 the contrivance, terminal, machine, or other device to receive  
3244 cash, billets, tickets, tokens, or electronic credits to be  
3245 exchanged for cash or to receive merchandise or anything of  
3246 value whatsoever, whether the payoff is made automatically from  
3247 the machine or manually. The term includes associated equipment  
3248 necessary to conduct the operation of the contrivance, terminal,  
3249 machine, or other device. Slot machines may use spinning reels,  
3250 video displays, or both. A slot machine is not a "coin-operated  
3251 amusement machine" as defined in s. 212.02~~(24)~~ or an amusement  
3252 game or machine as described in s. 849.161, and slot machines  
3253 are not subject to the tax imposed by s. 212.05(1)(h).

3254 Section 35. Paragraph (a) of subsection (1) of section  
3255 790.0655, Florida Statutes, is amended to read:

3256 790.0655 Purchase and delivery of handguns; mandatory  
3257 waiting period; exceptions; penalties.--

3258 (1)(a) There shall be a mandatory 3-day waiting period,  
3259 which shall be 3 days, excluding weekends and legal holidays,  
3260 between the purchase and the delivery at retail of any handgun.  
3261 "Purchase" means the transfer of money or other valuable  
3262 consideration to the retailer. "Handgun" means a firearm capable  
3263 of being carried and used by one hand, such as a pistol or  
3264 revolver. "Retailer" means and includes every person engaged in  
3265 the business of making sales at retail or for distribution, or  
3266 use, or consumption, or storage to be used or consumed in this  
3267 state, as defined in s. 212.02~~(13)~~.

3268 Section 36. This act shall take effect July 1, 2008.

1 A bill to be entitled

2 An act relating to faith and character-based prisons;  
3 providing legislative intent; authorizing the expansion of  
4 faith-based programs at correctional institutions;  
5 authorizing character-based programs at correctional  
6 institutions; mandating expansion and evaluation of faith  
7 and character-based programs at certain correctional  
8 institutions; providing an effective date.

9  
10 Be It Enacted by the Legislature of the State of Florida:

11  
12 Section 1. Section 944.803, Florida Statutes, is amended  
13 to read.—

14 944.803 Faith and character-based institutions and Faith-  
15 ~~based~~ programs for inmates.—

16 (1) The Legislature finds and declares that faith and  
17 character-based correctional institutions and facilities offered  
18 in state and private correctional settings have the public  
19 safety mission and the potential to facilitate inmate  
20 institutional adjustment, help inmates assume personal  
21 responsibility, and substantially reduce recidivism. With a firm  
22 constitutional foundation, faith and character-based  
23 institutions allow any inmate, secular or religious, to make him  
24 or herself into a better person. Through the initial step of  
25 volunteering to reside in a faith and character-based  
26 institution, an increasing number of inmates are taking their  
27 first step towards personal responsibility and self-improvement.  
28 ~~The Legislature finds and declares that faith-based programs~~  
29 ~~offered in state and private correctional institutions and~~

30 ~~facilities have the potential to facilitate inmate institutional~~  
31 ~~adjustment, help inmates assume personal responsibility, and~~  
32 ~~reduce recidivism.~~

33 (2) It is the intent of the Legislature that the  
34 Department of Corrections and the private vendors operating  
35 private correctional facilities shall continuously:

36 (a) Measure recidivism rates for inmates who have  
37 participated in faith and character-based institutions and  
38 ~~religious~~ programs;

39 (b) Increase the number of volunteers who minister to  
40 inmates from various faith-based institutions in the community;

41 (c) Encourage additional community volunteers and strong  
42 community partnerships with community colleges, universities,  
43 and other significant community institutions to further the  
44 mission of faith and character-based correctional institutions  
45 and programs.

46 (d)-(e) Develop community linkages with various religious,  
47 educational, business and community churches, synagogues,  
48 ~~mosques, and other faith-based~~ institutions to assist inmates in  
49 their release back into the community; and

50 (e)-(d) Fund through the use of annual appropriations, in  
51 department facilities, and through inmate welfare trust funds  
52 pursuant to s. 945.215, in private facilities, an adequate  
53 number of chaplains and support staff to operate faith-based  
54 programs in correctional institutions;

55 (f) Fund through the use of annual appropriations the  
56 department staff and contracts required to further the public  
57 safety mission of faith and character-based correctional  
58 institutions and programs. A portion of the savings created

59 through the reduced recidivism rate of participants in faith and  
60 character-based institutions and programs should be used to help  
61 transition ex-offenders back into the community.

62 (3) The department must have at least six new programs  
63 fully operational. These six programs shall be similar to and in  
64 addition to the current faith-based pilot program. The six new  
65 programs shall be a joint effort with the department and faith-  
66 based service groups within the community. The department shall  
67 ensure that an inmate's faith orientation, or lack thereof, will  
68 not be considered in determining admission to a faith-based  
69 program and that the program does not attempt to convert an  
70 inmate toward a particular faith or religious preference. The  
71 programs shall operate 24 hours a day within the existing  
72 correctional facilities. The programs must emphasize the  
73 importance of personal responsibility, meaningful work,  
74 education, substance abuse treatment, and peer support.  
75 Participation in the faith-based dormitory program shall be  
76 voluntary. However, at least 80 percent of the inmates  
77 participating in this program must be within 36 months of  
78 release. Assignment to these programs shall be based on  
79 evaluation and the length of time the inmate is projected to be  
80 assigned to that particular institution. In evaluating an inmate  
81 for this program, priority shall be given to inmates who have  
82 shown an indication for substance abuse. A right to substance  
83 abuse program services is not stated, intended, or otherwise  
84 implied by this subsection. The department may not remove an  
85 inmate once assigned to the program except for the purposes of  
86 population management, for inmate conduct that may subject the  
87 inmate to disciplinary confinement or loss of gain-time, for

88 physical or mental health concerns, or for security or safety  
89 concerns. To support the programming component, the department  
90 shall assign a chaplain and a full-time clerical support person  
91 dedicated to each dormitory to implement and monitor the program  
92 and to strengthen volunteer participation and support.

93 (4) The Department of Corrections shall assign chaplains  
94 to community correctional centers authorized pursuant to s.  
95 945.091(1)(b). These chaplains shall strengthen volunteer  
96 participation by recruiting volunteers in the community to  
97 assist inmates in transition, and, if requested by the inmate,  
98 placement in a mentoring program or at a contracted substance  
99 abuse transition housing program. When placing an inmate in a  
100 contracted program, the chaplain shall work with the  
101 institutional transition assistance specialist in an effort to  
102 successfully place the released inmate.

103 (5) The department shall ensure that any faith component  
104 of any program authorized in this chapter is offered on a  
105 voluntary basis and, an offender's faith orientation, or lack  
106 thereof, will not be considered in determining admission to a  
107 faith-based program and that the program does not attempt to  
108 convert an offender toward a particular faith or religious  
109 preference.

110 (6) The department shall ensure that state funds are not  
111 expended for the purpose of furthering religious indoctrination,  
112 but rather, that state funds are expended for purposes of  
113 furthering the secular goals of criminal rehabilitation, the  
114 successful reintegration of offenders into the community, and  
115 the reduction of recidivism.

116       (7) The department must continue to improve and expand the  
117 existing faith and character-based programs at Lawtey  
118 Correctional Institution and Hillsborough Correctional  
119 Institution to the extent possible. The department must expand  
120 the faith and character-based program at Wakulla Correctional  
121 Institution to include the main unit, work camp, and annex.

122       (8) The department shall evaluate the benefits,  
123 implications, and realistic limitations of the faith and  
124 character-based prison model for cost savings, crime reduction,  
125 enhanced professionalism of correctional employees, and  
126 replicate the faith and character-based prison model when  
127 feasible.

128       Section 2. This act shall take effect upon becoming a law.

1 A bill to be entitled

2 An act relating to the Joint Legislative Sales and Use Tax  
3 Exemption Review Committee; creating s. 11.95, F.S.;  
4 creating the Joint Legislative Sales and Use Tax Exemption  
5 Review Committee for the purpose of reviewing exemptions  
6 from the general state sales and use tax; providing for  
7 appointments to and organization of the committee;  
8 specifying duties and procedures with respect to such  
9 review; providing for open meetings; providing for  
10 reports; requiring continuing periodic review of sales and  
11 use tax exemptions; providing a period of exemption from  
12 review for newly enacted exemptions; providing  
13 applicability to other legislation proposing to modify,  
14 repeal, or enact an exemption; providing an effective  
15 date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19 Section 1. Section 11.95, Florida Statutes, is created to  
20 read:

21 11.95 Joint Legislative Sales and Use Tax Exemption Review  
22 Committee.—

23 (1) The Joint Legislative Sales and Use Tax Exemption  
24 Review Committee is created to conduct comprehensive, periodic  
25 reviews of all exemptions from the general state sales and use  
26 tax. The committee shall consist of nine senators appointed by  
27 the President of the Senate and nine representatives appointed  
28 by the Speaker of the House of Representatives. The terms of the  
29 members of the initial committee for each review cycle shall  
30 commence upon appointment and shall run to the general election

31 preceding the organization of the next Legislature. The terms of  
32 the members of subsequent committees for each review cycle shall  
33 be for 2 years and shall run from the organization of one  
34 Legislature to the general election preceding the organization  
35 of the next Legislature. A vacancy shall be filled in the same  
36 manner as the original appointment. During even-numbered years,  
37 the chair of the committee shall be appointed by the President  
38 of the Senate, and the vice chair of the committee shall be  
39 appointed by the Speaker of the House of Representatives. During  
40 odd-numbered years, the chair of the committee shall be  
41 appointed by the Speaker of the House of Representatives, and  
42 the vice chair of the committee shall be appointed by the  
43 President of the Senate.

44 (2) The committee for each review cycle shall have its  
45 initial meeting no later than December 1 of the year of its  
46 first regular session and thereafter as necessary at the call of  
47 the chair at the time and place designated by the chair. A  
48 quorum shall consist of a majority of the committee members from  
49 each house. During the interim between regular sessions, the  
50 committee may conduct its meetings through teleconferences or  
51 other similar means. All meetings of the committee shall be open  
52 and noticed to the public and subject to order and decorum in  
53 accordance with s. 4(e), Art. III of the State Constitution.

54 (3) The committee shall be governed by joint rules adopted  
55 by the Legislature pursuant to authority to adopt rules under s.  
56 4, Art. III of the State Constitution.

57 (4) For purposes of this section, the term:

58 (a) "General state sales and use tax" means the sales and  
59 use tax imposed under chapter 212.

60 (b) "Exemption" means a provision in chapter 212 that  
61 relieves from taxation a sale, use, or other transaction that  
62 would, but for such provision, be subject to tax under chapter  
63 212. A transaction that is beyond the reach of chapter 212 by  
64 reason of definitional or other exclusions shall not be deemed  
65 the subject of an exemption for purposes of this section.  
66 Included among the transactions excluded from taxation under  
67 chapter 212 and therefore not the subject of an exemption to be  
68 reviewed by the committee under this section are the following:

- 69 1. Sales that are not retail sales pursuant to s.  
70 212.02(14).
- 71 2. Export sales under s. 212.06(5)(a).
- 72 3. Sales for resale under s. 212.07.
- 73 4. Occasional and isolated sales.
- 74 5. The sale or use of intangible property.
- 75 6. The sale of real property.
- 76 7. The sale or use of services, excepting only those  
77 services enumerated as taxable in chapter 212.

78 (c) "Single exemption" means an exemption that describes a  
79 single transaction or an exemption set forth in a section,  
80 subsection, or paragraph of chapter 212, whichever describes the  
81 fewest number of transactions.

82 (5) The committee shall have the power and duty to conduct  
83 a comprehensive review of all current exemptions from the  
84 general state sales and use tax. The committee shall establish  
85 criteria by which each exemption shall be evaluated. In  
86 developing the evaluation criteria, the committee shall consider  
87 the following principles of taxation:

88 (a) Equity.--The Florida tax system should treat  
89 individuals equitably. It should impose similar tax burdens on

90 people in similar circumstances and should minimize  
91 regressivity.

92 (b) Compliance.--The Florida tax system should facilitate  
93 taxpayer compliance. It should be simple and easy to understand  
94 so as to minimize compliance costs and increase the visibility  
95 and awareness of the taxes being paid. Enforcement and  
96 collection of tax revenues should be done in a fair, consistent,  
97 professional, predictable, and cost-effective manner.

98 (c) Pro-competitiveness.--The Florida tax system should be  
99 responsive to interstate and international competition in order  
100 to encourage savings and investment in plants, equipment,  
101 people, and technology in Florida.

102 (d) Neutrality.--The Florida tax system should affect  
103 competitors uniformly. It should minimize government involvement  
104 in investment decisions, making any such involvement explicit,  
105 and should minimize pyramiding.

106 (e) Stability.--The Florida tax system should produce  
107 revenues in a stable and reliable manner that is sufficient to  
108 fund appropriate governmental functions and expenditures.

109 (f) Integration.--The Florida tax system should balance the  
110 need for integration of federal, state, and local taxation.

111 (g) Public purpose.--Any sales and use tax exemption under  
112 the Florida tax system should be based upon a determination that  
113 the exemption promotes an important state interest, including,  
114 but not limited to, economic development, job creation and  
115 retention, economic diversification, and community  
116 revitalization.

117 (6) In conducting its review of each exemption from the  
118 general state sales and use tax, the committee shall make  
119 findings of fact and recommend whether the exemption should be

120 retained, modified, or repealed. Each recommendation must be  
121 made by majority vote of the committee members. If a majority  
122 vote of the committee members cannot be achieved, the committee  
123 must recommend that the exemption be retained. The findings of  
124 fact and recommendations of the committee shall be made by  
125 reports to the President of the Senate and the Speaker of the  
126 House of Representatives.

127 (7) The committee may use its discretion in determining the  
128 order in which it reviews the exemptions; however, the committee  
129 should review approximately one-third of the exemptions each  
130 year of a 3-year review period. No exemption shall be reviewed  
131 more than once during any 3-year review period. For the initial  
132 3-year review, the committee shall submit, to the President of  
133 the Senate and the Speaker of the House of Representatives, its  
134 reports not later than 30 days prior to each regular session in  
135 the years 2009, 2010, and 2011. The committee shall begin a new  
136 3-year review cycle of all exemptions from the general state  
137 sales and use tax every 10 years following the termination of  
138 the previous review cycle. For each subsequent 3-year review,  
139 the committee shall submit its reports not later than 30 days  
140 prior to the regular session of each year of that review period,  
141 beginning with the 10th year after the year of the final report  
142 for the previous review.

143 (8) At the regular session following submission of each  
144 annual report to the presiding officers of the Legislature, the  
145 ranking member of each house of the Legislature on the committee  
146 shall sponsor and file for introduction in his or her respective  
147 house of the Legislature bills presenting for modification or  
148 repeal those exemptions from the general state sales and use tax  
149 that were recommended by the committee for modification or

150 repeal in the report submitted immediately prior to the session  
151 in which introduced. However, if either such member voted  
152 against the recommendation of the committee, another member of  
153 the committee from that house of the Legislature who voted for  
154 the recommendation of the committee shall sponsor the bill in  
155 that house of the Legislature. Each bill filed under this  
156 subsection shall be exempt from any filing limits applicable in  
157 either house of the Legislature and shall be limited to a single  
158 exemption and for that purpose only. Upon introduction, each  
159 bill filed under this subsection shall be placed on the calendar  
160 of the respective house of the Legislature without reference to  
161 any committee and must be submitted to a vote of the members of  
162 the house of the Legislature in which introduced no later than  
163 the eighth week of the session in which introduced, unless the  
164 substance of the bill has already been voted on by the members  
165 of the other house of the Legislature in another bill during  
166 that session and defeated. In addition, each bill filed under  
167 this subsection that receives a majority vote in the house of  
168 the Legislature in which introduced must be submitted to a vote  
169 of the members of the other house of the Legislature during that  
170 session, unless the substance of the bill has already been voted  
171 on by the members of the other house of the Legislature in  
172 another bill during that session and defeated.

173 (9) In no event shall the repeal of an exemption take  
174 effect sooner than 180 days following its passage by the  
175 Legislature.

176 (10) Any new exemption from taxation under chapter 212 is  
177 exempt from review under this section for 6 years after it takes  
178 effect.

179        (11) Nothing contained in this section shall preclude, or  
180 be construed to limit, a legislator from filing for any  
181 legislative session a bill proposing to modify, repeal, or enact  
182 any exemption from the general state sales and use tax or the  
183 imposition of such taxation on the sales of any service.

184            Section 2. This act shall take effect upon becoming a law.  
185

1 A bill to be entitled

2 An act relating to transportation funding; amending s.  
3 206.051, F.S.; making conforming changes relating to the  
4 renaming of local option fuel taxes as local fuel taxes;  
5 amending s. 206.23, F.S.; making conforming changes  
6 relating to the renaming of local option fuel taxes as  
7 local fuel taxes; amending s. 206.41, F.S.; indexing the  
8 county fuel tax and the municipal fuel tax to the Consumer  
9 Price Index; mandating the imposition of the ninth-cent  
10 fuel tax by counties and indexing the tax to the Consumer  
11 Price Index; making local option fuel taxes mandatory,  
12 renaming the taxes as local fuel taxes, and imposing those  
13 taxes at the rate of 11 cents per gallon indexed to the  
14 Consumer Price Index; imposing a National System Tax as an  
15 additional fuel tax and indexing that tax to the Consumer  
16 Price Index; requiring the notice of fuel tax changes;  
17 authorizing the adoption of rules and forms; amending s.  
18 206.414, F.S.; providing for the collection of the  
19 National System Tax on motor fuel; amending s. 206.43,  
20 F.S.; providing for monthly payment of the National System  
21 Tax, less an allowance for services and expenses to comply  
22 with the law; making conforming changes relating to the  
23 renaming of local option fuel taxes as local fuel taxes;  
24 amending s. 206.47, F.S.; providing for the distribution  
25 of the ninth-cent fuel tax and local fuel taxes based on  
26 taxes paid in each county; making conforming changes  
27 relating to the renaming of local option fuel taxes as  
28 local fuel taxes; creating s. 206.607, F.S.; providing for

29 | the deposit of revenues from the National System Tax on  
30 | motor fuel, less service charges and administrative costs,  
31 | to be deposited in the State Transportation Trust Fund;  
32 | prohibiting National System Tax Revenues from being used  
33 | on projects not included in a certain work program;  
34 | amending s. 206.87, F.S.; mandating the imposition of the  
35 | ninth-cent fuel tax on diesel fuel in counties and  
36 | indexing the tax to the Consumer Price Index; mandating  
37 | the imposition of a local fuel tax of 6 cents per gallon  
38 | of diesel fuel in counties and indexing the tax to the  
39 | Consumer Price Index; making local option fuel taxes  
40 | mandatory and renaming the taxes as local fuel taxes;  
41 | imposing a National System Tax as an additional tax on  
42 | diesel fuel and indexing that tax to the Consumer Price  
43 | Index; requiring notice of fuel tax changes; authorizing  
44 | the adoption of rules and forms; amending s. 206.8745,  
45 | F.S.; making conforming changes relating to the renaming  
46 | of local option fuel taxes and making those taxes  
47 | mandatory; amending s. 215.211, F.S.; makes conforming  
48 | changes to service charges on certain taxes accounting for  
49 | the renaming of local option fuel taxes as local fuel  
50 | taxes; amending s. 319.32; F.S.; providing for increased  
51 | fees for certain motor vehicle titles in 2009, 2010, and  
52 | 2011 and indexing that fee to the Consumer Price Index  
53 | starting in 2012; increasing amounts of fee revenues from  
54 | certain motor vehicle titles for deposit in the State  
55 | Transportation Trust Fund in 2009, 2010, and 2011 and  
56 | indexing those amounts to the Consumer Price Index

57 starting in 2012; amending s. 319.32, F.S.; providing for  
58 increases for service charges relating to certificates of  
59 title; amending s. 320.04, F.S.; providing for increases  
60 for service charges relating to registrations for motor  
61 vehicles; amending s. 320.08, F.S.; increasing license  
62 taxes for certain motor vehicles and trailers in 2009,  
63 2010, and 2011 and indexing those taxes to the Consumer  
64 Price Index in 2012; amending s. 336.021, F.S.; making  
65 ninth-cent local option fuel tax on motor fuel and diesel  
66 fuel mandatory and renaming the taxes as local fuel taxes;  
67 repealing provisions relating to local option fuel taxes;  
68 amending s. 336.025, F.S.; making local option fuel taxes  
69 on motor fuel and diesel fuel mandatory, renaming those  
70 taxes as local fuel taxes, and imposing the tax at the  
71 rate of 6 cents per gallon; requiring the use of local  
72 fuel tax revenues by counties and municipalities for  
73 transportation expenditures; repealing provisions relating  
74 to local option fuel taxes; amending s. 339.2816, F.S.;  
75 deleting certain eligibility criteria for participation in  
76 the Small County Road Assistance Program; providing an  
77 effective date.

78  
79 Be It Enacted by the Legislature of the State of Florida:

80  
81 Section 1. Section 206.051, Florida Statutes, is amended  
82 to read:

83 206.051 Importer and exporter; credit authorization and  
84 bonding requirements.--

85 (1) Prior to being licensed, an importer must establish  
86 credit worthiness with the department. This shall be  
87 accomplished by posting a bond equivalent to 60 days' tax  
88 liability or by making a cash deposit or providing an  
89 irrevocable letter of credit in that amount. An importer shall  
90 then be authorized to import fuels and remit taxes directly to  
91 the state as provided in this part up to the amount of credit so  
92 established. Before an importer's liability may exceed its  
93 established credit limit, the importer shall make a tax deposit,  
94 by electronic funds transfer to the department, in an amount  
95 equal to its current tax liability, or provide the department  
96 with additional security as provided by this section. Any  
97 importer who fails to timely remit taxes and supply sufficient  
98 credit as required by this section shall be prohibited from  
99 importing untaxed fuel into this state.

100 (2) Prior to each importation of taxable motor or diesel  
101 fuels upon which tax has not been charged by the supplier, an  
102 importer must notify the department and obtain an import  
103 authorization number which shall be recorded by the importer on  
104 the shipping papers.

105 (3) Prior to being licensed, an exporter must post a bond  
106 with the department equal to 3 times the total state and local  
107 ~~option~~ taxes that would be due if sold for highway use in  
108 Florida, based on the average monthly number of gallons of motor  
109 and diesel fuel to be exported, subject to the maximum bonding  
110 restrictions for motor fuels in s. 206.05 and diesel fuels in s.  
111 206.90. To the extent that a taxpayer already has established a

112 bond under those sections, only an amount necessary to comply  
113 with this section will be required.

114 (4) A licensed exporter shall be authorized to take a  
115 credit on its monthly fuel tax return or apply for a refund of  
116 all state fuel tax and ~~local~~ option fuel tax paid on fuel  
117 exported from the state in compliance with this section. To  
118 establish the right to refund, an exporter shall provide a copy  
119 of the return filed in the destination state showing the import  
120 of all fuels claimed for refund. The department shall, absent  
121 any violation, authorize a refund based on the information  
122 submitted.

123 (5) Any exporter filing a false refund claim or claiming a  
124 false credit shall be prohibited from making future refund or  
125 credit claims for taxes paid on motor fuels exported from this  
126 state for a period of not less than 12 months. A false claim for  
127 credit or refund shall be a basis for license revocation.

128 Section 2. Section 206.23, Florida Statutes, is amended to  
129 read:

130 206.23 Tax; must be stated separately.--

131 (1) Any person engaged in selling motor fuel shall add the  
132 amount of the fuel tax to the price of the motor fuel sold by  
133 him or her and shall state the tax separately from the price of  
134 the motor fuel on all invoices. All taxes due pursuant to this  
135 part shall be separately stated and identified as a Florida fuel  
136 tax and as a local ~~option~~ fuel tax imposed in ~~by~~ a specific  
137 county, as applicable. However, this section shall not apply to  
138 retail sales by a retail service station.

139 (2) A person engaged in any activity taxable under this  
140 chapter may not advertise or hold out to the public, in any  
141 manner, directly or indirectly, that he or she will absorb all  
142 or any part of the tax, or that he or she will relieve the  
143 purchaser of the payment of all or any part of the tax, or that  
144 the tax will not be added to the selling price of the property  
145 or services sold or released or, when added, that it or any part  
146 thereof will be refunded either directly or indirectly by any  
147 method whatsoever. A person who violates this provision with  
148 respect to advertising or refund commits a misdemeanor of the  
149 second degree, punishable as provided in s. 775.082 or s.  
150 775.083. A second or subsequent offense constitutes a  
151 misdemeanor of the first degree, punishable as provided in s.  
152 775.082 or s. 775.083.

153 (3) Any person who has purchased, received, or otherwise  
154 acquired motor fuel for sale, use, or storage outside a terminal  
155 facility in this state who cannot prove that tax was charged by  
156 and paid to his or her supplier shall be liable for the payment  
157 to the department of tax, penalty, and interest imposed pursuant  
158 to this part on such fuel.

159 Section 3. Effective January 1, 2009, section 206.41,  
160 Florida Statutes, is amended to read:

161 206.41 State taxes imposed on motor fuel.--

162 (1) The following taxes are imposed on motor fuel under  
163 the circumstances described in subsection (6):

164 (a) An excise or license tax of 2 cents per net gallon,  
165 which is the tax as levied by s. 16, Art. IX of the State  
166 Constitution of 1885, as amended, and continued by s. 9(c), Art.

167 XII of the 1968 State Constitution, as amended, which is therein  
168 referred to as the "second gas tax," and which is hereby  
169 designated the "constitutional fuel tax."

170 (b) An additional tax of 1 cent per net gallon, which is  
171 designated as the "county fuel tax" and which shall be used for  
172 the purposes described in s. 206.60. Each January 1, this tax  
173 shall be adjusted by the percentage change in the average of the  
174 Consumer Price Index (All Items) issued by the United States  
175 Department of Labor for the most recent 12-month period ending  
176 September 30, compared to the base year average, which is the  
177 average for the 12-month period ending September 30, 2008, and  
178 rounded to the nearest tenth of a cent.

179 (c) An additional tax of 1 cent per net gallon, which is  
180 designated as the "municipal fuel tax" and which shall be used  
181 for the purposes described in s. 206.605. Each January 1, this  
182 tax shall be adjusted by the percentage change in the average of  
183 the Consumer Price Index (All Items) issued by the United States  
184 Department of Labor for the most recent 12-month period ending  
185 September 30, compared to the base year average, which is the  
186 average for the 12-month period ending September 30, 2008, and  
187 rounded to the nearest tenth of a cent.

188 (d) An additional tax of 1 cent per net gallon ~~may be~~  
189 ~~imposed by each county on motor fuel,~~ which is shall be  
190 designated as the "ninth-cent fuel tax-" and which ~~This tax~~  
191 shall be ~~levied and~~ used as provided in s. 336.021. Each January  
192 1, this tax shall be adjusted by the percentage change in the  
193 average of the Consumer Price Index (All Items) issued by the  
194 United States Department of Labor for the most recent 12-month

195 period ending September 30, compared to the base year average,  
 196 which is the average for the 12-month period ending September  
 197 30, 2008, and rounded to the nearest tenth of a cent.

198 (e) An additional tax of ~~between 1 cent and~~ 11 cents per  
 199 net gallon ~~may be imposed on motor fuel by each county,~~ which is  
 200 ~~shall be~~ designated as the "local ~~option~~ fuel tax-" and which  
 201 ~~This tax~~ shall be levied ~~and~~ used as provided in s. 336.025.  
 202 Each January 1, this tax shall be adjusted by the percentage  
 203 change in the average of the Consumer Price Index (All Items)  
 204 issued by the United States Department of Labor for the most  
 205 recent 12-month period ending September 30, compared to the base  
 206 year average, which is the average for the 12-month period  
 207 ending September 30, 2008, and rounded to the nearest tenth of a  
 208 cent.

209 (f)1. An additional tax designated as the State  
 210 Comprehensive Enhanced Transportation System Tax is imposed on  
 211 each net gallon of motor fuel in each county. This tax shall be  
 212 levied and used as provided in s. 206.608.

213 2. The rate of the tax in each county shall be equal to  
 214 two-thirds of the lesser of the sum of the taxes imposed on  
 215 motor fuel pursuant to paragraphs (d) and (e) in such county or  
 216 6 cents, rounded to the nearest tenth of a cent.

217 3. Beginning January 1, 1992, and on January 1 of each  
 218 year thereafter, the tax rate provided in subparagraph 2. shall  
 219 be adjusted by the percentage change in the average of the  
 220 Consumer Price Index issued by the United States Department of  
 221 Labor for the most recent 12-month period ending September 30,  
 222 compared to the base year average, which is the average for the

223 12-month period ending September 30, 1990, and rounded to the  
224 nearest tenth of a cent.

225 4. The department shall notify each terminal supplier,  
226 position holder, wholesaler, and importer of the tax rate  
227 applicable under this paragraph for the 12-month period  
228 beginning January 1.

229 (g)1. An additional tax is imposed on each net gallon of  
230 motor fuel, which tax is on the privilege of selling motor fuel  
231 and which is designated the "fuel sales tax," at a rate  
232 determined pursuant to this paragraph. Before January 1 of 1997,  
233 and of each year thereafter, the department shall determine the  
234 tax rate applicable to the sale of fuel for the forthcoming 12-  
235 month period beginning January 1, rounded to the nearest tenth  
236 of a cent, by adjusting the initially established tax rate of  
237 6.9 cents per gallon by the percentage change in the average of  
238 the Consumer Price Index issued by the United States Department  
239 of Labor for the most recent 12-month period ending September  
240 30, compared to the base year average, which is the average for  
241 the 12-month period ending September 30, 1989. However, the tax  
242 rate shall not be lower than 6.9 cents per gallon.

243 2. The department is authorized to adopt rules and adopt  
244 such forms as may be necessary for the administration of this  
245 paragraph.

246 3. The department shall notify each terminal supplier,  
247 position holder, wholesaler, and importer of the tax rate  
248 applicable under this paragraph for the 12-month period  
249 beginning January 1.

250 (h)1. An additional tax per net gallon, which is  
251 designated as the National System Tax, and which shall be that  
252 amount equal to the difference between the federal tax rate  
253 provided in 26 U.S.C. s. 4081(a)(2)(A)(i), and the federal tax  
254 rate provided in 26 U.S.C. s. 4081(a)(2)(A)(i) adjusted on  
255 January 1 of each year, by the percentage change in the average  
256 of the Consumer Price Index (All Items) issued by the United  
257 States Department of Labor for the most recent 12-month period  
258 ending September 30, compared to the base year average, which is  
259 the average for the 12-month period ending September 30, 2008,  
260 and rounded to the nearest tenth of a cent.

261 2. The department shall notify each terminal supplier,  
262 position holder, wholesaler, and importer of the tax rate  
263 applicable under this paragraph for the 12-month period  
264 beginning January 1.

265 (i) The department is authorized to adopt rules and such  
266 forms as may be necessary for the administration of this  
267 subsection.

268 (2) Revenues from these taxes become state funds at the  
269 time of collection by the terminal supplier, importer, or  
270 wholesaler, who shall act as agent for the state in the  
271 collection of such taxes whether he or she is the ultimate  
272 seller or not. For purposes of this chapter, the term "first  
273 sale" or "first removal" shall be the net amount of motor fuel  
274 pumped from the loading rack. The term "first sale" does not  
275 include exchanges or loans, gallon-for-gallon, of motor fuel  
276 between licensed terminal suppliers before the fuel has been  
277 sold or removed through the loading rack or transfers between

278 terminal facilities owned by the same taxpayer. The tax on motor  
279 fuel first imported into this state by a licensed terminal  
280 supplier storing such fuel in a terminal facility shall be  
281 imposed when the product is first removed through the loading  
282 rack. The tax shall be remitted by the licensed terminal  
283 supplier who owned the motor fuel immediately prior to removal  
284 of such fuel from storage.

285 (3) Motor fuel contained in the fuel tanks of any motor  
286 vehicle entering this state and used to propel such motor  
287 vehicle into Florida from another state shall be exempt from the  
288 taxes imposed by this part. Motor fuel supplied by a vehicle  
289 manufacturer and contained in the fuel tanks of a new and  
290 untitled motor vehicle shall be exempt from the taxes imposed by  
291 this part. "Fuel tanks" shall mean the reservoir or receptacle  
292 attached to the motor vehicle by the manufacturer as the  
293 container for fuel used to propel the vehicle.

294 (4)(a) Nothing in this part shall be construed to change  
295 the legal incidence of the tax and the right to a refund by a  
296 qualifying ultimate consumer. The legal incidence of the tax  
297 shall be on the ultimate consumer; however, the tax shall be  
298 precollected for administrative convenience prior to the sale to  
299 the ultimate consumer.

300 (b) Any person who uses motor fuel on which the taxes  
301 imposed by paragraph (1)(e), paragraph (1)(f), or paragraph  
302 (1)(g) have been paid for any system of mass public  
303 transportation authorized to operate within any city, town,  
304 municipality, county, or transit authority region in this state,  
305 as distinguished from any over-the-road or charter system of

306 public transportation, is entitled to a refund of such taxes.  
307 However, such transit system shall be entitled to take a credit  
308 on the monthly diesel fuel tax return not to exceed the tax  
309 imposed under said paragraphs on those gallons which would  
310 otherwise be eligible for refund, when such transit system is  
311 licensed as a mass transit system. A public transportation  
312 system or transit system as defined in this paragraph may  
313 operate outside its limits when such operation is found  
314 necessary to adequately and efficiently provide mass public  
315 transportation services for the city, town, or municipality  
316 involved. A transit system as defined in this paragraph includes  
317 demand service that is an integral part of a city, town,  
318 municipality, county, or transit or transportation authority  
319 system but does not include independent taxicab or limousine  
320 operations. The terms "city," "county," and "authority" as used  
321 in this paragraph include any city, town, municipality, county,  
322 or transit or transportation authority organized in this state  
323 by virtue of any general or special law enacted by the  
324 Legislature.

325 (c)1. Any person who uses any motor fuel for agricultural,  
326 aquacultural, commercial fishing, or commercial aviation  
327 purposes on which fuel the tax imposed by paragraph (1)(e),  
328 paragraph (1)(f), or paragraph (1)(g) has been paid is entitled  
329 to a refund of such tax.

330 2. For the purposes of this paragraph, "agricultural and  
331 aquacultural purposes" means motor fuel used in any tractor,  
332 vehicle, or other farm equipment which is used exclusively on a  
333 farm or for processing farm products on the farm, and no part of

334 which fuel is used in any vehicle or equipment driven or  
335 operated upon the public highways of this state. This  
336 restriction does not apply to the movement of a farm vehicle or  
337 farm equipment between farms. The transporting of bees by water  
338 and the operating of equipment used in the apiary of a beekeeper  
339 shall be also deemed an agricultural purpose.

340 3. For the purposes of this paragraph, "commercial fishing  
341 and aquacultural purposes" means motor fuel used in the  
342 operation of boats, vessels, or equipment used exclusively for  
343 the taking of fish, crayfish, oysters, shrimp, or sponges from  
344 salt or fresh waters under the jurisdiction of the state for  
345 resale to the public, and no part of which fuel is used in any  
346 vehicle or equipment driven or operated upon the highways of  
347 this state; however, the term may in no way be construed to  
348 include fuel used for sport or pleasure fishing.

349 4. For the purposes of this paragraph, "commercial  
350 aviation purposes" means motor fuel used in the operation of  
351 aviation ground support vehicles or equipment, no part of which  
352 fuel is used in any vehicle or equipment driven or operated upon  
353 the public highways of this state.

354 (d) The portion of the tax imposed by paragraph (1)(g)  
355 which results from the collection of such taxes paid by a  
356 municipality or county on motor fuel or diesel fuel for use in a  
357 motor vehicle operated by it shall be returned to the governing  
358 body of such municipality or county for the construction,  
359 reconstruction, and maintenance of roads and streets within the  
360 municipality or county. A municipality or county, when licensed  
361 as a local government user, shall be entitled to take a credit

362 on the monthly diesel fuel tax return not to exceed the tax  
363 imposed under paragraphs (1)(b) and (g) on those gallons which  
364 would otherwise be eligible for refund.

365 (e)1. The portion of the tax imposed by paragraph (1)(g)  
366 which results from the collection of such tax paid by a school  
367 district or a private contractor operating school buses for a  
368 school district or by a nonpublic school on motor fuel or diesel  
369 fuel for use in a motor vehicle operated by such district,  
370 private contractor, or nonpublic school shall be returned to the  
371 governing body of such school district or to such nonpublic  
372 school. A school district, when licensed as a local government  
373 user, shall be entitled to take a credit on the monthly diesel  
374 fuel tax return not to exceed the tax imposed under paragraphs  
375 (1)(b) and (g) on those gallons which would otherwise be  
376 eligible for refund.

377 2. Funds returned to school districts shall be used to  
378 fund construction, reconstruction, and maintenance of roads and  
379 streets within the school district required as a result of the  
380 construction of new schools or the renovation of existing  
381 schools. The school board shall select the projects to be  
382 funded; however, the first priority shall be given to projects  
383 required as the result of the construction of new schools,  
384 unless a waiver is granted by the affected county or municipal  
385 government. Funds returned to nonpublic schools shall be used  
386 for transportation-related purposes.

387 (5)(a)1. This subsection applies to administration of the  
388 refunds provided for by subsection (4). To procure a permit, a  
389 person must file with the department an application, on forms

390 furnished by the department, stating that he or she is entitled  
391 to a refund according to the provisions of subsection (4) and  
392 that he or she intends to file an application for refund for a  
393 calendar quarter during the current calendar year, and must  
394 furnish the department such other information as the department  
395 requests.

396 2. No person may in any event be allowed a refund unless  
397 he or she has filed the application provided for in subparagraph  
398 1. with the department. A permit shall be effective for the year  
399 issued by the department and shall be continuous from year to  
400 year so long as the permitholder files refund claims from year  
401 to year. In the event the permitholder fails to file a claim for  
402 any year, he or she must apply for a new permit.

403 3. If an applicant for a refund permit has violated any  
404 provision of this subsection or any regulation pursuant hereto;  
405 or has been convicted of bribery, theft, or false swearing  
406 within the period of 5 years preceding the application; or if  
407 the department has evidence of the financial irresponsibility of  
408 the applicant, the department may require the applicant to  
409 execute a corporate surety bond of \$1,000 to be approved by the  
410 department, conditioned upon the payment of all taxes,  
411 penalties, and fines for which such applicant may become liable.

412 (b)1. When motor fuel or diesel fuel is sold to a person  
413 who claims to be entitled to a refund under subsection (4), the  
414 seller of such motor fuel or diesel fuel shall make out a sales  
415 invoice, which shall contain the following information:

416 a. The name, post office address, and residence address of  
417 the purchaser.

- 418           b. The number of gallons purchased.
- 419           c. The date on which the purchase was made.
- 420           d. The price paid for the motor fuel or diesel fuel.
- 421           e. The name and place of business of the seller of the  
422 motor fuel or diesel fuel.
- 423           f. The license number, or other identification number, of  
424 the motor vehicle or boat of the purchaser.
- 425           g. The Department of Environmental Protection storage tank  
426 facility identification number for the seller's location, if the  
427 location is required to be registered in accordance with s.  
428 376.303.
- 429           2. The sales invoice shall be retained by the purchaser  
430 until the department's power to issue an assessment with respect  
431 to such tax has terminated pursuant to s. 95.091(3). In lieu of  
432 original sales invoices, a purchaser may submit a detailed  
433 schedule of individual transactions which includes the  
434 information required by subparagraph 1. along with the refund  
435 application. No refund will be allowed unless the seller has  
436 executed such an invoice and unless proof of payment of the  
437 taxes for which the refund is claimed can be provided to the  
438 department upon request. The department may refuse to grant a  
439 refund in whole or in part if the schedule or an invoice is  
440 incomplete and fails to contain the full information required in  
441 this paragraph.
- 442           3. No person may execute a sales invoice, as described in  
443 subparagraph 1., except a terminal supplier, importer, exporter,  
444 wholesaler, reseller, or retail dealer.

445 4. When motor fuel or diesel fuel is sold by a retail  
446 dealer to a person who claims to be entitled to a refund under  
447 subsection (4), a detailed schedule of individual purchase  
448 transactions including names, addresses, Department of  
449 Environmental Protection storage tank facility identification  
450 number of the station, date of purchase, invoice number, and  
451 number of gallons purchased may be provided the department by  
452 the permitted refund applicant in lieu of the original invoices.

453 5. Notwithstanding provisions of this paragraph to the  
454 contrary, refunds to a school district for fuel consumed by  
455 school buses operated for the district by private contractors  
456 shall be based on an estimate of taxes paid. The estimate shall  
457 be determined quarterly by dividing the total miles traveled by  
458 such vehicles for school purposes by their average miles per  
459 gallon, as determined by the department, and multiplying the  
460 result by the applicable tax rate per gallon. It is the  
461 responsibility of the school district to provide information  
462 relevant to this determination.

463 (c)1. No refund may be authorized unless a sworn  
464 application therefor containing such information as the  
465 department may determine is filed with the department not later  
466 than the last day of the month following the quarter for which  
467 the refund is claimed. However, when a justified excuse for late  
468 filing is presented to the department and the last preceding  
469 claim was filed on time, the deadline for filing may be extended  
470 an additional month. No refund will be authorized unless the  
471 amount due is for \$5 or more for any refund period and unless  
472 application is made upon forms prescribed by the department.

473 |           2. Claims made for refunds provided pursuant to subsection  
474 | (4) shall be paid quarterly. The department shall deduct a fee  
475 | of \$2 for each claim, which fee shall be deposited in the  
476 | General Revenue Fund.

477 |           (d) The right to receive any refund under the provisions  
478 | of this subsection is not assignable, except to the executor or  
479 | administrator, or to the receiver, trustee in bankruptcy, or  
480 | assignee in an insolvency proceeding, of the person entitled to  
481 | the refund.

482 |           (e)1. Each terminal supplier, importer, blender, exporter,  
483 | or wholesaler shall, in accordance with the requirements of the  
484 | department, keep at his or her principal place of business in  
485 | this state or at the bulk plant where the sale is made a  
486 | complete record of or duplicate sales tickets for all motor fuel  
487 | or diesel fuel sold by him or her for which a refund provided in  
488 | this section may be claimed, which records must give the date of  
489 | each such sale, the number of gallons sold, the name of the  
490 | person to whom sold, and the sale price. A terminal supplier,  
491 | importer, blender, exporter, or wholesaler, or his or her agent  
492 | or employee, may not acknowledge or assist in the preparation of  
493 | any false or fraudulent claim for tax refund. Any terminal  
494 | supplier, importer, blender, exporter, or wholesaler, or his or  
495 | her agent or employee, that has knowledge or should have had  
496 | knowledge that a refund is false or fraudulent shall in addition  
497 | to other penalties be jointly liable with the refund recipient  
498 | to the state for the tax improperly refunded.

499 |           2. Every person to whom a refund permit has been issued  
500 | under this subsection shall, in accordance with the requirements

501 of the department, keep at his or her residence or principal  
502 place of business in this state a record of each purchase of  
503 motor fuel or diesel fuel from a terminal supplier, importer,  
504 blender, exporter, or wholesaler, or his or her authorized  
505 agent; the number of gallons purchased; the name of the seller;  
506 the date of the purchase; and the sale price.

507 3. The records required to be kept under this paragraph  
508 are subject, at all reasonable hours, to audit or inspection by  
509 the department or by any person duly authorized by the  
510 department. Such records shall be preserved and may not be  
511 destroyed until the period specified in s. 215.26(2) has  
512 elapsed.

513 4. The department shall keep a permanent record of the  
514 amount of refund claimed and paid to each claimant. Such records  
515 are open to public inspection.

516 (f) Agents of the department are authorized to go upon the  
517 premises of any permitholder or terminal supplier, importer,  
518 blender, exporter, or wholesaler, or duly authorized agent  
519 thereof, to make inspection to ascertain any matter connected  
520 with the operation of this subsection or the enforcement hereof.  
521 However, no agent may enter the dwelling of any person without  
522 the consent of the occupant or authority from a court of  
523 competent jurisdiction.

524 (g) If any taxes are refunded erroneously, the department  
525 shall advise the payee by registered mail of the erroneous  
526 refund. If the payee fails to reimburse the state within 15 days  
527 after the receipt of the letter, an action may be instituted by  
528 the department against such payee in the circuit court, and the

529 department shall recover from the payee the amount of the  
530 erroneous refund plus a penalty of 25 percent.

531 (h) No person shall:

532 1. Knowingly make a false or fraudulent statement in an  
533 application for a refund permit or in an application for a  
534 refund of any taxes under this section;

535 2. Fraudulently obtain a refund of such taxes;

536 3. Knowingly aid or assist in making any such false or  
537 fraudulent statement or claim; or

538 4. Buy motor fuel or diesel fuel to be used for any  
539 purpose other than as provided in subsection (4).

540 (i) The refund permit of any person who violates any  
541 provision of this subsection shall be revoked by the department  
542 and may not be reissued until 2 years have elapsed from the date  
543 of such revocation. The refund permit of any person who violates  
544 any other provision of this chapter may be suspended by the  
545 department for any period, in its discretion, not exceeding 6  
546 months.

547 (j) The department shall prescribe a permit form which  
548 shall be used to secure refunds under this subsection.

549 (6) Unless otherwise provided for by this chapter, the  
550 taxes specified in subsection (1) are imposed on all of the  
551 following:

552 (a) The removal of motor fuel in this state from a  
553 terminal if the motor fuel is removed at the rack.

554 (b) The removal of motor fuel in this state from any  
555 refinery if either of the following applies:

556 | 1. The removal is by bulk transfer and the owner of the  
 557 | motor fuel immediately before the removal is not a licensed  
 558 | terminal supplier; or

559 | 2. The removal is at the refinery rack.

560 | (c) The entry of motor fuel into this state for sale,  
 561 | consumption, use, or warehousing if either of the following  
 562 | applies:

563 | 1. The entry is by bulk transfer and the enterer is not  
 564 | licensed as a terminal supplier or importer; or

565 | 2. The entry is not by bulk transfer.

566 | (d) The removal of motor fuel in this state to an  
 567 | unregistered person, unless there was a prior taxable removal,  
 568 | entry, or sale of the motor fuel.

569 | (e) The removal or sale of blended motor fuel in this  
 570 | state by the blender thereof. The number of gallons of blended  
 571 | motor fuel subject to tax is the difference between the total  
 572 | number of gallons of blended motor fuel removed or sold and the  
 573 | number of gallons of previously taxed motor fuel used to produce  
 574 | the blended motor fuel.

575 | Section 4. Section 206.414, Florida Statutes, is amended  
 576 | to read:

577 | 206.414 Collection of certain taxes; prohibited credits  
 578 | and refunds.--

579 | (1) Notwithstanding s. 206.41, which requires the  
 580 | collection of taxes due when motor fuel is removed through the  
 581 | terminal loading rack, the taxes imposed by s. 206.41(1)(d),  
 582 | (e), (f), and (h) ~~s. 206.41(1)(d), (e), and (f)~~ shall be  
 583 | collected in the following manner:

584 (a) Prior to January 1 each year the department shall  
 585 determine the minimum amount of taxes to be imposed by s.  
 586 206.41(1)(d), (e), (f), and (h) ~~s. 206.41(1)(d), (e), and (f)~~ in  
 587 any county.

588 (b) The minimum tax imposed by s. 206.41(1)(d), (e), (f),  
 589 and (h) ~~s. 206.41(1)(d), (e), and (f)~~ shall be collected in the  
 590 same manner as the taxes imposed under s. 206.41(a), (b), and  
 591 (c); at the point of removal through the terminal loading rack;  
 592 or as provided in paragraph (c). All taxes collected, refunded,  
 593 or credited shall be distributed based on the current applied  
 594 period.

595 (c) The taxes imposed by s. 206.41(1)(d), (e), (f), and  
 596 (h) ~~s. 206.41(1)(d), (e), and (f)~~ above the annual minimum shall  
 597 be collected and remitted by licensed wholesalers and terminal  
 598 suppliers upon each sale, delivery, or consignment to retail  
 599 dealers, resellers, and end users.

600 (2) Terminal suppliers and wholesalers shall not collect  
 601 the taxes imposed by s. 206.41(1)(d), (e), (f), and (h) ~~s.~~  
 602 ~~206.41(1)(d), (e), and (f)~~ above the annual minimum established  
 603 in this section on authorized exchanges and sales to terminal  
 604 suppliers, wholesalers, and importers.

605 (3) Terminal suppliers, wholesalers, and importers shall  
 606 not pay the taxes imposed by s. 206.41(1)(d), (e), (f), and (h)  
 607 ~~s. 206.41(1)(d), (e), and (f)~~ above the annual minimum  
 608 established in this section to their suppliers. There shall be  
 609 no credit or refund for any of the taxes imposed by s.  
 610 206.41(1)(d), (e), (f), and (h) ~~s. 206.41(1)(d), (e), and (f)~~

611 above the annual minimum established in this section paid by a  
612 terminal supplier, wholesaler, or importer to any supplier.

613 Section 5. Section 206.43, Florida Statutes, is amended to  
614 read:

615 206.43 Terminal supplier, importer, exporter, blender, and  
616 wholesaler to report to department monthly; deduction.—The taxes  
617 levied and assessed as provided in this part shall be paid to  
618 the department monthly in the following manner:

619 (1)(a) Taxes are due on the first day of the succeeding  
620 month and shall be paid on or before the 20th day of each month.  
621 The terminal supplier, importer, exporter, blender, or  
622 wholesaler shall mail to the department verified reports on  
623 forms prescribed by the department and shall at the same time  
624 pay to the department the amount of tax computed to be due.  
625 However, if the 20th day falls on a Saturday, a Sunday, or a  
626 federal or state legal holiday, returns shall be accepted if  
627 postmarked on the next succeeding workday. The terminal supplier  
628 or importer shall deduct from the amount of tax shown by the  
629 report to be payable an amount equivalent to .2 percent of the  
630 tax on motor fuels imposed by s. 206.41(1)(a), (b), (c), (g) and  
631 (h) ~~s. 206.41(1)(a), (b), (c), and (g)~~, which deduction is  
632 hereby allowed to the terminal supplier or importer on account  
633 of services and expenses in complying with the provisions of the  
634 law. The allowance on taxable gallons of motor fuel sold to  
635 persons licensed under this chapter shall not be deductible  
636 unless the terminal supplier or importer has allowed 50 percent  
637 of the allowance provided by this section to a purchaser with a  
638 valid wholesaler or terminal supplier license. However, this

639 allowance shall not be deductible unless payment of the tax is  
640 made on or before the 20th day of the month as herein required.  
641 The United States post office date stamped on the envelope in  
642 which the report is submitted shall be considered as the date  
643 the report is received by the department. Nothing in this  
644 subsection shall be construed to authorize a deduction from the  
645 constitutional fuel tax or fuel sales tax.

646 (b) In addition to the allowance authorized by paragraph  
647 (a), every terminal supplier and wholesaler shall be entitled to  
648 a deduction of 1.1 percent of the tax imposed under s.  
649 206.41(1)(d) and the first 6 cents of tax imposed under s.  
650 206.41(1)(e), which deduction is hereby allowed on account of  
651 services and expenses in complying with the provisions of this  
652 part. This allowance shall not be deductible unless payment of  
653 the tax is made on or before the 20th day of the month as herein  
654 required.

655 (2) Such report may show in detail the number of gallons  
656 so sold and delivered by the terminal supplier, importer,  
657 exporter, blender, or wholesaler in the state, and the  
658 destination as to the county in the state to which the motor  
659 fuel was delivered for resale at retail or use shall be  
660 specified in the report. The total taxable gallons sold shall  
661 agree with the total gallons reported to the county destinations  
662 for resale at retail or use. All gallons of motor fuel sold  
663 shall be invoiced and shall name the county of destination for  
664 resale at retail or use.

665 (3) All terminal suppliers, importers, exporters,  
666 blenders, and wholesalers shall report monthly:

667 (a) The consumption of motor fuel by the licensee and the  
668 county or counties in which the gallons of motor fuel were  
669 consumed.

670 (b) All sales to the ultimate consumer and the county or  
671 counties to which the gallons of motor fuel were delivered.

672 (c) All sales to retail dealers and service stations and  
673 the county or counties to which the gallons of motor fuel were  
674 delivered.

675 (4) The taxes herein levied and assessed shall be in  
676 addition to any and all other taxes authorized, imposed,  
677 assessed, or levied on motor fuel under any laws of this state.

678 (5)(a) A licensed wholesaler may, after obtaining written  
679 consent of the executive director of the department, remit the  
680 taxes imposed by s. 206.41 to its supplier by electronic funds  
681 transfer or other approved methods, no later than the last  
682 business day prior to the 20th day of the succeeding month  
683 following the date of the transaction. Consent of the department  
684 shall be conditioned solely upon a wholesaler having a license  
685 currently in good standing and shall be subject to the bond  
686 required pursuant to s. 206.05(1).

687 (b) If a terminal supplier or position holder sells motor  
688 fuel to a licensed wholesaler with electronic funds transfer  
689 authority from the department and is unable to collect the taxes  
690 imposed pursuant to this part by the end of the last day of the  
691 succeeding month following the date of the transaction, the  
692 terminal supplier or position holder shall be entitled to a  
693 refund or credit of taxes which it has been unable to collect  
694 from the wholesaler and which were reported and remitted to the

695 department on fuel sold to the wholesaler through the end of the  
696 last day of such succeeding month.

697 (c) A terminal supplier or position holder which is unable  
698 to collect the taxes imposed pursuant to this part from a  
699 licensed wholesaler by the 10th day after the funds are due  
700 pursuant to paragraph (a) shall immediately notify the  
701 department of the wholesaler's failure to pay such taxes. The  
702 department shall immediately notify all terminal suppliers and  
703 position holders that any sales of motor fuel to the wholesaler  
704 after the last day of the month following the date of the  
705 transaction shall not qualify for the refund or credit provided  
706 under paragraph (b), until the wholesaler shall have paid the  
707 amount of all applicable tax, penalties, and interest due to the  
708 department on the transaction, in which event the department  
709 shall immediately notify all terminal suppliers and position  
710 holders that sales to the wholesaler will thereafter qualify for  
711 the refund or credit provided under paragraph (b).

712 (d) Any terminal supplier or position holder which fails  
713 to timely notify the department as required pursuant to  
714 paragraph (c) shall not be entitled to the refund or credit  
715 provided under paragraph (b). However, nothing contained in this  
716 section shall be construed to impose liability upon the terminal  
717 supplier or position holder for taxes due on fuel sold to the  
718 wholesaler by any other terminal supplier or position holder.

719 (6)(a) A licensed wholesaler shall self-accrue and remit  
720 to the department the tax on motor fuel imposed by s.  
721 206.41(1)(d), (e), and (f) in accordance with subsections (1)-  
722 (3).

723 (b) All motor fuel local ~~option~~ taxes required to be  
 724 returned pursuant to this section by a licensed wholesaler shall  
 725 be reported to the department on a consolidated fuel tax return.  
 726 A wholesaler may, in lieu of applying for a refund, take a  
 727 credit against any motor fuel local option taxes due to the  
 728 department on said return for any motor fuel taxes, including  
 729 local option taxes, paid by the wholesaler on fuel subsequently  
 730 sold by it in a transaction which is exempt from fuel tax or  
 731 eligible for a refund of fuel tax under this chapter.

732 (c) A terminal supplier or wholesaler that has paid the  
 733 tax required under s. 206.41(1)(d), (e), and (f) upon sales to a  
 734 retail dealer or reseller may take credit for any unpaid tax due  
 735 on worthless accounts within 12 months after the month the bad  
 736 debt was written off for federal income tax purposes, if the  
 737 debt for the fuel upon which the tax was paid was also written  
 738 off and if the credit for taxes paid is limited to the sales of  
 739 fuel and taxes remitted within the first 60 days of nonpayment,  
 740 not to exceed 120 percent of the 60-day average based on the  
 741 prior 12 months of business. Any taxes due on sales to retailers  
 742 and resellers resulting in worthless accounts receivable  
 743 following the first 60 days of nonpayment shall not be credited  
 744 or refunded. If any accounts so charged off for which a credit  
 745 or refund has been obtained are thereafter in whole or in part  
 746 paid to the licensee, the amount so paid shall be included in  
 747 the first return filed after such collection and the tax paid  
 748 accordingly.

749 (7)(a) Any terminal supplier or wholesaler who  
 750 inadvertently reports a sale or use of motor fuel in a county

751 other than the county in which such sale or use occurred shall  
 752 have the right, prior to being contacted by the department  
 753 concerning such liability, to correct the reporting error by  
 754 filing an amended return and paying the correct amount of tax  
 755 due, plus any applicable interest due on the difference between  
 756 the correct tax due and the amount of tax originally reported.  
 757 However, interest shall not be due if the amended return is  
 758 filed with the department on or before the due date of the next  
 759 return. The terminal supplier or wholesaler shall be entitled to  
 760 a credit or refund of the amount, if any, by which the amount of  
 761 tax originally reported exceeds the correct tax due.

762 (b) Any terminal supplier or wholesaler who fails to  
 763 correct a reporting error under the circumstances provided in  
 764 paragraph (a) within 180 days after making the error and prior  
 765 to any request made by the department to examine the records of  
 766 the licensee shall be liable for all the additional taxes due,  
 767 applicable delinquency penalty and interest, a specific penalty  
 768 of 100 percent of the additional tax due, and an additional  
 769 specific penalty, for improper reporting, of 10 percent of the  
 770 tax due to any county without benefit of credit for taxes paid  
 771 in error.

772 Section 6. Section 206.47, Florida Statutes is amended to  
 773 read:

774 206.47 Distribution of constitutional fuel tax pursuant to  
 775 State Constitution.--

776 (1) The constitutional fuel tax shall be allocated among  
 777 the several counties in accordance with the formula stated in s.  
 778 16, Art. IX of the State Constitution of 1885, as amended, to

779 the extent necessary to comply with all obligations to or for  
780 the benefit of holders of bonds, revenue certificates, and tax  
781 anticipation certificates or any refundings thereof secured by  
782 any portion of the constitutional fuel tax allocated under the  
783 provisions of s. 16, Art. IX of the State Constitution of 1885,  
784 as amended.

785 (2) The Department of Revenue will transmit the  
786 constitutional fuel tax as collected monthly to the State Board  
787 of Administration allocated and distributed to the credit of the  
788 several counties of the state based on the formula of  
789 distribution contained in s. 16, Art. IX of the Constitution of  
790 1885, as amended.

791 (3) The State Board of Administration will calculate a  
792 distribution of the constitutional fuel tax received from the  
793 Department of Revenue under subsection (2), based on the formula  
794 contained in s. 9(c)(4), Art. XII of the revised State  
795 Constitution of 1968.

796 (4) The State Board of Administration shall allocate the  
797 constitutional fuel tax beginning with the tax collected January  
798 1969 on the formula contained in s. 9(c)(4), Art. XII of the  
799 revised State Constitution of 1968, subject only to the debt  
800 service requirements of bonds pledging all or part of the  
801 constitutional fuel tax allocated under the provisions of s. 16,  
802 Art. IX of the State Constitution of 1885, as amended.

803 (5)(a) The distribution factor, "the tax collected on  
804 retail sales or use in each county," shall be based upon a  
805 certificate of the Department of Revenue of the taxable gallons  
806 attributable to each county as of June 30 for each fiscal year.

807 The Department of Revenue shall furnish a certificate to the  
808 State Board of Administration on or before July 31 following the  
809 end of each fiscal year, and such certificate shall be  
810 conclusive as to the tax collected on retail sales or use in  
811 each county for the prior fiscal year. The factor based on such  
812 certificate shall be applied to the fuel tax collections for the  
813 following fiscal year beginning July 1 and ending June 30.

814 (b) For the purpose of this section, "taxable gallons  
815 attributable to each county" shall be calculated as a  
816 consumption factor for each county divided by the sum of such  
817 consumption factors for all counties, and multiplied by the  
818 total gallons statewide upon which a tax was paid pursuant to s.  
819 ~~206.41(1)(a). For each county imposing a tax pursuant to s.~~  
820 ~~206.41(1)(d) or (e),~~ The consumption factor shall be the gallons  
821 upon which the ~~county's~~ tax was paid under s. 206.41(1)(d) or  
822 (e) either or both of said sections. ~~For each other county, the~~  
823 ~~consumption factor shall be calculated as the taxable gallons~~  
824 ~~yielding the tax amount certified pursuant to this section for~~  
825 ~~fiscal year 1984-1985 for the county, multiplied by the quotient~~  
826 ~~of the statewide total taxes collected pursuant to s.~~  
827 ~~206.41(1)(a) for the current year divided by the statewide total~~  
828 ~~taxes certified pursuant to this section for fiscal year 1984-~~  
829 ~~1985.~~

830 (6) The State Board of Administration will calculate a  
831 monthly allocation of the constitutional fuel tax received from  
832 the Department of Revenue based on the formula contained in s.  
833 9(c)(4), Art. XII of the revised State Constitution of 1968, and

834 credit to the account of each county the amount of the  
835 constitutional fuel tax to be allocated under such formula.

836 (7) The fuel tax funds credited to each county will be  
837 first distributed to meet the debt service requirements, if any,  
838 of the s. 16, Art. IX debt assumed or refunded by the State  
839 Board of Administration payable from the constitutional fuel  
840 tax. The remaining fuel tax funds credited to each county are  
841 surplus fuel tax funds and shall be distributed as provided by  
842 s. 9(c), Art. XII of the State Constitution or by law pursuant  
843 to that section and shall be used for the acquisition,  
844 construction, and maintenance of roads. For the purposes of this  
845 subsection, the term "maintenance" includes periodic maintenance  
846 and routine maintenance, as defined in s. 334.03, and may  
847 include the construction and installation of traffic signals,  
848 sidewalks, bicycle paths, and landscaping. The funds may be used  
849 as matching funds for any federal, state, or private grant  
850 specifically related to these purposes.

851 (8) The State Board of Administration shall retain a  
852 reasonable percentage of the total surplus fuel tax in an amount  
853 to be determined by the board in each fiscal year and shall hold  
854 such funds in a reserve account to make any adjustments required  
855 for the distribution of the fuel tax for the fiscal year. Funds  
856 in the reserve account may be invested in direct obligations of  
857 the United States maturing not later than June 30 of each fiscal  
858 year.

859 (9) The State Board of Administration will, in each fiscal  
860 year, distribute the 80-percent surplus fuel tax allocated to  
861 each county to the debt service requirements of each bond issue

862 | pledging the 80-percent surplus accruing to that county under  
 863 | the provisions of s. 16, Art. IX of the State Constitution of  
 864 | 1885, as amended. The remaining 80-percent surplus fuel tax  
 865 | funds will be advanced monthly, to the extent practicable, to  
 866 | the boards of county commissioners for use in the county.

867 |       (10) The State Board of Administration will, in each  
 868 | fiscal year, distribute the 20-percent surplus fuel tax  
 869 | allocated to each county to the debt service requirements of  
 870 | each bond issue pledging the 20-percent surplus accruing to that  
 871 | county under the provisions of s. 16, Art. IX of the State  
 872 | Constitution of 1885, as amended. The remaining 20-percent  
 873 | surplus fuel tax funds will be advanced monthly, to the extent  
 874 | practicable, to the boards of county commissioners for use in  
 875 | the county.

876 |       (11) After receiving the fuel tax collections for the 12th  
 877 | month of each fiscal year, the State Board of Administration  
 878 | shall make a complete and total distribution of all earnings on  
 879 | investments and remaining fuel tax collected during the fiscal  
 880 | year, taking into account all the requirements of s. 16, Art. IX  
 881 | of the State Constitution of 1885, as amended, of bonds pledging  
 882 | all or any portion of the constitutional fuel tax accruing  
 883 | thereunder, and s. 9(c), Art. XII of the revised State  
 884 | Constitution of 1968, as amended.

885 |       Section 7. Section 206.607, Florida Statutes, is created  
 886 | to read:

887 |       206.607 National System Tax; deposit of proceeds;  
 888 | distribution.--Moneys received pursuant to ss. 206.41(1)(h) and  
 889 | 206.87(1)(f) shall be deposited in the Fuel Tax Collection Trust

890 Fund. After deposit, the service charge imposed in chapter 215  
 891 and administrative costs incurred by the department in  
 892 collecting, administering, enforcing, and distributing the tax,  
 893 may be deducted. Administrative costs may not exceed 2 percent  
 894 of collections. The remaining funds shall be transferred into  
 895 the State Transportation Trust Fund. However, no revenue from  
 896 the taxes imposed pursuant to ss. 206.41(1)(h) and 206.87(1)(f)  
 897 in a county shall be expended unless the projects funded with  
 898 such revenues have been included in the work program adopted  
 899 pursuant to s. 339.135.

900 Section 8. Effective January 1, 2009, section 206.87,  
 901 Florida Statutes, is amended to read:

902 206.87 Levy of tax.--

903 (1)(a) An excise tax of 4 cents per gallon is hereby  
 904 imposed upon each net gallon of diesel fuel subject to the tax  
 905 under subsection (2), except alternative fuels which are subject  
 906 to the fee imposed by s. 206.877.

907 (b) An additional tax of 1 cent per net gallon shall be  
 908 imposed in ~~by~~ each county on each net gallon of diesel fuel,  
 909 which shall be designated as the "ninth-cent fuel tax." This tax  
 910 shall be used as provided in s. 336.021. Each January 1, this  
 911 tax shall be adjusted by the percentage change in the average of  
 912 the Consumer Price Index (All Items) issued by the United States  
 913 Department of Labor for the most recent 12-month period ending  
 914 September 30, compared to the base year average, which is the  
 915 average for the 12-month period ending September 30, 2008, and  
 916 rounded to the nearest tenth of a cent.

917 (c) An additional tax of 6 cents per net gallon shall be  
918 imposed on diesel fuel in ~~by~~ each county, which shall be  
919 designated as the "local ~~option~~ fuel tax." This tax shall be  
920 levied and used as provided in s. 336.025. Each January 1, this  
921 tax shall be adjusted by the percentage change in the average of  
922 the Consumer Price Index (All Items) issued by the United States  
923 Department of Labor for the most recent 12-month period ending  
924 September 30, compared to the base year average, which is the  
925 average for the 12-month period ending September 30, 2008, and  
926 rounded to the nearest tenth of a cent.

927 (d) An additional tax designated as the State  
928 Comprehensive Enhanced Transportation System Tax is imposed on  
929 each net gallon of diesel fuel in each county, at a rate equal  
930 to the maximum rate provided in s. 206.41(1)(f). This tax shall  
931 be used as provided in s. 206.608.

932 (e)1. An additional tax is imposed on each net gallon of  
933 diesel fuel, which tax is on the privilege of selling diesel  
934 fuel and which is designated the "fuel sales tax," at a rate  
935 determined pursuant to this paragraph. Before January 1 of 1997  
936 and of each year thereafter, the department shall determine the  
937 tax rate applicable to the sale of diesel fuel applicable for  
938 the forthcoming 12-month period beginning January 1, rounded to  
939 the nearest tenth of a cent, by adjusting the initially  
940 established tax rate of 6.9 cents per gallon by the percentage  
941 change in the average of the Consumer Price Index issued by the  
942 United States Department of Labor for the most recent 12-month  
943 period ending September 30, compared to the base year average,  
944 which is the average for the 12-month period ending September

945 30, 1989. However, the tax rate shall not be lower than 6.9  
946 cents per gallon.

947 2. The department is authorized to adopt rules and adopt  
948 such forms as may be necessary for the administration of this  
949 paragraph.

950 3. The department shall notify each terminal supplier,  
951 position holder, wholesaler, and importer of the tax rate  
952 applicable under this paragraph for the 12-month period  
953 beginning January 1.

954 (f)1. An additional tax per net gallon, which is  
955 designated as the National System Tax, and which shall be that  
956 amount equal to the difference between the federal tax rate  
957 provided in 26 U.S.C. s. 4081(a)(2)(A)(iii) and the federal tax  
958 rate provided in 26 U.S.C. s. 4081(a)(2)(A)(iii), adjusted on  
959 January 1 of each year thereafter by the percentage change in  
960 the average of the Consumer Price Index (All Items) issued by  
961 the United States Department of Labor for the most recent 12-  
962 month period ending September 30, compared to the base year  
963 average, which is the average for the 12-month period ending  
964 September 30, 2008, and rounded to the nearest tenth of a cent.

965 2. The department shall notify each terminal supplier,  
966 position holder, wholesaler, and importer of the tax rate  
967 applicable under this paragraph for the 12-month period  
968 beginning January 1.

969 (g) The department is authorized to adopt rules and such  
970 forms as may be necessary for the administration of this  
971 subsection.

972 (2) The taxes specified in this section are imposed on all  
 973 of the following:

974 (a) The removal of diesel fuel in this state from a  
 975 terminal if the diesel fuel is removed at the rack.

976 (b) The removal of diesel fuel in this state from any  
 977 refinery if either of the following applies:

978 1. The removal is by bulk transfer and the owner of the  
 979 diesel fuel immediately before the removal is not a licensed  
 980 terminal supplier; or

981 2. The removal is at the refinery rack.

982 (c) The entry of diesel fuel into this state for sale,  
 983 consumption, use, or warehousing if either of the following  
 984 applies:

985 1. The entry is by bulk transfer and the enterer is not a  
 986 licensed terminal supplier; or

987 2. The entry is not by bulk transfer.

988 (d) The removal of diesel fuel in this state to an  
 989 unregistered person, unless there was a prior taxable removal,  
 990 entry, or sale of the diesel fuel.

991 (e) The removal or sale of blended diesel fuel in this  
 992 state by the blender thereof. The number of gallons of blended  
 993 diesel fuel subject to tax is the difference between the total  
 994 number of gallons of blended diesel fuel removed or sold and the  
 995 number of gallons of previously taxed diesel fuel used to  
 996 produce the blended diesel fuel.

997 Section 9. Section 206.8745, Florida Statutes, is amended  
 998 to read:

999 206.8745 Credits and refund claims.--

1000 (1) Except as provided in subsections (2) and (7), any  
1001 person who purchases undyed, tax-paid diesel fuel who has paid  
1002 the tax imposed by this part to the seller may file a claim for  
1003 refund of such taxes paid as provided in s. 215.26 if the fuel  
1004 is used for an exempt purpose identified in s. 206.874(3).

1005 (2) The provisions of subsection (1) do not apply to any  
1006 person purchasing undyed, tax-paid diesel fuel for use on a farm  
1007 for farming purposes, or to sales of undyed, tax-paid diesel  
1008 fuel to the United States or its departments or agencies in bulk  
1009 lots of not less than 500 gallons in each delivery. Such sales  
1010 shall be made tax-free and the seller, if a registered ultimate  
1011 vendor, shall be entitled to file a refund of such taxes or  
1012 apply for a credit on its monthly return as authorized by law.

1013 (3)(a) A licensed terminal supplier, importer, or  
1014 wholesaler which holds title to undyed diesel fuel which has  
1015 been mixed with dyed diesel fuel in storage may claim a refund  
1016 or credit for any state and local ~~option~~ tax paid on the undyed  
1017 diesel fuel. In lieu of applying for a refund, a credit may be  
1018 taken on the return required pursuant to s. 206.43. Any refund  
1019 or credit claimed under this subsection shall be supported by  
1020 documentation showing the date and location of the mixing,  
1021 number of gallons involved, and disposition of the mixed fuel.

1022 (b) Any mixture of dyed and undyed diesel fuel shall not  
1023 be subject to a taxable use, and shall remain subject to the dye  
1024 specifications provided by s. 206.8741.

1025 (4) A licensed wholesaler which has paid the tax imposed  
1026 by this part and any applicable local ~~option~~ tax on undyed  
1027 diesel fuel subsequently sold tax-free for use on a farm for

1028 farming purposes, or to the United States or its departments or  
1029 agencies in bulk lots of not less than 500 gallons in each  
1030 delivery may, in lieu of applying for a refund, take a credit on  
1031 its monthly consolidated fuel tax return against any motor or  
1032 diesel fuel local ~~option~~ taxes due to the department pursuant to  
1033 s. 206.41(1)(d), (e), and (f).

1034 (5) A terminal supplier or position holder which removes  
1035 undyed diesel fuel from a terminal and subsequently places the  
1036 fuel back into the same or another terminal may claim a refund  
1037 or credit for all state and local ~~option~~ tax which it paid or  
1038 accrued on the first removal of the fuel. Nothing in this  
1039 section shall be construed as authorizing a terminal supplier or  
1040 position holder to remove undyed diesel fuel from a terminal  
1041 without paying or accruing the tax imposed by this part.

1042 (6) Undyed, tax-paid diesel fuel consumed by a power  
1043 takeoff or engine exhaust for the purpose of unloading bulk  
1044 cargo by pumping or turning a concrete mixer drum used in the  
1045 manufacturing process, or for the purpose of compacting solid  
1046 waste, which is mounted on a motor vehicle and which has no  
1047 separate fuel tank or power unit, is subject to a refund as  
1048 provided by rule.

1049 (7) Any person who purchases undyed diesel fuel for use by  
1050 a noncommercial vessel who has paid the tax imposed by this part  
1051 to the seller may claim a refund of such taxes paid subject to  
1052 the following restrictions:

1053 (a) The purchaser may make one claim for refund per  
1054 calendar year.

1055 (b) The annual refund claim shall be submitted prior to  
1056 April 1 of the year subsequent to the year in which the tax was  
1057 paid.

1058 (c) No refund shall be allowed on purchases of less than  
1059 2,500 gallons per calendar year.

1060 (d) The purchaser shall submit, with the refund request,  
1061 original purchase invoices showing the taxes paid.

1062 (e) The purchaser shall remit as an offset to the refund  
1063 the sales tax due under chapter 212 based on the purchase price  
1064 of the fuel net of the state tax refunded.

1065 (8) Undyed, tax-paid diesel fuel purchased in this state  
1066 and consumed by the engine of a qualified motor coach during  
1067 idle time for the purpose of running climate control systems and  
1068 maintaining electrical systems for the motor coach is subject to  
1069 a refund. As used in this subsection, the term "qualified motor  
1070 coach" means a privately owned vehicle that is designed to carry  
1071 nine or more passengers, that has a gross vehicle weight of at  
1072 least 33,000 pounds, that is used exclusively in the commercial  
1073 application of transporting passengers for compensation, and  
1074 that has the capacity to measure diesel fuel consumed in Florida  
1075 during idling, separate from diesel fuel consumed to propel the  
1076 vehicle in this state, by way of an on-board computer.

1077 (a) The purchaser may make one claim for refund per  
1078 calendar year.

1079 (b) The annual refund claim must be submitted before April  
1080 1 of the year following the year in which the tax was paid and  
1081 after December 31, 2000.

1082 (c) The purchaser must submit original or copies of  
 1083 original purchase invoices showing the taxes paid, or, in lieu  
 1084 of original invoices, a purchaser may submit a schedule of  
 1085 purchases containing the information required by s.  
 1086 206.41(5)(b)1.

1087 (d) The purchaser must remit, as an offset to the refund,  
 1088 sales tax due under chapter 212 based on the purchase price of  
 1089 the fuel, net of the state tax refunded.

1090  
 1091 The Department of Revenue may adopt rules to administer this  
 1092 subsection.

1093 Section 10. Section 215.211, Florida Statutes, is amended  
 1094 to read:

1095 215.211 Service charge; elimination or reduction for  
 1096 specified proceeds.--

1097 (1) Notwithstanding the provisions of s. 215.20(1) and  
 1098 (3), the service charge provided in s. 215.20(1) and (3), which  
 1099 is deducted from the proceeds of the taxes distributed under ss.  
 1100 206.606(1), 207.026, 212.0501(6), and 319.32(5), shall be  
 1101 eliminated beginning July 1, 2000.

1102 (2) Notwithstanding the provisions of s. 215.20(1) and  
 1103 (3), the service charge provided in s. 215.20(1) and (3), which  
 1104 is deducted from the proceeds of the taxes distributed under ss.  
 1105 206.608 and 320.072(4), shall be eliminated beginning July 1,  
 1106 2001.

1107 (3) Notwithstanding the provisions of s. 215.20(1), the  
 1108 service charge provided in s. 215.20(1), which is deducted from

1109 the proceeds of the local option fuel tax distributed under s.  
 1110 336.025, shall be reduced as follows:

1111 (a) For the period July 1, 2005, through June 30, 2006,  
 1112 the rate of the service charge shall be 3.5 percent.

1113 (b) Beginning July 1, 2006, and thereafter, no service  
 1114 charge shall be deducted from the proceeds of the local ~~option~~  
 1115 fuel tax distributed under s. 336.025.

1116  
 1117 The increased revenues derived from this subsection shall be  
 1118 deposited in the State Transportation Trust Fund and used to  
 1119 fund the County Incentive Grant Program and the Small County  
 1120 Outreach Program. Up to 20 percent of such funds shall be used  
 1121 for the purpose of implementing the Small County Outreach  
 1122 Program as provided in this act. Notwithstanding any other laws  
 1123 to the contrary, the requirements of ss. 339.135, 339.155, and  
 1124 339.175 shall not apply to these funds and programs.

1125 Section 11. Effective January 1, 2009, section 319.32,  
 1126 Florida Statutes, is amended to read:

1127 319.32 Fees; service charges; disposition.--

1128 (1) The department shall charge a fee of \$33 ~~\$24~~ for each  
 1129 original certificate of title except for a certificate of title  
 1130 for a motor vehicle for hire registered under s. 320.08(6), for  
 1131 which the title fee shall be \$3, \$33 ~~\$24~~ for each duplicate copy  
 1132 of a certificate of title except for a certificate of title for  
 1133 a motor vehicle for hire registered under s. 320.08(6), for  
 1134 which the title fee shall be \$3, \$2 for each salvage certificate  
 1135 of title, and \$3 for each assignment by a lienholder. It shall  
 1136 also charge a fee of \$2 for noting a lien on a title

1137 certificate, which fee shall include the services for the  
1138 subsequent issuance of a corrected certificate or cancellation  
1139 of lien when that lien is satisfied. If an application for a  
1140 certificate of title is for a rebuilt vehicle, the department  
1141 shall charge an additional fee of \$40 for conducting a physical  
1142 examination of the vehicle to assure its identity. In addition  
1143 to all other fees charged, a sum of \$1 shall be paid for the  
1144 issuance of an original or duplicate certificate of title to  
1145 cover the cost of materials used for security purposes.

1146 (2)(a) There shall be a service charge of \$4.25 for each  
1147 application which is handled in connection with the issuance,  
1148 duplication, or transfer of any certificate of title. There  
1149 shall be a service charge of \$1.25 for each application which is  
1150 handled in connection with the recordation or notation of a lien  
1151 on a motor vehicle or mobile home which is not in connection  
1152 with the purchase of such vehicle.

1153 (b) The service charges specified in paragraph (a) shall  
1154 be collected by the department on any application handled  
1155 directly from its office. Otherwise, these service charges shall  
1156 be collected and retained by the tax collector who handles the  
1157 application.

1158 (3) The department shall charge a fee of \$4 in addition to  
1159 that charged in subsection (1) for each original certificate of  
1160 title issued for a vehicle previously registered outside this  
1161 state.

1162 (4) The department shall charge a fee of \$7 for each lien  
1163 placed on a motor vehicle by the state child support enforcement  
1164 program pursuant to s. 319.24.

1165 (5) All fees collected pursuant to subsection (3) shall be  
 1166 paid into the Nongame Wildlife Trust Fund. Thirty dollars  
 1167 ~~Twenty-one dollars~~ of each fee for each applicable original  
 1168 certificate of title and each applicable duplicate copy of a  
 1169 certificate of title, ~~after deducting the service charges~~  
 1170 ~~imposed by s. 215.20~~, shall be deposited into the State  
 1171 Transportation Trust Fund. All other fees collected by the  
 1172 department under this chapter shall be paid into the General  
 1173 Revenue Fund.

1174 (6) Notwithstanding chapter 116, every county officer  
 1175 within this state authorized to collect funds provided for in  
 1176 this chapter shall pay all sums officially received by the  
 1177 officer into the State Treasury no later than 5 working days  
 1178 after the close of the business day in which the officer  
 1179 received the funds. Payment by county officers to the state  
 1180 shall be made by means of electronic funds transfer.

1181 Section 12. Effective January 1, 2010, section 319.32,  
 1182 Florida Statutes, is amended to read:

1183 319.32 Fees; service charges; disposition.--

1184 (1) The department shall charge a fee of \$42 ~~\$33~~ for each  
 1185 original certificate of title except for a certificate of title  
 1186 for a motor vehicle for hire registered under s. 320.08(6), for  
 1187 which the title fee shall be \$3, \$42 ~~\$33~~ for each duplicate copy  
 1188 of a certificate of title except for a certificate of title for  
 1189 a motor vehicle for hire registered under s. 320.08(6), for  
 1190 which the title fee shall be \$3, \$2 for each salvage certificate  
 1191 of title, and \$3 for each assignment by a lienholder. It shall  
 1192 also charge a fee of \$2 for noting a lien on a title

1193 certificate, which fee shall include the services for the  
1194 subsequent issuance of a corrected certificate or cancellation  
1195 of lien when that lien is satisfied. If an application for a  
1196 certificate of title is for a rebuilt vehicle, the department  
1197 shall charge an additional fee of \$40 for conducting a physical  
1198 examination of the vehicle to assure its identity. In addition  
1199 to all other fees charged, a sum of \$1 shall be paid for the  
1200 issuance of an original or duplicate certificate of title to  
1201 cover the cost of materials used for security purposes.

1202 (2)(a) There shall be a service charge of \$4.25 for each  
1203 application which is handled in connection with the issuance,  
1204 duplication, or transfer of any certificate of title. There  
1205 shall be a service charge of \$1.25 for each application which is  
1206 handled in connection with the recordation or notation of a lien  
1207 on a motor vehicle or mobile home which is not in connection  
1208 with the purchase of such vehicle.

1209 (b) The service charges specified in paragraph (a) shall  
1210 be collected by the department on any application handled  
1211 directly from its office. Otherwise, these service charges shall  
1212 be collected and retained by the tax collector who handles the  
1213 application.

1214 (3) The department shall charge a fee of \$4 in addition to  
1215 that charged in subsection (1) for each original certificate of  
1216 title issued for a vehicle previously registered outside this  
1217 state.

1218 (4) The department shall charge a fee of \$7 for each lien  
1219 placed on a motor vehicle by the state child support enforcement  
1220 program pursuant to s. 319.24.

1221 (5) All fees collected pursuant to subsection (3) shall be  
 1222 paid into the Nongame Wildlife Trust Fund. Thirty-nine dollars  
 1223 ~~Thirty dollars~~ of each fee for each applicable original  
 1224 certificate of title and each applicable duplicate copy of a  
 1225 certificate of title, ~~after deducting the service charges~~  
 1226 ~~imposed by s. 215.20~~, shall be deposited into the State  
 1227 Transportation Trust Fund. All other fees collected by the  
 1228 department under this chapter shall be paid into the General  
 1229 Revenue Fund.

1230 (6) Notwithstanding chapter 116, every county officer  
 1231 within this state authorized to collect funds provided for in  
 1232 this chapter shall pay all sums officially received by the  
 1233 officer into the State Treasury no later than 5 working days  
 1234 after the close of the business day in which the officer  
 1235 received the funds. Payment by county officers to the state  
 1236 shall be made by means of electronic funds transfer.

1237 Section 13. Effective January 1, 2011, section 319.32,  
 1238 Florida Statutes, is amended to read:

1239 319.32 Fees; service charges; disposition.--

1240 (1) The department shall charge a fee of \$50 ~~\$42~~ for each  
 1241 original certificate of title except for a certificate of title  
 1242 for a motor vehicle for hire registered under s. 320.08(6), for  
 1243 which the title fee shall be \$3, \$50 ~~\$42~~ for each duplicate copy  
 1244 of a certificate of title except for a certificate of title for  
 1245 a motor vehicle for hire registered under s. 320.08(6), for  
 1246 which the title fee shall be \$3, \$2 for each salvage certificate  
 1247 of title, and \$3 for each assignment by a lienholder. It shall  
 1248 also charge a fee of \$2 for noting a lien on a title

1249 certificate, which fee shall include the services for the  
1250 subsequent issuance of a corrected certificate or cancellation  
1251 of lien when that lien is satisfied. If an application for a  
1252 certificate of title is for a rebuilt vehicle, the department  
1253 shall charge an additional fee of \$40 for conducting a physical  
1254 examination of the vehicle to assure its identity. In addition  
1255 to all other fees charged, a sum of \$1 shall be paid for the  
1256 issuance of an original or duplicate certificate of title to  
1257 cover the cost of materials used for security purposes.

1258 (2)(a) There shall be a service charge of \$4.25 for each  
1259 application which is handled in connection with the issuance,  
1260 duplication, or transfer of any certificate of title. There  
1261 shall be a service charge of \$1.25 for each application which is  
1262 handled in connection with the recordation or notation of a lien  
1263 on a motor vehicle or mobile home which is not in connection  
1264 with the purchase of such vehicle.

1265 (b) The service charges specified in paragraph (a) shall  
1266 be collected by the department on any application handled  
1267 directly from its office. Otherwise, these service charges shall  
1268 be collected and retained by the tax collector who handles the  
1269 application.

1270 (3) The department shall charge a fee of \$4 in addition to  
1271 that charged in subsection (1) for each original certificate of  
1272 title issued for a vehicle previously registered outside this  
1273 state.

1274 (4) The department shall charge a fee of \$7 for each lien  
1275 placed on a motor vehicle by the state child support enforcement  
1276 program pursuant to s. 319.24.

1277 (5) All fees collected pursuant to subsection (3) shall be  
 1278 paid into the Nongame Wildlife Trust Fund. Forty-seven dollars  
 1279 ~~Thirty-nine dollars~~ of each fee for each applicable original  
 1280 certificate of title and each applicable duplicate copy of a  
 1281 certificate of title, ~~after deducting the service charges~~  
 1282 ~~imposed by s. 215.20~~, shall be deposited into the State  
 1283 Transportation Trust Fund. All other fees collected by the  
 1284 department under this chapter shall be paid into the General  
 1285 Revenue Fund.

1286 (6) Notwithstanding chapter 116, every county officer  
 1287 within this state authorized to collect funds provided for in  
 1288 this chapter shall pay all sums officially received by the  
 1289 officer into the State Treasury no later than 5 working days  
 1290 after the close of the business day in which the officer  
 1291 received the funds. Payment by county officers to the state  
 1292 shall be made by means of electronic funds transfer.

1293 Section 14. Effective January 1, 2012, section 319.32,  
 1294 Florida Statutes, is amended to read:

1295 319.32 Fees; service charges; disposition.--

1296 (1) The department shall charge a fee of \$50 for each  
 1297 original certificate of title except for a certificate of title  
 1298 for a motor vehicle for hire registered under s. 320.08(6), for  
 1299 which the title fee shall be \$3, \$50 for each duplicate copy of  
 1300 a certificate of title except for a certificate of title for a  
 1301 motor vehicle for hire registered under s. 320.08(6), for which  
 1302 the title fee shall be \$3, \$2 for each salvage certificate of  
 1303 title, and \$3 for each assignment by a lienholder. It shall also  
 1304 charge a fee of \$2 for noting a lien on a title certificate,

1305 which fee shall include the services for the subsequent issuance  
1306 of a corrected certificate or cancellation of lien when that  
1307 lien is satisfied. If an application for a certificate of title  
1308 is for a rebuilt vehicle, the department shall charge an  
1309 additional fee of \$40 for conducting a physical examination of  
1310 the vehicle to assure its identity. In addition to all other  
1311 fees charged, a sum of \$1 shall be paid for the issuance of an  
1312 original or duplicate certificate of title to cover the cost of  
1313 materials used for security purposes. Each January 1, the fee  
1314 for each applicable original certificate of title and each  
1315 applicable duplicate copy of a certificate of title shall be  
1316 adjusted by the percentage change in the average of the Consumer  
1317 Price Index (All Items) issued by the United States Department  
1318 of Labor for the most recent 12-month period ending September  
1319 30, compared to the base year average, which is the average for  
1320 the 12-month period ending September 30, 2008, and rounded to  
1321 the nearest tenth of a cent.

1322 (2)(a) There shall be a service charge of \$4.25 for each  
1323 application which is handled in connection with the issuance,  
1324 duplication, or transfer of any certificate of title. There  
1325 shall be a service charge of \$1.25 for each application which is  
1326 handled in connection with the recordation or notation of a lien  
1327 on a motor vehicle or mobile home which is not in connection  
1328 with the purchase of such vehicle.

1329 (b) The service charges specified in paragraph (a) shall  
1330 be collected by the department on any application handled  
1331 directly from its office. Otherwise, these service charges shall

1332 be collected and retained by the tax collector who handles the  
 1333 application.

1334 (3) The department shall charge a fee of \$4 in addition to  
 1335 that charged in subsection (1) for each original certificate of  
 1336 title issued for a vehicle previously registered outside this  
 1337 state.

1338 (4) The department shall charge a fee of \$7 for each lien  
 1339 placed on a motor vehicle by the state child support enforcement  
 1340 program pursuant to s. 319.24.

1341 (5) All fees collected pursuant to subsection (3) shall be  
 1342 paid into the Nongame Wildlife Trust Fund. The indexed fee less  
 1343 \$3 ~~Forty seven dollars~~ of each fee for each applicable original  
 1344 certificate of title and each applicable duplicate copy of a  
 1345 certificate of title, ~~after deducting the service charges~~  
 1346 ~~imposed by s. 215.20~~, shall be deposited into the State  
 1347 Transportation Trust Fund. All other fees collected by the  
 1348 department under this chapter shall be paid into the General  
 1349 Revenue Fund.

1350 (6) Notwithstanding chapter 116, every county officer  
 1351 within this state authorized to collect funds provided for in  
 1352 this chapter shall pay all sums officially received by the  
 1353 officer into the State Treasury no later than 5 working days  
 1354 after the close of the business day in which the officer  
 1355 received the funds. Payment by county officers to the state  
 1356 shall be made by means of electronic funds transfer.

1357 Section 15. Section 319.32, Florida Statutes, is amended  
 1358 to read:

1359 319.32 Fees; service charges; disposition.--

1360 (1) The department shall charge a fee of \$24 for each  
1361 original certificate of title except for a certificate of title  
1362 for a motor vehicle for hire registered under s. 320.08(6), for  
1363 which the title fee shall be \$3, \$24 for each duplicate copy of  
1364 a certificate of title except for a certificate of title for a  
1365 motor vehicle for hire registered under s. 320.08(6), for which  
1366 the title fee shall be \$3, \$2 for each salvage certificate of  
1367 title, and \$3 for each assignment by a lienholder. It shall also  
1368 charge a fee of \$2 for noting a lien on a title certificate,  
1369 which fee shall include the services for the subsequent issuance  
1370 of a corrected certificate or cancellation of lien when that  
1371 lien is satisfied. If an application for a certificate of title  
1372 is for a rebuilt vehicle, the department shall charge an  
1373 additional fee of \$40 for conducting a physical examination of  
1374 the vehicle to assure its identity. In addition to all other  
1375 fees charged, a sum of \$1 shall be paid for the issuance of an  
1376 original or duplicate certificate of title to cover the cost of  
1377 materials used for security purposes.

1378 (2)(a) There shall be a service charge of \$7.25 ~~\$4.25~~ for  
1379 each application which is handled in connection with the  
1380 issuance, duplication, or transfer of any certificate of title.  
1381 There shall be a service charge of \$1.25 for each application  
1382 which is handled in connection with the recordation or notation  
1383 of a lien on a motor vehicle or mobile home which is not in  
1384 connection with the purchase of such vehicle.

1385 (b) The service charges specified in paragraph (a) shall  
1386 be collected by the department on any application handled  
1387 directly from its office. Otherwise, these service charges shall

1388 be collected and retained by the tax collector who handles the  
1389 application.

1390 (3) The department shall charge a fee of \$4 in addition to  
1391 that charged in subsection (1) for each original certificate of  
1392 title issued for a vehicle previously registered outside this  
1393 state.

1394 (4) The department shall charge a fee of \$7 for each lien  
1395 placed on a motor vehicle by the state child support enforcement  
1396 program pursuant to s. 319.24.

1397 (5) All fees collected pursuant to subsection (3) shall be  
1398 paid into the Nongame Wildlife Trust Fund. Twenty-one dollars of  
1399 each fee for each applicable original certificate of title and  
1400 each applicable duplicate copy of a certificate of title, after  
1401 deducting the service charges imposed by s. 215.20, shall be  
1402 deposited into the State Transportation Trust Fund. All other  
1403 fees collected by the department under this chapter shall be  
1404 paid into the General Revenue Fund.

1405 (6) Notwithstanding chapter 116, every county officer  
1406 within this state authorized to collect funds provided for in  
1407 this chapter shall pay all sums officially received by the  
1408 officer into the State Treasury no later than 5 working days  
1409 after the close of the business day in which the officer  
1410 received the funds. Payment by county officers to the state  
1411 shall be made by means of electronic funds transfer.

1412 (7) The service charges imposed under paragraphs  
1413 319.32(1)(a) and (2)(a) shall consist of the statutory amount  
1414 adjusted to reflect changes in the Consumer Price Index every  
1415 three years after July 2008. The department shall by rule adjust

1416 the statutory tax collector fee amount based upon the increase  
 1417 or decrease in the Consumer Price Index for all urban consumers  
 1418 published by the United States Department of Labor. An  
 1419 adjustment shall be made July 1, of each third year after July  
 1420 1, 2008, using the most recent month for which data are  
 1421 available at the time of the adjustment. Any increase shall be  
 1422 rounded to the nearest five cents. During every third year when  
 1423 the adjustment is made, the service charge shall be no less than  
 1424 the statutory amount and no more than the increase in the  
 1425 Consumer Price Index or three percent, whichever is less.

1426 Section 16. Section 320.04, Florida Statutes, is amended  
 1427 to read:

1428 320.04 Registration service charge.—

1429 (1)(a) There shall be a service charge of \$3.50 ~~\$2.50~~ for  
 1430 each application which is handled in connection with original  
 1431 issuance, duplicate issuance, or transfer of any license plate,  
 1432 mobile home sticker, or validation sticker or with transfer or  
 1433 duplicate issuance of any registration certificate. There may  
 1434 also be a service charge of up to \$1 for the issuance of each  
 1435 license plate validation sticker, vessel decal, and mobile home  
 1436 sticker issued from an automated vending facility or printer  
 1437 dispenser machine which shall be payable to and retained by the  
 1438 department to provide for automated vending facilities or  
 1439 printer dispenser machines used to dispense such stickers and  
 1440 decals by each tax collector's or license tag agent's employee.

1441 (b) In addition to the fees provided in paragraph (a), any  
 1442 tax collector may impose an additional service charge of not  
 1443 more than 50 cents on any transaction specified in paragraph (a)

1444 or on any transaction specified in s. 319.32(2)(a) or s. 328.48  
1445 when such transaction occurs at any tax collector's branch  
1446 office.

1447 (c) The service charges prescribed by paragraphs (a) and  
1448 (b) shall be collected from the applicant as compensation for  
1449 all services rendered in connection with the handling of the  
1450 application. Such fees shall be retained by the department or by  
1451 the tax collector, as the case may be, as other fees accruing to  
1452 those offices.

1453 (2) The service charges shall be collected by the  
1454 department on all applications handled directly from its office;  
1455 and the proceeds thereof, together with any fees returned to it  
1456 by the tax collector, shall be paid into the Highway Safety  
1457 Operating Trust Fund. No tax collector, deputy tax collector, or  
1458 employee of the state or any county shall charge, collect, or  
1459 receive any fee or compensation for services performed as notary  
1460 public in connection with or incidental to the issuance of  
1461 license plates or titles. The provisions of this subsection and  
1462 of s. 116.38(2) prohibiting the charging, collecting, or  
1463 receiving of notary public fees do not apply to any privately  
1464 owned license plate agency appointed by the county manager of a  
1465 charter county which has an appointed tax collector.

1466 (3) The department may absorb all or any portion of any  
1467 interchange, assessment, charge back, authorization or  
1468 settlement or equivalent fees charged by financial institutions  
1469 relating to a credit or debit card transaction. The department  
1470 may request approval to establish additional budget authority to

1471 pay additional fees related to credit and debit card  
 1472 transactions pursuant to s. 216.177.

1473 (4) The service charges imposed under s. 320.04(1)(a)  
 1474 shall consist of the statutory amount adjusted to reflect  
 1475 changes in the Consumer Price Index every three years after July  
 1476 1, 2008. The department shall by rule adjust the statutory tax  
 1477 collector fee amount based upon an increase or decrease in the  
 1478 Consumer Price Index for all urban consumers published by the  
 1479 United States Department of Labor. An adjustment shall be made  
 1480 July 1, of each third year after July 1, 2008, using the most  
 1481 recent month for which data is available at the time of the  
 1482 adjustment. Any increase shall be rounded to the nearest five  
 1483 cents. During every third year when and adjustment is made, the  
 1484 service charge shall be no less than the statutory amount an no  
 1485 more than the increase in the Consumer Price Index or three  
 1486 percent, whichever is less.

1487 Section 17. 320.08 License taxes.--Except as otherwise  
 1488 provided herein, there are hereby levied and imposed annual  
 1489 license taxes for the operation of motor vehicles, mopeds,  
 1490 motorized bicycles as defined in s. 316.003(2), and mobile  
 1491 homes, as defined in s. 320.01, which shall be paid to and  
 1492 collected by the department or its agent upon the registration  
 1493 or renewal of registration of the following:

- 1494 (1) MOTORCYCLES and MOPEDS.--
- 1495 (a) Any motorcycle: \$10 flat.
- 1496 (b) Any moped: \$5 flat.
- 1497 (c) Upon registration of any motorcycle, motor-driven
- 1498 cycle, or moped there shall be paid in addition to the license

1499 taxes specified in this subsection a nonrefundable motorcycle  
 1500 safety education fee in the amount of \$2.50. The proceeds of  
 1501 such additional fee shall be deposited in the Highway Safety  
 1502 Operating Trust Fund and be used exclusively to fund a  
 1503 motorcycle driver improvement program implemented pursuant to s.  
 1504 322.025 or the Florida Motorcycle Safety Education Program  
 1505 established in s. 322.0255.

1506 (d) An ancient or antique motorcycle: \$10 flat.

1507 (2) AUTOMOBILES FOR PRIVATE USE.--

1508 (a) An ancient or antique automobile, as defined in s.  
 1509 320.086, or a street rod, as defined in s. 320.0863: \$7.50 flat.

1510 (b) Net weight of less than 2,500 pounds: \$14.50 flat. The  
 1511 tax shall increase to \$20 on January 1, 2009; to \$24.50 on  
 1512 January 1, 2010; and to \$29 on January 1, 2011.

1513 (c) Net weight of 2,500 pounds or more, but less than  
 1514 3,500 pounds: \$22.50 flat. The tax shall increase to \$30 on  
 1515 January 1, 2009; to \$37.50 on January 1, 2010; and to \$45 on  
 1516 January 1, 2011.

1517 (d) Net weight of 3,500 pounds or more: \$32.50 flat. The  
 1518 tax shall increase to \$43.50 on January 1, 2009; to \$54.50 on  
 1519 January 1, 2010; and to \$65 on January 1, 2011.

1520 (e) Beginning January 1, 2012, and on January 1 of each  
 1521 year thereafter, the taxes specified in paragraphs (b), (c) and  
 1522 (d) shall be adjusted by the percentage change in the average of  
 1523 the Consumer Price Index (All Items) issued by the United States  
 1524 Department of Labor for the most recent 12-month period ending  
 1525 September 30, compared to the base year average, which is the

1526 average for the 12-month period ending September 30, 2011, and  
 1527 rounded to the nearest tenth of a dollar.

1528 (3) TRUCKS.--

1529 (a) Net weight of less than 2,000 pounds: \$14.50 flat. The  
 1530 tax shall increase to \$20 on January 1, 2009; to \$25.50 on  
 1531 January 1, 2010; and to \$29 on January 1, 2011.

1532 (b) Net weight of 2,000 pounds or more, but not more than  
 1533 3,000 pounds: \$22.50 flat. The tax shall increase to \$30 on  
 1534 January 1, 2009; to \$37.50 on January 1, 2010; and to \$45 on  
 1535 January 1, 2011.

1536 (c) Net weight more than 3,000 pounds, but not more than  
 1537 5,000 pounds: \$32.50 flat. The tax shall increase to \$43.50 on  
 1538 January 1, 2009; to \$54.50 on January 1, 2010; and to \$65 on  
 1539 January 1, 2011.

1540 (d) A truck defined as a "goat," or any other vehicle when  
 1541 used in the field by a farmer or in the woods for the purpose of  
 1542 harvesting a crop, including naval stores, during such  
 1543 harvesting operations, and which is not principally operated  
 1544 upon the roads of the state: \$7.50 flat. The tax shall increase  
 1545 to \$10 on January 1, 2009; to \$12.50 on January 1, 2010; and to  
 1546 \$15 on January 1, 2011. A "goat" is a motor vehicle designed,  
 1547 constructed, and used principally for the transportation of  
 1548 citrus fruit within citrus groves or for the transportation of  
 1549 crops on farms, and which can also be used for the hauling of  
 1550 associated equipment or supplies, including required sanitary  
 1551 equipment, and the towing of farm trailers.

1552 (e) An ancient or antique truck, as defined in s. 320.086:  
 1553 \$7.50 flat.

1554        (f) Beginning January 1, 2012, and on January 1 of each  
 1555 year thereafter, the taxes specified in paragraphs (a) through  
 1556 (d) shall be adjusted by the percentage change in the average of  
 1557 the Consumer Price Index (All Items) issued by the United States  
 1558 Department of Labor for the most recent 12-month period ending  
 1559 September 30, compared to the base year average, which is the  
 1560 average for the 12-month period ending September 30, 2011, and  
 1561 rounded to the nearest tenth of a dollar.

1562        (4) HEAVY TRUCKS, TRUCK TRACTORS, FEES ACCORDING TO GROSS  
 1563 VEHICLE WEIGHT.--

1564        (a) Gross vehicle weight of 5,001 pounds or more, but less  
 1565 than 6,000 pounds: \$45 flat.

1566        (b) Gross vehicle weight of 6,000 pounds or more, but less  
 1567 than 8,000 pounds: \$65 flat.

1568        (c) Gross vehicle weight of 8,000 pounds or more, but less  
 1569 than 10,000 pounds: \$76 flat.

1570        (d) Gross vehicle weight of 10,000 pounds or more, but  
 1571 less than 15,000 pounds: \$87 flat.

1572        (e) Gross vehicle weight of 15,000 pounds or more, but  
 1573 less than 20,000 pounds: \$131 flat.

1574        (f) Gross vehicle weight of 20,000 pounds or more, but  
 1575 less than 26,001 pounds: \$186 flat.

1576        (g) Gross vehicle weight of 26,001 pounds or more, but  
 1577 less than 35,000: \$240 flat.

1578        (h) Gross vehicle weight of 35,000 pounds or more, but  
 1579 less than 44,000 pounds: \$300 flat.

1580        (i) Gross vehicle weight of 44,000 pounds or more, but  
 1581 less than 55,000 pounds: \$572 flat.

1582 (j) Gross vehicle weight of 55,000 pounds or more, but  
 1583 less than 62,000 pounds: \$678 flat.

1584 (k) Gross vehicle weight of 62,000 pounds or more, but  
 1585 less than 72,000 pounds: \$800 flat.

1586 (l) Gross vehicle weight of 72,000 pounds or more: \$979  
 1587 flat.

1588 (m) Notwithstanding the declared gross vehicle weight, a  
 1589 truck tractor used within a 150-mile radius of its home address  
 1590 shall be eligible for a license plate for a fee of \$240 flat if:

1591 1. The truck tractor is used exclusively for hauling  
 1592 forestry products; or

1593 2. The truck tractor is used primarily for the hauling of  
 1594 forestry products, and is also used for the hauling of  
 1595 associated forestry harvesting equipment used by the owner of  
 1596 the truck tractor.

1597 (n) A truck tractor or heavy truck, not operated as a for-  
 1598 hire vehicle, which is engaged exclusively in transporting raw,  
 1599 unprocessed, and nonmanufactured agricultural or horticultural  
 1600 products within a 150-mile radius of its home address, shall be  
 1601 eligible for a restricted license plate for a fee of \$65 flat,  
 1602 if such vehicle's declared gross vehicle weight is less than  
 1603 44,000 pounds; or \$240 flat, if such vehicle's declared gross  
 1604 vehicle weight is 44,000 pounds or more and such vehicle only  
 1605 transports:

1606 1. From the point of production to the point of primary  
 1607 manufacture;

1608 2. From the point of production to the point of assembling  
 1609 the same; or

1610 3. From the point of production to a shipping point of  
1611 either a rail, water, or motor transportation company.

1612  
1613 Such not-for-hire truck tractors and heavy trucks used  
1614 exclusively in transporting raw, unprocessed, and  
1615 nonmanufactured agricultural or horticultural products may be  
1616 incidentally used to haul farm implements and fertilizers when  
1617 delivered direct to the growers. The department may require any  
1618 such documentation deemed necessary to determine eligibility  
1619 prior to issuance of this license plate. For the purpose of this  
1620 paragraph, "not-for-hire" means the owner of the motor vehicle  
1621 must also be the owner of the raw, unprocessed, and  
1622 nonmanufactured agricultural or horticultural product, or the  
1623 user of the farm implements and fertilizer being delivered.

1624 (o) The taxes specified in this subsection shall increase  
1625 by \$10 on January 1, 2009; by an additional \$10 on January 1,  
1626 2010; and by an additional \$10 on January 1, 2011.

1627 (p) Beginning January 1, 2012, and on January 1 of each  
1628 year thereafter, the taxes specified in this subsection shall be  
1629 adjusted by the percentage change in the average of the Consumer  
1630 Price Index (All Items) issued by the United States Department  
1631 of Labor for the most recent 12-month period ending September  
1632 30, compared to the base year average, which is the average for  
1633 the 12-month period ending September 30, 2011, and rounded to  
1634 the nearest tenth of a dollar.

1635 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;  
1636 SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.--

1637 (a)1. A semitrailer drawn by a GVW truck tractor by means  
 1638 of a fifth-wheel arrangement: \$10 flat per registration year or  
 1639 any part thereof.

1640 2. A semitrailer drawn by a GVW truck tractor by means of  
 1641 a fifth-wheel arrangement: \$50 flat per permanent registration.

1642 (b) A motor vehicle equipped with machinery and designed  
 1643 for the exclusive purpose of well drilling, excavation,  
 1644 construction, spraying, or similar activity, and which is not  
 1645 designed or used to transport loads other than the machinery  
 1646 described above over public roads: \$32.50 flat.

1647 (c) A school bus used exclusively to transport pupils to  
 1648 and from school or school or church activities or functions  
 1649 within their own county: \$30 flat.

1650 (d) A wrecker, as defined in s. 320.01(40), which is used  
 1651 to tow a vessel as defined in s. 327.02(39), a disabled,  
 1652 abandoned, stolen-recovered, or impounded motor vehicle as  
 1653 defined in s. 320.01(38), or a replacement motor vehicle as  
 1654 defined in s. 320.01(39): \$30 flat.

1655 (e) A wrecker, as defined in s. 320.01(40), which is used  
 1656 to tow any motor vehicle, regardless of whether or not such  
 1657 motor vehicle is a disabled motor vehicle as defined in s.  
 1658 320.01(38), a replacement motor vehicle as defined in s.  
 1659 320.01(39), a vessel as defined in s. 327.02(39), or any other  
 1660 cargo, as follows:

1661 1. Gross vehicle weight of 10,000 pounds or more, but less  
 1662 than 15,000 pounds: \$87 flat.

1663 2. Gross vehicle weight of 15,000 pounds or more, but less  
 1664 than 20,000 pounds: \$131 flat.

1665 3. Gross vehicle weight of 20,000 pounds or more, but less  
1666 than 26,000 pounds: \$186 flat.

1667 4. Gross vehicle weight of 26,000 pounds or more, but less  
1668 than 35,000 pounds: \$240 flat.

1669 5. Gross vehicle weight of 35,000 pounds or more, but less  
1670 than 44,000 pounds: \$300 flat.

1671 6. Gross vehicle weight of 44,000 pounds or more, but less  
1672 than 55,000 pounds: \$572 flat.

1673 7. Gross vehicle weight of 55,000 pounds or more, but less  
1674 than 62,000 pounds: \$678 flat.

1675 8. Gross vehicle weight of 62,000 pounds or more, but less  
1676 than 72,000 pounds: \$800 flat.

1677 9. Gross vehicle weight of 72,000 pounds or more: \$979  
1678 flat.

1679 (f) A hearse or ambulance: \$30 flat.

1680 (g) The taxes specified in this subsection, except  
1681 paragraphs (c) and (f), shall increase by \$10 on January 1,  
1682 2009; by an additional \$10 on January 1, 2010; and by an  
1683 additional \$10 on January 1, 2011.

1684 (h) Beginning January 1, 2012, and on January 1 of each  
1685 year thereafter, the taxes specified in this subsection, except  
1686 paragraphs (c) and (f), shall be adjusted by the percentage  
1687 change in the average of the Consumer Price Index (All Items)  
1688 issued by the United States Department of Labor for the most  
1689 recent 12-month period ending September 30, compared to the base  
1690 year average, which is the average for the 12-month period  
1691 ending September 30, 2011, and rounded to the nearest tenth of a  
1692 dollar.

1693 (6) MOTOR VEHICLES FOR HIRE.--

1694 (a) Under nine passengers: \$12.50 flat plus \$1 per cwt.

1695 (b) Nine passengers and over: \$12.50 flat plus \$1.50 per

1696 cwt.

1697 (c) The flat taxes specified in this subsection shall

1698 increase to \$17 on January 1, 2009; to \$21.50 on January 1,

1699 2010; and to \$25 on January 1, 2011.

1700 (d) Beginning January 1, 2012, and on January 1 of each

1701 year thereafter, the flat taxes specified in this subsection

1702 shall be adjusted by the percentage change in the average of the

1703 Consumer Price Index (All Items) issued by the United States

1704 Department of Labor for the most recent 12-month period ending

1705 September 30, compared to the base year average, which is the

1706 average for the 12-month period ending September 30, 2011, and

1707 rounded to the nearest tenth of a dollar.

1708 (7) TRAILERS FOR PRIVATE USE.--

1709 (a) Any trailer weighing 500 pounds or less: \$5 flat per

1710 year or any part thereof.

1711 (b) Net weight over 500 pounds: \$2.50 flat plus 75 cents

1712 per cwt.

1713 (8) TRAILERS FOR HIRE.--

1714 (a) Net weight under 2,000 pounds: \$2.50 flat plus \$1 per

1715 cwt. The flat tax shall increase to \$3.50 on January 1, 2009; to

1716 \$4.50 on January 1, 2010; and to \$5 on January 1, 2011.

1717 (b) Net weight 2,000 pounds or more: \$10 flat plus \$1 per

1718 cwt. The flat tax shall increase to \$14 on January 1, 2009; to

1719 \$17 on January 1, 2010; and to \$20 on January 1, 2011.

1720 (c) Beginning January 1, 2012, and on January 1 of each  
 1721 year thereafter, the flat taxes specified in this subsection  
 1722 shall be adjusted by the percentage change in the average of the  
 1723 Consumer Price Index (All Items) issued by the United States  
 1724 Department of Labor for the most recent 12-month period ending  
 1725 September 30, compared to the base year average, which is the  
 1726 average for the 12-month period ending September 30, 2011, and  
 1727 rounded to the nearest tenth of a dollar.

1728 (9) RECREATIONAL VEHICLE-TYPE UNITS.--

1729 (a) A travel trailer or fifth-wheel trailer, as defined by  
 1730 s. 320.01(1)(b), that does not exceed 35 feet in length: \$20  
 1731 flat.

1732 (b) A camping trailer, as defined by s. 320.01(1)(b)2.:  
 1733 \$10 flat.

1734 (c) A motor home, as defined by s. 320.01(1)(b)4.:

1735 1. Net weight of less than 4,500 pounds: \$20 flat. The tax  
 1736 shall increase to \$27 on January 1, 2009; to \$34 on January 1,  
 1737 2010; and to \$40 on January 1, 2011.

1738 2. Net weight of 4,500 pounds or more: \$35 flat. The tax  
 1739 shall increase to \$47 on January 1, 2009; to \$59 on January 1,  
 1740 2010; and to \$70 on January 1, 2011.

1741 (d) A truck camper as defined by s. 320.01(1)(b)3.:

1742 1. Net weight of less than 4,500 pounds: \$20 flat.

1743 2. Net weight of 4,500 pounds or more: \$35 flat.

1744 (e) A private motor coach as defined by s. 320.01(1)(b)5.:

1745 1. Net weight of less than 4,500 pounds: \$20 flat. The tax  
 1746 shall increase to \$47 on January 1, 2009; to \$59 on January 1,  
 1747 2010; and to \$70 on January 1, 2011.

1748 2. Net weight of 4,500 pounds or more: \$35 flat. The tax  
 1749 shall increase to \$47 on January 1, 2009; to \$59 on January 1,  
 1750 2010; and to \$70 on January 1, 2011.

1751 (f) Beginning January 1, 2012, and on January 1 of each  
 1752 year thereafter, the taxes specified in paragraphs (c) and (e)  
 1753 shall be adjusted by the percentage change in the average of the  
 1754 Consumer Price Index (All Items) issued by the United States  
 1755 Department of Labor for the most recent 12-month period ending  
 1756 September 30, compared to the base year average, which is the  
 1757 average for the 12-month period ending September 30, 2011, and  
 1758 rounded to the nearest tenth of a dollar.

1759 (10) PARK TRAILERS; TRAVEL TRAILERS; FIFTH-WHEEL TRAILERS;  
 1760 35 FEET TO 40 FEET.--

1761 (a) Park trailers.--Any park trailer, as defined in s.  
 1762 320.01(1)(b)7.: \$25 flat.

1763 (b) A travel trailer or fifth-wheel trailer, as defined in  
 1764 s. 320.01(1)(b), that exceeds 35 feet: \$25 flat.

1765 (11) MOBILE HOMES.--

1766 (a) A mobile home not exceeding 35 feet in length: \$20  
 1767 flat.

1768 (b) A mobile home over 35 feet in length, but not  
 1769 exceeding 40 feet: \$25 flat.

1770 (c) A mobile home over 40 feet in length, but not  
 1771 exceeding 45 feet: \$30 flat.

1772 (d) A mobile home over 45 feet in length, but not  
 1773 exceeding 50 feet: \$35 flat.

1774 (e) A mobile home over 50 feet in length, but not  
 1775 exceeding 55 feet: \$40 flat.

1776 (f) A mobile home over 55 feet in length, but not  
 1777 exceeding 60 feet: \$45 flat.

1778 (g) A mobile home over 60 feet in length, but not  
 1779 exceeding 65 feet: \$50 flat.

1780 (h) A mobile home over 65 feet in length: \$80 flat.

1781 (12) DEALER AND MANUFACTURER LICENSE PLATES.--A franchised  
 1782 motor vehicle dealer, independent motor vehicle dealer, marine  
 1783 boat trailer dealer, or mobile home dealer and manufacturer  
 1784 license plate: \$12.50 flat. The tax shall increase to \$17 on  
 1785 January 1, 2009; to \$21.50 on January 1, 2010; and to \$25 on  
 1786 January 1, 2011. Beginning January 1, 2012, and on January 1 of  
 1787 each year thereafter, the tax shall be adjusted by the  
 1788 percentage change in the average of the Consumer Price Index  
 1789 (All Items) issued by the United States Department of Labor for  
 1790 the most recent 12-month period ending September 30, compared to  
 1791 the base year average, which is the average for the 12-month  
 1792 period ending September 30, 2011, and rounded to the nearest  
 1793 tenth of a dollar.

1794 (13) EXEMPT OR OFFICIAL LICENSE PLATES.--Any exempt or  
 1795 official license plate: \$3 flat.

1796 (14) LOCALLY OPERATED MOTOR VEHICLES FOR HIRE.--A motor  
 1797 vehicle for hire operated wholly within a city or within 25  
 1798 miles thereof: \$12.50 flat plus \$1.50 per cwt. The flat tax  
 1799 shall increase to \$17 on January 1, 2009; to \$21.50 on January  
 1800 1, 2010; and to \$25 on January 1, 2011. Beginning January 1,  
 1801 2012, and on January 1 of each year thereafter, the flat tax  
 1802 shall be adjusted by the percentage change in the average of the  
 1803 Consumer Price Index (All Items) issued by the United States

1804 Department of Labor for the most recent 12-month period ending  
1805 September 30, compared to the base year average, which is the  
1806 average for the 12-month period ending September 30, 2011, and  
1807 rounded to the nearest tenth of a dollar.

1808 (15) TRANSPORTER.--Any transporter license plate issued to  
1809 a transporter pursuant to s. 320.133: \$75 flat. The tax shall  
1810 increase to \$100 on January 1, 2009; to \$125 on January 1, 2010;  
1811 and to \$150 on January 1, 2011. Beginning January 1, 2012, and  
1812 on January 1 of each year thereafter, the tax shall be adjusted  
1813 by the percentage change in the average of the Consumer Price  
1814 Index (All Items) issued by the United States Department of  
1815 Labor for the most recent 12-month period ending September 30,  
1816 compared to the base year average, which is the average for the  
1817 12-month period ending September 30, 2011, and rounded to the  
1818 nearest tenth of a dollar.

1819 Section 18. Section 336.021, Florida Statutes, is amended  
1820 to read:

1821 336.021 County transportation system; levy of ninth-cent  
1822 fuel tax on motor fuel and diesel fuel.--

1823 (1)(a) In addition to other taxes allowed by law, there  
1824 shall be levied as provided in ~~Any county in the state, by~~  
1825 ~~extraordinary vote of the membership of its governing body or~~  
1826 ~~subject to a referendum, may levy the tax imposed by ss.~~  
1827 206.41(1)(d) and 206.87(1)(b) a local fuel tax upon every gallon  
1828 of motor fuel and diesel fuel sold in a county and taxed under  
1829 the provisions of part I or part II of chapter 206. County and  
1830 municipal governments may use the moneys received under this

1831 paragraph only for transportation expenditures as defined in s.  
 1832 336.025(7).

1833 (b) The governing body of the county may, by joint  
 1834 agreement with one or more of the municipalities located  
 1835 therein, provide for the transportation purposes authorized  
 1836 under paragraph (a) and the distribution of the proceeds of this  
 1837 tax within both the unincorporated and incorporated areas of the  
 1838 county. The provisions for refund provided in ss. 206.625 and  
 1839 206.64 shall not be applicable to such tax levied by any county.

1840 (c) Local fuel ~~option~~ taxes collected on sales or use of  
 1841 diesel fuel in this state shall be distributed in the following  
 1842 manner:

1843 1. The fiscal year of July 1, 1995, through June 30, 1996,  
 1844 shall be the base year for all distributions.

1845 2. Each year the tax collected, less the service and  
 1846 administrative charges enumerated in s. 215.20 and the  
 1847 allowances allowed under s. 206.91, on the number of gallons  
 1848 reported, up to the total number of gallons reported in the base  
 1849 year, shall be distributed to each county using the distribution  
 1850 percentage calculated for the base year.

1851 3. After the distribution of taxes pursuant to  
 1852 subparagraph 2., additional taxes available for distribution  
 1853 shall first be distributed pursuant to this subparagraph. A  
 1854 distribution shall be made to each county in which a qualified  
 1855 new retail station is located. A qualified new retail station is  
 1856 a retail station that began operation after June 30, 1996, and  
 1857 that has sales of diesel fuel exceeding 50 percent of the sales  
 1858 of diesel fuel reported in the county in which it is located

1859 during the 1995-1996 state fiscal year. The determination of  
1860 whether a new retail station is qualified shall be based on the  
1861 total gallons of diesel fuel sold at the station during each  
1862 full month of operation during the 12-month period ending  
1863 January 31, divided by the number of full months of operation  
1864 during those 12 months, and the result multiplied by 12. The  
1865 amount distributed pursuant to this subparagraph to each county  
1866 in which a qualified new retail station is located shall equal  
1867 the local fuel ~~option~~ taxes due on the gallons of diesel fuel  
1868 sold by the new retail station during the year ending January  
1869 31, less the service charges enumerated in s. 215.20 and the  
1870 dealer allowance provided for by s. 206.91. Gallons of diesel  
1871 fuel sold at the qualified new retail station shall be certified  
1872 to the department by the county requesting the additional  
1873 distribution by June 15, 1997, and by March 1 in each subsequent  
1874 year. The certification shall include the beginning inventory,  
1875 fuel purchases and sales, and the ending inventory for the new  
1876 retail station for each month of operation during the year, the  
1877 original purchase invoices for the period, and any other  
1878 information the department deems reasonable and necessary to  
1879 establish the certified gallons. The department may review and  
1880 audit the retail dealer's records provided to a county to  
1881 establish the gallons sold by the new retail station.  
1882 Notwithstanding the provisions of this subparagraph, when more  
1883 than one county qualifies for a distribution pursuant to this  
1884 subparagraph and the requested distributions exceed the total  
1885 taxes available for distribution, each county shall receive a  
1886 prorated share of the moneys available for distribution.

1887 4. After the distribution of taxes pursuant to  
1888 subparagraph 3., all additional taxes available for distribution  
1889 shall be distributed based on vehicular diesel fuel storage  
1890 capacities in each county pursuant to this subparagraph. The  
1891 total vehicular diesel fuel storage capacity shall be  
1892 established for each fiscal year based on the registration of  
1893 facilities with the Department of Environmental Protection as  
1894 required by s. 376.303 for the following facility types: retail  
1895 stations, fuel user/nonretail, state government, local  
1896 government, and county government. Each county shall receive a  
1897 share of the total taxes available for distribution pursuant to  
1898 this subparagraph equal to a fraction, the numerator of which is  
1899 the storage capacity located within the county for vehicular  
1900 diesel fuel in the facility types listed in this subparagraph  
1901 and the denominator of which is the total statewide storage  
1902 capacity for vehicular diesel fuel in those facility types. The  
1903 vehicular diesel fuel storage capacity for each county and  
1904 facility type shall be that established by the Department of  
1905 Environmental Protection by June 1, 1997, for the 1996-1997  
1906 fiscal year, and by January 31 for each succeeding fiscal year.  
1907 The storage capacities so established shall be final. The  
1908 storage capacity for any new retail station for which a county  
1909 receives a distribution pursuant to subparagraph 3. shall not be  
1910 included in the calculations pursuant to this subparagraph.

1911 (d) The tax received by the department on motor fuel  
1912 pursuant to this paragraph shall be distributed monthly by the  
1913 department to the county reported by the terminal suppliers,  
1914 wholesalers, and importers as the destination of the gallons

1915 distributed for retail sale or use. The tax on diesel fuel shall  
 1916 be distributed monthly by the department to each county as  
 1917 provided in paragraph (c).

1918 (2)(a) The tax collected by the department pursuant to  
 1919 subsection (1) shall be transferred to the Ninth-cent Fuel Tax  
 1920 Trust Fund, which fund is created for distribution to the  
 1921 counties pursuant to paragraph (1)(d). The department shall  
 1922 deduct the administrative costs incurred by it in collecting,  
 1923 administering, enforcing, and distributing back to the counties  
 1924 the tax, which administrative costs may not exceed 2 percent of  
 1925 collections authorized by this section. The total administrative  
 1926 cost shall be prorated among those counties levying the tax  
 1927 according to the following formula, which shall be revised on  
 1928 July 1 of each year: Two-thirds of the amount deducted shall be  
 1929 based on the county's proportional share of the number of  
 1930 dealers who are registered for purposes of chapter 212 on June  
 1931 30th of the preceding state fiscal year, and one-third of the  
 1932 amount deducted shall be based on the county's share of the  
 1933 total amount of the tax collected during the preceding state  
 1934 fiscal year. The department has the authority to prescribe and  
 1935 publish all forms upon which reports shall be made to it and  
 1936 other forms and records deemed to be necessary for proper  
 1937 administration and collection of the tax levied by any county  
 1938 and shall adopt rules necessary to enforce this section, which  
 1939 rules shall have the full force and effect of law. The  
 1940 provisions of ss. 206.026, 206.027, 206.028, 206.051, 206.052,  
 1941 206.054, 206.055, 206.06, 206.07, 206.075, 206.08, 206.09,  
 1942 206.095, 206.10, 206.11, 206.12, 206.13, 206.14, 206.15, 206.16,

1943 206.17, 206.175, 206.18, 206.199, 206.20, 206.204, 206.205,  
 1944 206.21, 206.215, 206.22, 206.24, 206.27, 206.28, 206.41,  
 1945 206.416, 206.44, 206.45, 206.48, 206.49, 206.56, 206.59,  
 1946 206.626, 206.87, 206.872, 206.873, 206.8735, 206.874, 206.8741,  
 1947 206.8745, 206.94, and 206.945 shall, as far as practicable, be  
 1948 applicable to the levy and collection of the tax imposed  
 1949 pursuant to this section as if fully set out in this section.

1950 (b) The provisions of s. 206.43(7) shall apply to the  
 1951 incorrect reporting of the tax levied under this section.

1952 (3) It is expressly recognized and declared by the  
 1953 Legislature that the establishment, operation, and maintenance  
 1954 of a transportation system and related facilities and the  
 1955 acquisition, construction, reconstruction, and maintenance of  
 1956 roads and streets fulfill a public purpose and that payment of  
 1957 the costs and expenses therefor may be made from county general  
 1958 funds, special taxing district funds, or such other funds as may  
 1959 be authorized by special or general law. Counties are authorized  
 1960 to expend the funds received under this section in conjunction  
 1961 with the state or federal government in joint projects.

1962 ~~(4)(a) A certified copy of the ordinance proposing to levy~~  
 1963 ~~the tax pursuant to referendum shall be furnished by the county~~  
 1964 ~~to the department within 10 days after approval of such~~  
 1965 ~~ordinance. Furthermore, the county levying the tax pursuant to~~  
 1966 ~~referendum shall notify the department within 10 days after the~~  
 1967 ~~passage of the referendum of such passage and of the time period~~  
 1968 ~~during which the tax will be levied. The failure to furnish the~~  
 1969 ~~certified copy will not invalidate the passage of the ordinance.~~

1970           ~~(b) A county levying the tax pursuant to ordinance shall~~  
 1971 ~~notify the department within 10 days after the governing body of~~  
 1972 ~~the county adopts the ordinance and, at the same time, furnish~~  
 1973 ~~the department with a certified copy of the ordinance.~~

1974           ~~(5) All impositions of the tax shall be levied before July~~  
 1975 ~~1 of each year to be effective January 1 of the following year.~~  
 1976 ~~However, levies of the tax which were in effect on July 1, 2002,~~  
 1977 ~~and which expire on August 31 of any year may be reimposed at~~  
 1978 ~~the current authorized rate to be effective September 1 of the~~  
 1979 ~~year of expiration. All impositions shall be required to end on~~  
 1980 ~~December 31 of a year. A decision to rescind the tax shall not~~  
 1981 ~~take effect on any date other than December 31 and shall require~~  
 1982 ~~a minimum of 60 days' notice to the department of such decision.~~

1983           ~~(4)(6)~~ Notwithstanding any other provision of this  
 1984 section, the tax authorized pursuant to this section shall be  
 1985 levied in every county at the rate of 1 cent per gallon of  
 1986 diesel fuel beginning January 1, 1994.

1987           Section 19. Section 336.025, Florida Statutes, is amended  
 1988 to read:

1989           336.025 County transportation system; levy of local option  
 1990 fuel tax on motor fuel and diesel fuel.--

1991           (1)(a) In addition to other taxes allowed by law, there  
 1992 shall ~~may~~ be levied as provided in ss. 206.41(1)(e) and  
 1993 206.87(1)(c) a ~~1-cent, 2-cent, 3-cent, 4-cent, 5-cent, or 6-cent~~  
 1994 local ~~option~~ fuel tax upon every gallon of motor fuel and diesel  
 1995 fuel sold in a county and taxed under the provisions of part I  
 1996 or part II of chapter 206. County and municipal governments may

1997 use moneys received pursuant to this paragraph only for  
 1998 transportation expenditures.

1999 ~~1. All impositions and rate changes of the tax shall be~~  
 2000 ~~levied before July 1 to be effective January 1 of the following~~  
 2001 ~~year for a period not to exceed 30 years, and the applicable~~  
 2002 ~~method of distribution shall be established pursuant to~~  
 2003 ~~subsection (3) or subsection (4). However, levies of the tax~~  
 2004 ~~which were in effect on July 1, 2002, and which expire on August~~  
 2005 ~~31 of any year may be reimposed at the current authorized rate~~  
 2006 ~~effective September 1 of the year of expiration. Upon~~  
 2007 ~~expiration, the tax may be releived provided that a~~  
 2008 ~~redetermination of the method of distribution is made as~~  
 2009 ~~provided in this section.~~

2010 ~~2. County and municipal governments shall utilize moneys~~  
 2011 ~~received pursuant to this paragraph only for transportation~~  
 2012 ~~expenditures.~~

2013 ~~3. Any tax levied pursuant to this paragraph may be~~  
 2014 ~~extended on a majority vote of the governing body of the county.~~  
 2015 ~~A redetermination of the method of distribution shall be~~  
 2016 ~~established pursuant to subsection (3) or subsection (4), if,~~  
 2017 ~~after July 1, 1986, the tax is extended or the tax rate changed,~~  
 2018 ~~for the period of extension or for the additional tax.~~

2019 (b) In addition to other taxes allowed by law, there shall  
 2020 ~~may~~ be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent,  
 2021 ~~3-cent, 4-cent, or~~ 5-cent local option fuel tax upon every  
 2022 gallon of motor fuel sold in a county and taxed under the  
 2023 provisions of part I of chapter 206. ~~The tax shall be levied by~~

2024 ~~an ordinance adopted by a majority plus one vote of the~~  
 2025 ~~membership of the governing body of the county or by referendum.~~

2026 ~~1. All impositions and rate changes of the tax shall be~~  
 2027 ~~levied before July 1, to be effective January 1 of the following~~  
 2028 ~~year. However, levies of the tax which were in effect on July 1,~~  
 2029 ~~2002, and which expire on August 31 of any year may be reimposed~~  
 2030 ~~at the current authorized rate effective September 1 of the year~~  
 2031 ~~of expiration.~~

2032 1.2. ~~The county may, prior to levy of the tax,~~ establish  
 2033 by interlocal agreement with one or more municipalities located  
 2034 therein, representing a majority of the population of the  
 2035 incorporated area within the county, a distribution formula for  
 2036 dividing the entire proceeds of the tax among county government  
 2037 and all eligible municipalities within the county. If no  
 2038 interlocal agreement is adopted before the effective date of the  
 2039 tax, tax revenues shall be distributed pursuant to the  
 2040 provisions of subsection (4). If no interlocal agreement exists,  
 2041 a new interlocal agreement may be established prior to June 1 of  
 2042 any year pursuant to this subparagraph. However, any interlocal  
 2043 agreement agreed to under this subparagraph after the initial  
 2044 levy of the tax or change in the tax rate authorized in this  
 2045 section shall under no circumstances materially or adversely  
 2046 affect the rights of holders of outstanding bonds which are  
 2047 backed by taxes authorized by this paragraph, and the amounts  
 2048 distributed to the county government and each municipality shall  
 2049 not be reduced below the amount necessary for the payment of  
 2050 principal and interest and reserves for principal and interest  
 2051 as required under the covenants of any bond resolution

2052 outstanding on the date of establishment of the new interlocal  
 2053 agreement.

2054 2.3- County and municipal governments shall use moneys  
 2055 received pursuant to this paragraph for transportation  
 2056 expenditures needed to meet the requirements of the capital  
 2057 improvements element of an adopted comprehensive plan or for  
 2058 expenditures needed to meet immediate local transportation  
 2059 problems and for other transportation-related expenditures that  
 2060 are critical for building comprehensive roadway networks by  
 2061 local governments. For purposes of this paragraph, expenditures  
 2062 for the construction of new roads, the reconstruction or  
 2063 resurfacing of existing paved roads, or the paving of existing  
 2064 graded roads shall be deemed to increase capacity and such  
 2065 projects shall be included in the capital improvements element  
 2066 of an adopted comprehensive plan. Expenditures for purposes of  
 2067 this paragraph shall not include routine maintenance of roads.

2068 (c) Local governments may use the services of the Division  
 2069 of Bond Finance of the State Board of Administration pursuant to  
 2070 the State Bond Act to issue any bonds through the provisions of  
 2071 this section and may pledge the revenues from local option fuel  
 2072 taxes to secure the payment of the bonds. Counties and  
 2073 municipalities may join together for the issuance of bonds  
 2074 issued pursuant to this section.

2075 (d) If an interlocal agreement entered into under this  
 2076 section does not provide for automatic adjustments or periodic  
 2077 review by the local governmental entities of the method of  
 2078 distribution of local ~~option~~ fuel tax revenues, the parties to

2079 the agreement shall review and hold public hearings on the terms  
 2080 of the agreement at least every 2 years.

2081 (2)(a) The tax levied pursuant to paragraph (1)(a) shall  
 2082 be collected and remitted in the same manner provided by ss.  
 2083 206.41(1)(e) and 206.87(1)(c). The tax levied pursuant to  
 2084 paragraph (1)(b) shall be collected and remitted in the same  
 2085 manner provided by s. 206.41(1)(e). The taxes remitted pursuant  
 2086 to this section shall be transferred to the Local ~~Option~~ Fuel  
 2087 Tax Trust Fund, which fund is created for distribution to the  
 2088 county and eligible municipal governments within the county in  
 2089 which the tax was collected and which fund is subject to the  
 2090 service charge imposed in chapter 215. The tax shall be  
 2091 distributed monthly by the department in the same manner  
 2092 provided by s. 336.021(1)(c) and (d). The department shall  
 2093 deduct the administrative costs incurred by it in collecting,  
 2094 administering, enforcing, and distributing back to the counties  
 2095 the tax, which administrative costs may not exceed 2 percent of  
 2096 collections authorized by this section. The total administrative  
 2097 costs shall be prorated among ~~those counties levying the tax~~  
 2098 according to the following formula, which shall be revised on  
 2099 July 1 of each year: Two-thirds of the amount deducted shall be  
 2100 based on the county's proportional share of the number of  
 2101 dealers who are registered for purposes of chapter 212 on June  
 2102 30 of the preceding state fiscal year, and one-third of the  
 2103 amount deducted shall be based on the county's share of the  
 2104 total amount of the tax collected during the preceding state  
 2105 fiscal year. The department has the authority to prescribe and  
 2106 publish all forms upon which reports shall be made to it and

2107 other forms and records deemed to be necessary for proper  
 2108 administration and collection of the taxes levied in ~~by~~ any  
 2109 county and shall promulgate such rules as may be necessary for  
 2110 the enforcement of this section, which rules shall have the full  
 2111 force and effect of law. The provisions of ss. 206.026, 206.027,  
 2112 206.028, 206.051, 206.052, 206.054, 206.055, 206.06, 206.07,  
 2113 206.075, 206.08, 206.09, 206.095, 206.10, 206.11, 206.12,  
 2114 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18,  
 2115 206.199, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22,  
 2116 206.24, 206.27, 206.28, 206.41, 206.416, 206.44, 206.45, 206.48,  
 2117 206.49, 206.56, 206.59, 206.626, 206.87, 206.872, 206.873,  
 2118 206.8735, 206.874, 206.8741, 206.94, and 206.945 shall, as far  
 2119 as practicable, be applicable to the levy and collection of  
 2120 taxes imposed pursuant to this section as if fully set out in  
 2121 this section.

2122 (b) The provisions of s. 206.43(7) shall apply to the  
 2123 incorrect reporting of the tax levied under this section.

2124 (c) The provisions for refund provided in s. 206.625 are  
 2125 not applicable to the tax levied pursuant to paragraph (1)(a) or  
 2126 paragraph (1)(b) by any county.

2127 ~~(3) The tax authorized pursuant to paragraph (1)(a) shall~~  
 2128 ~~be levied using either of the following procedures:~~

2129 ~~(a) The tax may be levied by an ordinance adopted by a~~  
 2130 ~~majority vote of the governing body or upon approval by~~  
 2131 ~~referendum. Such ordinance shall be adopted in accordance with~~  
 2132 ~~the requirements imposed under one of the following~~  
 2133 ~~circumstances, whichever is applicable:~~

2134        (3)(a)1~~1~~. The county may, prior to June 1, establish by  
 2135 interlocal agreement with one or more of the municipalities  
 2136 located therein, representing a majority of the population of  
 2137 the incorporated area within the county, a distribution formula  
 2138 for dividing the entire proceeds of the local ~~option~~ fuel tax  
 2139 among the county government and all eligible municipalities  
 2140 within the county. If no interlocal agreement exists, a new  
 2141 interlocal agreement may be established prior to August 1, 1986,  
 2142 or June 1 of any year thereafter pursuant to this paragraph  
 2143 ~~subparagraph~~. However, any interlocal agreement agreed to under  
 2144 this paragraph ~~subparagraph~~ after the initial imposition of the  
 2145 tax, ~~extension of the tax~~, or change in the tax rate authorized  
 2146 in this section shall under no circumstances materially or  
 2147 adversely affect the rights of holders of outstanding bonds  
 2148 which are backed by taxes authorized by this section, and the  
 2149 amounts distributed to the county government and each  
 2150 municipality shall not be reduced below the amount necessary for  
 2151 the payment of principal and interest and reserves for principal  
 2152 and interest as required under the covenants of any bond  
 2153 resolution outstanding on the date of establishment of the new  
 2154 interlocal agreement.

2155        ~~2. If an interlocal agreement has not been executed~~  
 2156 ~~pursuant to subparagraph 1., the county may, prior to June 10,~~  
 2157 ~~adopt a resolution of intent to levy the tax allowed in~~  
 2158 ~~paragraph (1)(a).~~

2159        (b)3~~2~~. Notwithstanding paragraph (a) ~~subparagraphs 1. and~~  
 2160 ~~2.~~, any inland county with a population greater than 500,000 as  
 2161 of July 1, 1996, with an interlocal agreement with one or more

2162 of the incorporated areas within the county established pursuant  
2163 to paragraph (a) ~~subparagraph 1.~~ must utilize the population  
2164 estimates of local governmental units as of April 1 of each year  
2165 pursuant to s. 186.901, for dividing the proceeds of the local  
2166 ~~option~~ fuel tax contained in such interlocal agreement. However,  
2167 any interlocal agreement agreed to under this subparagraph after  
2168 the initial imposition of the tax, ~~extension of the tax,~~ or  
2169 change in the tax rate authorized in this section shall under no  
2170 circumstances materially or adversely affect the rights of  
2171 holders of outstanding bonds which are backed by taxes  
2172 authorized by this section, and the amounts distributed to the  
2173 county government and each municipality shall not be reduced  
2174 below the amount necessary for the payment of principal and  
2175 interest and reserves for principal and interest as required  
2176 under the covenants of any bond resolution outstanding on the  
2177 date of establishment of the new interlocal agreement.

2178 ~~(b) If no interlocal agreement or resolution is adopted~~  
2179 ~~pursuant to subparagraph (a)1. or subparagraph (a)2.,~~  
2180 ~~municipalities representing more than 50 percent of the county~~  
2181 ~~population may, prior to June 20, adopt uniform resolutions~~  
2182 ~~approving the local option tax, establishing the duration of the~~  
2183 ~~levy and the rate authorized in paragraph (1)(a), and setting~~  
2184 ~~the date for a countywide referendum on whether to levy the tax.~~  
2185 ~~A referendum shall be held in accordance with the provisions of~~  
2186 ~~such resolution and applicable state law, provided that the~~  
2187 ~~county shall bear the costs thereof. The tax shall be levied and~~  
2188 ~~collected countywide on January 1 following 30 days after voter~~  
2189 ~~approval.~~

2190           (4)(a) If no interlocal agreement has been executed  
2191 pursuant to subparagraph (1)(b)1. or paragraph (3)(a), the tax  
2192 authorized pursuant to paragraph (1)(a) is levied under the  
2193 circumstances of subparagraph (3)(a)2. or paragraph (3)(b), the  
2194 proceeds of the tax shall be distributed among the county  
2195 government and eligible municipalities based on the  
2196 transportation expenditures of each for the immediately  
2197 preceding 5 fiscal years, as a proportion of the total of such  
2198 expenditures for the county and all municipalities within the  
2199 county. After the initial levy of a tax being distributed  
2200 pursuant to the provisions of this paragraph, the proportions  
2201 shall be recalculated every 10 years based on the transportation  
2202 expenditures of the immediately preceding 5 years. However, such  
2203 recalculation shall under no circumstances materially or  
2204 adversely affect the rights of holders of bonds outstanding on  
2205 July 1, 1986, which are backed by taxes authorized in paragraph  
2206 (1)(a), and the amounts distributed to the county government and  
2207 each municipality shall not be reduced below the amount  
2208 necessary for the payment of principal and interest and reserves  
2209 for principal and interest as required under the covenants of  
2210 any bond resolution outstanding on the date of the  
2211 recalculation.

2212           (b) Any newly incorporated municipality which is eligible  
2213 for participation in the distribution of moneys under parts II  
2214 and VI of chapter 218 ~~and which is located in a county levying~~  
2215 ~~the tax pursuant to paragraph (1)(a) or paragraph (1)(b)~~ is  
2216 entitled to receive a share of the tax revenues. Distribution of  
2217 such revenues to a newly incorporated municipality shall begin

2218 in the first full fiscal year following incorporation. The  
 2219 distribution to a newly incorporated municipality shall be:

2220 1. Equal to the county's per lane mile expenditure in the  
 2221 previous year times the lane miles within the jurisdiction or  
 2222 responsibility of the municipality, in which case the county's  
 2223 share shall be reduced proportionately; or

2224 2. Determined by the local act incorporating the  
 2225 municipality.

2226  
 2227 Such distribution shall under no circumstances materially or  
 2228 adversely affect the rights of holders of outstanding bonds  
 2229 which are backed by taxes authorized in this section, and the  
 2230 amounts distributed to the county government and each  
 2231 municipality shall not be reduced below the amount necessary for  
 2232 the payment of principal and interest and reserves for principal  
 2233 and interest as required under the covenants of any bond  
 2234 resolution outstanding on the date of the redistribution.

2235 (5)(a) By July 1 of each year, the county shall ~~notify the~~  
 2236 ~~Department of Revenue of the rate of the taxes levied pursuant~~  
 2237 ~~to paragraphs (1)(a) and (b), and of its decision to rescind or~~  
 2238 ~~change the rate of a tax, if applicable, and shall provide the~~  
 2239 department with a certified copy of the interlocal agreement  
 2240 established under subparagraph (1)(b)1. or paragraph (3)(a)  
 2241 ~~subparagraph (1)(b)2. or subparagraph (3)(a)1.~~ with distribution  
 2242 proportions established by such agreement or pursuant to  
 2243 subsection (4), if applicable. ~~A decision to rescind a tax shall~~  
 2244 ~~not take effect on any date other than December 31 and shall~~

2245 ~~require a minimum of 60 days' notice to the Department of~~  
2246 ~~Revenue of such decision.~~

2247 (b) Any dispute as to the determination by the county of  
2248 distribution proportions shall be resolved through an appeal to  
2249 the Administration Commission in accordance with procedures  
2250 developed by the commission. Pending final disposition of such  
2251 proceeding, the tax shall be collected pursuant to this section,  
2252 and such funds shall be held in escrow by the clerk of the  
2253 circuit court of the county until final disposition.

2254 (6) Only those municipalities and counties eligible for  
2255 participation in the distribution of moneys under parts II and  
2256 VI of chapter 218 are eligible to receive moneys under this  
2257 section. Any funds otherwise undistributed because of  
2258 ineligibility shall be distributed to eligible governments  
2259 within the county in proportion to other moneys distributed  
2260 pursuant to this section.

2261 (7) For the purposes of this section, "transportation  
2262 expenditures" means expenditures by the local government from  
2263 local or state shared revenue sources, excluding expenditures of  
2264 bond proceeds, for the following programs:

2265 (a) Public transportation operations and maintenance.

2266 (b) Roadway and right-of-way maintenance and equipment and  
2267 structures used primarily for the storage and maintenance of  
2268 such equipment.

2269 (c) Roadway and right-of-way drainage.

2270 (d) Street lighting.

2271 (e) Traffic signs, traffic engineering, signalization, and  
2272 pavement markings.

2273 (f) Bridge maintenance and operation.

2274 (g) Debt service and current expenditures for  
2275 transportation capital projects in the foregoing program areas,  
2276 including construction or reconstruction of roads and sidewalks.

2277 (8) In addition to the uses specified in subsection (7),  
2278 the governing body of a county with a population of 50,000 or  
2279 less on April 1, 1992, or the governing body of a municipality  
2280 within such a county may use the proceeds of the tax levied  
2281 pursuant to paragraph (1)(a) in any fiscal year to fund  
2282 infrastructure projects, if such projects are consistent with  
2283 the local government's approved comprehensive plan or, if the  
2284 approval or denial of the plan has not become final, consistent  
2285 with the plan last submitted to the state land planning agency.  
2286 In addition, no more than an amount equal to the proceeds from 4  
2287 cents per gallon of the tax imposed pursuant to paragraph (1)(a)  
2288 may be used by such county for the express and limited purpose  
2289 of paying for a court-ordered refund of special assessments.  
2290 Except as provided in subsection (7), such funds shall not be  
2291 used for the operational expenses of any infrastructure. Such  
2292 funds may be used for infrastructure projects under this  
2293 subsection only after the local government, prior to the fiscal  
2294 year in which the funds are proposed to be used, or if pledged  
2295 for bonded indebtedness, prior to the fiscal year in which the  
2296 bonds will be issued, has held a duly noticed public hearing on  
2297 the proposed use of the funds and has adopted a resolution  
2298 certifying that the local government has met all of the  
2299 transportation needs identified in its approved comprehensive  
2300 plan or, if the approval or denial of the plan has not become

2301 final, consistent with the plan last submitted to the state land  
 2302 planning agency. The proceeds shall not be pledged for bonded  
 2303 indebtedness for a period exceeding 10 years, except that, for  
 2304 the express and limited purpose of using such proceeds in any  
 2305 fiscal year to pay a court-ordered refund of special  
 2306 assessments, the proceeds may be pledged for bonded indebtedness  
 2307 not exceeding 15 years. For the purposes of this subsection,  
 2308 "infrastructure" has the same meaning as provided in s. 212.055.

2309 (9) Notwithstanding any other provision of this section,  
 2310 the tax on diesel fuel authorized in this section shall be  
 2311 levied in every county at the rate of 6 cents per net gallon.

2312 Section 20. Section 339.2816, Florida Statutes, is amended  
 2313 to read:

2314 339.2816 Small County Road Assistance Program.—

2315 (1) There is created within the Department of  
 2316 Transportation the Small County Road Assistance Program. The  
 2317 purpose of this program is to assist small county governments in  
 2318 resurfacing or reconstructing county roads.

2319 (2) For the purposes of this section, the term "small  
 2320 county" means any county that has a population of 75,000 or less  
 2321 according to 1990 federal census data.

2322 (3) Beginning with fiscal year 1999-2000 until fiscal year  
 2323 2009-2010 up to \$25 million annually from the State  
 2324 Transportation Trust Fund may be used for the purposes of  
 2325 funding the Small County Road Assistance Program as described in  
 2326 this section.

2327 (4)(a) Small counties shall be eligible to compete for  
 2328 funds that have been designated for the Small County Road

2329 Assistance Program for resurfacing or reconstruction projects on  
 2330 county roads that were part of the county road system on June  
 2331 10, 1995. Capacity improvements on county roads shall not be  
 2332 eligible for funding under the program.

2333 (b) In determining a county's eligibility for assistance  
 2334 under this program, the department may consider whether the  
 2335 county has attempted to keep county roads in satisfactory  
 2336 condition and shall use ~~, including the amount of local option~~  
 2337 ~~fuel tax and ad valorem millage rate imposed by the county. The~~  
 2338 ~~department may also consider the extent to which the county has~~  
 2339 ~~offered to provide a match of local funds with state funds~~  
 2340 ~~provided under the program. At a minimum, small counties shall~~  
 2341 ~~be eligible only if:~~

2342 1. ~~The county has enacted the maximum rate of the local~~  
 2343 ~~option fuel tax authorized by s. 336.025(1)(a), and has imposed~~  
 2344 ~~an ad valorem millage rate of at least 8 mills; or~~

2345 2. ~~The county has imposed an ad valorem millage rate of 10~~  
 2346 ~~mills.~~

2347 ~~(c)~~ the following criteria shall be used to prioritize  
 2348 road projects for funding under the program:

2349 1. The primary criterion is the physical condition of the  
 2350 road as measured by the department.

2351 2. As secondary criteria the department may consider:

- 2352 a. Whether a road is used as an evacuation route.
- 2353 b. Whether a road has high levels of agricultural travel.
- 2354 c. Whether a road is considered a major arterial route.
- 2355 d. Whether a road is considered a feeder road.

2356 e. Other criteria related to the impact of a project on  
2357 the public road system or on the state or local economy as  
2358 determined by the department.

2359 (5) The department is authorized to administer contracts  
2360 on behalf of a county selected to receive funding for a project  
2361 under this section. All projects funded under this section shall  
2362 be included in the department's work program developed pursuant  
2363 to s. 339.135.

2364 Section 21. Except as otherwise provided herein, this act  
2365 shall take effect July 1, 2008.

1                   A bill to be entitled  
2           An act relating to local governments; requiring certain  
3           constitutional officers, boards, or other taxing  
4           authorities to submit a specified budget to the county  
5           commission prior to the commission's budget meetings;  
6           providing an effective date.

7  
8   Be It Enacted by the Legislature of the State of Florida:

9  
10           Section 1. Each of the State Constitution's county  
11 officers, boards, or other taxing authorities that obtain their  
12 revenue from ad valorem taxes or fees, except those officers  
13 whose budgets are approved under ss. 195.087 or 145.022 who had  
14 budgeted and appropriated to them by the board of county  
15 commissioners certain ad valorem taxes or fees for the operation  
16 of their offices, must submit a line-item, zero-based budget to  
17 the county commission prior to the commission's budget hearings.

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



# 3. Committee Reports



# TAXATION AND BUDGET REFORM COMMISSION

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## Governmental Services Committee Report State of Florida Courts System

### SUMMARY

The mission of Florida's Judicial Branch is to protect rights and liberties, uphold and interpret the law, and provide for the peaceful resolution of disputes.<sup>1</sup>

The Judicial Branch will face many challenges in the future, as there is no single, certain forecast for the courts. Events and trends in areas such as the demographics of court users; the growing size and complexity of our society; the increased polarization of people based on age, financial status, political views, culture, and values; the likelihood of hurricane activity and pandemic influenza; the outstanding transition issues resulting from the shift in local and state responsibilities; and the increasing challenges of working effectively and creatively will affect the outlook of the state's court system over the coming decades. The appropriate response may be doing what has always been done, only better; or it may involve important shifts in organizational focus and action.<sup>2</sup>

Florida's Court structure consists of the following entities: two appellate level courts (the Supreme Court and five

district courts of appeal) and two trial level courts (20 circuit courts and 67 county courts). The Chief Justice presides as the chief administrative officer of the judicial branch.

Judicial leaders have long recognized the benefits of strategic planning. With a long-range plan guiding its actions, a court system has a methodical, efficient mechanism in place for addressing the concerns and challenges it confronts, such as the inevitability of rapid growth and complex social, political, economic, and technological changes; waning public trust and confidence in government generally; and heightened public criticism of the judicial branch.<sup>3</sup>

Another asset of long-range planning is that it serves as a powerful performance management tool. Court systems clearly identify the issues they currently are, or expect to be, facing and—with that done, their goals and strategies for dealing with those issues—tend to create regular opportunities to evaluate and improve themselves, thereby enhancing court performance and providing more competent and cost-effective court services.<sup>4</sup>

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<sup>1</sup> Presentation by Fred Lewis, Florida Supreme Court Chief Justice, Governmental Services Committee, September 27, 2007.

<sup>2</sup> The Supreme Court of Florida, Long Range Program Plan – Fiscal Years 2008-2009 through 2012-2013.

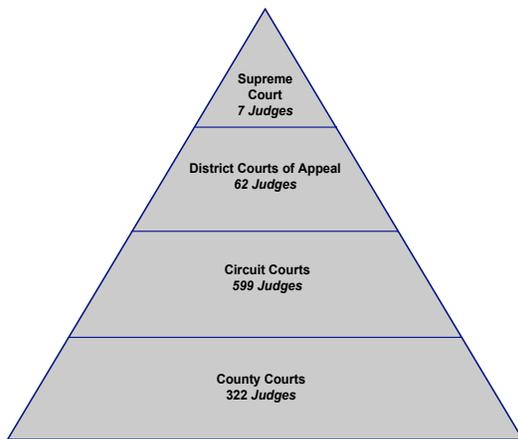
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<sup>3</sup> The Supreme Court of Florida, Annual Report 2006-2007.

<sup>4</sup> Ibid.

## **BACKGROUND**

The Florida State Courts System serves all of Florida's residents and visitors. As the population and the number of visitors to Florida increase and become more diverse, and as the business and governmental sectors become larger and more sophisticated, the corresponding task environment of the courts becomes more complex. A number of external and internal trends contribute to the scope and complexity of the challenges facing the courts.



5

The demographic trends of the State of Florida and its courts system are in a constant state of change. Florida's population trends are growing at a rate which may rise faster than the State of Florida's services can effectively keep pace. The court system will have to prepare for these demographic shifts.<sup>6</sup>

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<sup>5</sup> PowerPoint Presentation by Fred Lewis, Florida Supreme Court Chief Justice, Governmental Services Committee, September 27, 2007.

<sup>6</sup> Presentation by Fred Lewis, Florida Supreme Court Chief Justice, Governmental Services Committee, September 27, 2007.

## **Supreme Court of Florida**

The highest court in this state is the Supreme Court, which is composed of seven justices appointed by the Governor. One of the justices is chosen chief justice by a majority of the other justices. A quorum consists of five justices, and four must be in agreement in order to render a decision. The Supreme Court must hear appeals in death penalty cases. Supreme Court justices must stand for retention every six years.<sup>7</sup>

## **District Courts of Appeals**

The majority of trial court decisions which are appealed are examined by the District Court of Appeals (DCA). There are five district courts, headquartered in Tallahassee, Lakeland, Miami, West Palm Beach, and Daytona Beach.

There are between twelve and fifteen judges on each DCA.<sup>8</sup> There are 62 judges statewide and a DCA usually consists of a three judge panel which requires the concurrence of two for a decision. In some rare instances, all eligible judges of the District can participate "en banc" or full bench. Like the Supreme Court justices, District Court of Appeals judges are appointed by the Governor and stand for retention every six years.<sup>9</sup>

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<sup>7</sup> The Florida Handbook, 2005 – 2006, compiled by Allen Morris and Joan Perry Morris, pp. 217 – 218.

<sup>8</sup> Information found at [www.flcourts.org/courts/dca](http://www.flcourts.org/courts/dca) - District 1 has 15 judges, District 2 has 14 judges, District 3 has 12 judges, District 4 has 12 judges, and District 5 has 13 judges.

<sup>9</sup> [http://www.judicialselection.us/judicial\\_selection/](http://www.judicialselection.us/judicial_selection/).

## **Circuit Courts**

The courts with the widest jurisdiction in Florida are the circuit courts. There are 20 judicial circuits across the state with a total of 599 circuit judges serving the state. Each circuit judge is elected to a six-year term. Circuit courts have exclusive jurisdiction in all actions of law not cognizable by the county courts.<sup>10</sup>

## **County Courts**

Each of Florida's 67 counties has at least one county court judge. The number of judges in each county court varies with the population and caseload of the county. The total number of county judges in Florida is 322. County court judges are elected for a four-year term and may hear simplified dissolution of marriage cases. County courts are of limited jurisdiction, as established by statute; only have jurisdiction in civil cases involving less than \$15,000; hear nearly all of the misdemeanor and traffic cases; and are responsible for overseeing the small claims court (under \$500).<sup>11</sup>

## **State Court System Administration**

The Chief Justice of the Supreme Court is responsible for the administration of all state courts in Florida. The Office of State Court Administration (OSCA) serves under the direction of the Chief Justice of the Supreme Court and the other six justices, and oversees the operation of numerous court programs, initiatives, and administrative functions.

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<sup>10</sup>[http://jud11.flcourts.org/about\\_the\\_court/judicial\\_circuit\\_overview.htm](http://jud11.flcourts.org/about_the_court/judicial_circuit_overview.htm).

<sup>11</sup> The Florida Handbook, 2005 – 2006, compiled by Allen Morris and Joan Perry Morris, p 205-208.

OSCA serves as the liaison between the court system and the legislative and executive branches of government. The office oversees budget preparations and legislative initiatives for the entire state court system. OSCA was originally created in 1972 to assist the state courts with developing a uniform case system that provides information to assist in preparing budget requests and to project the need for additional judges and special court divisions.<sup>12</sup>

Each of the five District Courts of Appeal and 20 Court Circuits has its own local administrative structure. Each of these individual units is overseen by the Chief Judge for the District or Circuit.<sup>13</sup>

## **Judicial Nominating Commissions**

There are 26 judicial nominating commissions that screen applicants for vacancies on Florida courts and recommend qualified candidates to the governor: the statewide nominating commission for the Supreme Court, a commission for each of the five district courts of appeal, and a commission for each of the twenty judicial circuits.<sup>14</sup> For all vacancies on the Supreme Court and district courts of appeal, and for mid-term vacancies on the circuit and county courts, the appropriate nominating commission submits a list of three to six nominees. The governor must appoint one of the commission's nominees.<sup>15</sup>

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<sup>12</sup> [www.flcourts.org/courts/crtadmin](http://www.flcourts.org/courts/crtadmin).

<sup>13</sup> [www.flcourts.org/courts/crtadmin/localadmin.shtml](http://www.flcourts.org/courts/crtadmin/localadmin.shtml).

<sup>14</sup> The Florida Handbook, 2005 – 2006, compiled by Allen Morris and Joan Perry Morris, p. 208.

<sup>15</sup> Ibid.

Each nominating commission consists of nine members appointed by the governor. Four members are lawyers appointed from lists of nominees submitted by The Florida Bar. Of the remaining five members, at least two must be lawyers. Members must be residents of the jurisdiction the commission serves. In making the appointments, the governor is to ensure that, to the extent possible, the membership of each commission reflects the racial, ethnic, and gender diversity and geographic distribution of the relevant jurisdiction. Members serve four-year terms.<sup>16</sup>

In 1991, the Florida Legislature altered the composition of the state's judicial nominating commissions to provide that one third of all members be women or members of a racial or ethnic minority group. A white male who applied for a commission vacancy was rejected because the position was reserved for a woman or minority, and he filed a suit challenging the constitutionality of the diversity provision. The federal district court found that the provision violated the equal protection clause of the Fourteenth Amendment.<sup>17</sup> The decision was affirmed by the court of appeals without reported opinion in 1997.<sup>18</sup>

### **State Attorneys**

State Attorneys prosecute and defend on behalf of the state, all suits, applications, or motions, criminal or civil, in which the state is a party (except as provided in

Chs. 39, 984, 985, *Florida Statutes*) in the circuit or county courts within his or her judicial circuit.<sup>19</sup> The state attorney also prosecutes violations of special laws and county or municipal ordinances punishable by incarceration if the prosecution is ancillary to a state prosecution or if the state attorney has contracted with the county or municipality for reimbursement for services rendered in accordance with Section 27.34(1), *Florida Statutes*. State attorneys are elected to a four-year term under provisions of the *Florida Constitution*.<sup>20</sup>

For Fiscal Year 2007-2008, the number of authorized full-time employees for State Attorneys is 6,276.<sup>21</sup> This number does not include support staff for the attorneys.

In Fiscal Year 2005-2006, state attorneys were referred 446,824 felony cases, 1,140,144 misdemeanor cases, and 175,923 juvenile cases. That same year, the average number of referrals per attorney for felony cases was 410, for misdemeanor cases 2,401, and for juvenile cases 1,068. Other performance measures and standards for the department may be found in its Long Range Program Plan.<sup>22</sup>

### **Public Defenders**

For each judicial circuit, there is a Public Defender who is, and has been for the preceding five years, a member in good standing of The Florida Bar. Public

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<sup>16</sup> Section 43.291, *Florida Statutes*.

<sup>17</sup> *Mallory v. Harkness*, 895 F.Supp. 1556 (S.D. Fla. 1995).

<sup>18</sup> [http://www.judicialselection.us/judicial\\_selecti on/methods/judicial\\_nominating\\_commissions.cfm](http://www.judicialselection.us/judicial_selecti on/methods/judicial_nominating_commissions.cfm).

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<sup>19</sup> Section 27.02, *Florida Statutes*.

<sup>20</sup> OPPAGA Florida Government Accountability Report, Public Defenders – 9-25-07.

<sup>21</sup> Information provided by the Florida Justice Administration Commission, December 3, 2007.

<sup>22</sup> OPPAGA Florida Government Accountability Report, State Attorneys – 9-25-07

Defenders are elected at the general election for a term of four years by the qualified electors of the judicial circuit. Each Public Defender must be an elector of the state and reside within the territorial jurisdiction of the judicial circuit in which he or she serves.<sup>23</sup>

Pursuant to Section 27.51, Florida Statutes, Public Defenders and their legal staffs provide legal representation for indigent persons charged with crimes or violations of certain special laws or local ordinances ancillary to a state charge; persons alleged to be delinquent children; persons being involuntarily placed as mentally ill or involuntarily admitted to residential services for developmental disabilities; persons designated as sexually violent predators; persons convicted and sentenced to death for purposes of Supreme Court appeals; or appeals of any case from the list above.<sup>24</sup> Public Defenders assist each other across jurisdictional lines, as requested.

For Fiscal Year 2007-2008, the authorized number of full-time employees for Public Defenders is 3,144.<sup>25</sup> In addition to the authorized attorneys, public defenders' offices are authorized to hire support staff. According to the Florida Public Defender Association, the ratio of all support staff (including legal secretaries, investigators, information technology staff, administrative personnel, case workers, etc.) to attorneys is .8364 staff to 1 assistant public defender.<sup>26</sup>

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<sup>23</sup> Section 27.50, Florida Statutes.

<sup>24</sup> Section 27.51, Florida Statutes.

<sup>25</sup> Information provided by the Florida Justice Administration Commission, December 3, 2007.

<sup>26</sup> Ibid.

## Clerks of the Court

The State of Florida's Constitution mandates that each county shall elect a court clerk, "There shall be in each county a Clerk of the Circuit Court who shall be selected pursuant to the provisions of Article VIII, Section I." <sup>27</sup> "The Clerk of the Circuit Court shall be Ex-officio Clerk of the Board of County Commissioners, Auditor, Recorder and Custodian of all County funds."<sup>28</sup>

Provisions of the Florida Constitution of 1838, established the Clerk of the Circuit Court as an elected public trustee and set in place at the county level a system of "checks and balances" which has been proven to serve the public for over 150 years.<sup>29</sup> The Office of the Clerk is a complex organization that performs a wide range of record keeping, information management, and financial management in the judicial system and county government. In a study conducted by the Joint Select Committee on Judicial Personnel of the Legislature, it was calculated that the Clerk's office performs 926 different constitutional and statutory functions or duties.<sup>30</sup>

The Clerk is governed by statutory authority in carrying out the duties and functions of the office. As auditor and custodian of all county funds, the clerk is subject to State Auditor General rules and regulations, and is subject to annual audits by an independent audit firm. Accountability is further derived by the Clerks' duties and actions being

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<sup>27</sup> Article V, Section 16 of the Florida Constitution.

<sup>28</sup> Article VIII, Section I (d) of the Florida Constitution.

<sup>29</sup> <http://www.flclerks.com/goal.html>.

<sup>30</sup> Ibid.

constantly subjected to public evaluation and scrutiny through the election process every four years.<sup>31</sup>

The Clerk of the Circuit Court serves dual roles for the circuit and for local county governments. The Clerk is responsible for ensuring that the Court's orders, judgments, or directives are carried out within the parameters allowed by law; maintaining the Court's records; collecting and disbursing the Court's fines, fees, and assessments; and collecting and disbursing court ordered child support and alimony payments.<sup>32</sup>

In addition, the Clerk serves as accountant and auditor for the Board of County Commissioners; collector and distributor of statutory assessments; and guardian of the public records, public funds, and public property. The Clerk collects and disburses documentary stamps and intangible taxes for the Department of Revenue; collects and disburses numerous fees and assessments for the benefit of state trust funds; and provides informational, financial, and statistical data to the Legislature, Supreme Court, Department of Law Enforcement, Auditor General, Department of Health and Rehabilitative Services, and other state agencies.<sup>33</sup>

As custodian of county funds, the Clerk ensures that the taxpayer's money is managed according to law. The Clerk provides internal audits of county government; provides access to public records; audits reports of guardians in guardianship cases; provides assistance to citizens in accessing the courts; and maintains court documents to ensure that

litigant's cases are handled in a timely manner.<sup>34</sup>

### **Florida Ranks High on Accessibility and Openness**

A 2006 study of state constitutions by the University of Florida College of Journalism and Communications analyzed eight areas of interest concerning public access. A Sunshine Index assigned states to categories ranging from “complete sunshine and complete citizen access to records” to “mostly dark or closed.” Florida received the nation’s highest rating for being mostly open and mostly in the sunshine.<sup>35</sup> The next highest rated states were California and Louisiana, followed by Montana and Rhode Island. Seventy five percent of states scored in or near the “mostly dark or closed” category.

A February 28, 2006 letter to the Florida Supreme Court from the Electronic Privacy Information Center in San Francisco commended the Court and its Committee on Privacy and Court Records for tackling difficult policy issues concerning access to public records. The letter commended the Committee’s report, including recommendations for constituting one of the most progressive and comprehensive approaches in the nation to addressing privacy risks of public records.<sup>36</sup> The Association of Electronic Journalists’ state-by-state guide to laws regarding cameras and microphones in the courtroom ranked Florida among 19 states that allow the most coverage.<sup>37</sup>

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<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

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<sup>34</sup> Ibid.

<sup>35</sup> Florida TaxWatch Report, “Food for Thought” – September 2007.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

Mass communication of public information is critical to the health of our democracy. Florida government agencies inform their customers and clients through websites and publications. News outlets rely on unrestricted access to public records and meetings to provide fast and reliable information to citizens.

Government employees who are knowledgeable about public records facilitate communication, saving their's and others' time. Governor Charlie Crist has created a state Office of Open Government to train public employees on open records and meeting requirements, and ensure compliance with applicable laws.<sup>38</sup>

The need for this training was suggested by a 2004 audit conducted by the Reporters' Committee for Freedom of the Press which determined 43 percent of public records requests statewide showed violations, largely because of ignorance of the state's open records law.<sup>39</sup> The audit occurred two years after the Florida Society of Newspaper Editors launched Sunshine Sunday as a response to efforts by some legislators to create additional exemptions to the public records law.

### **Mental Health in the Courts**

Information provided in this section was provided by Judge Stephen Leifman, Special Advisor on Criminal Justice and Mental Health for the Supreme Court of Florida and Associate Administrative Judge Eleventh Judicial Circuit of Florida.

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<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

During the early part of the 19th century, Floridians with serious mental illnesses requiring hospitalization were sent to Georgia State Hospital in Milledgeville and South Carolina State Hospital in Columbia, and the State of Florida was charged \$250 per person annually for care.

In 1876, Florida State Hospital was opened in a former civil war arsenal in Chattahoochee, two years after the state first enacted statutes governing the care of people with mental illnesses. With little effective treatment available, the institution functioned primarily to provide a custodial environment where patients would not injure themselves, staff, or other residents, and to ensure public safety.

In 1947, two years after the end of World War II, Florida's second state institution, G. Pierce Wood Hospital was opened in Arcadia on the site of a former military training grounds and air field. Because of tremendous population growth in the state following the war, overcrowding quickly became a significant problem at both facilities. By the late 1950s two additional hospitals were opened in Pembroke Pines and MacClenny.

By the mid-1900's, more than a half million people were housed in state psychiatric hospitals across the United States. The system was stretched beyond its limits and states desperately needed some alternative to addressing this costly and ever-expanding crisis. Around this same time, the first effective medications for treating symptoms of psychosis were being developed, lending further support to the emerging belief that people with serious mental illnesses

could be treated more effectively and humanely in the community. This period marked the beginning of the community mental health movement.

In 1963, Congress passed the Community Mental Health Centers Act which was intended to create a network of community-based mental health providers that would replace failing and costly state hospitals, and integrate people with mental illnesses back into their home communities with comprehensive treatment and services. In what would be his last public bill signing, President Kennedy signed a \$3 billion authorization to support this movement from institutional to community-based treatment. However, following President Kennedy's assassination and the escalation of the Vietnam War, not one penny of this authorization was ever appropriated.

As more light was shed on the horrific treatment people received in state psychiatric hospitals, along with the hope offered by the availability of new and effective medications, a flurry of federal lawsuits were filed against states which resulted in what became known as the "deinstitutionalization" of public mental health care. Unfortunately, there was no organized or adequate network of community mental health centers to receive and absorb these newly displaced individuals.<sup>40</sup>

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<sup>40</sup> Statement of Judge Stephen Leifman to the Governmental Services Committee on January 25, 2008

## **METHODOLOGY**

Public meetings held by the Governmental Services Committee of the Taxation and Budget Reform Commission were principal sources of data collection used to prepare this report. Meetings related to these topics of the Governmental Services Committee were held on August 21, 2007 at the Orlando International Airport and on September 27, 2007 at the Supreme Court in Tallahassee.

On September 27, 2007, the committee heard presentations from three individuals on three different areas related to the courts.

1. Chief Justice of the Florida Supreme Court, the Honorable R. Fred Lewis discussed the role of the Judiciary, the changes it has undergone, and what types of changes could be expected in the future.

2. Representing the Florida Prosecuting Attorney's Association, 6<sup>th</sup> Judicial Circuit State Attorney Bernie McCabe discussed funding issues and the high turnover rate in the State Attorney Offices across the State of Florida.

3. President of the Florida Public Defender Association and 8<sup>th</sup> Judicial Circuit Public Defender, C. Richard Parker discussed his desire to dedicate a fixed revenue source and a trust fund for several upgrades to the Judiciary.

During the August 20, 2007 meeting, representatives from the Sheriff's Association and Police Chief's Association were in attendance. Also, Assistant Commissioner of the Florida Department of Law Enforcement, Mark

Zadra and Secretary of the Department of Corrections, James McDonough delivered presentations germane to the State Courts System.

Judge Stephen Leifman delivered a presentation to the Committee on Mental Health in the State Courts System on January 25, 2008.

Meeting minutes, audio recordings, presentations, and documents presented to the committee are available on the web at [www.floridatbrc.org](http://www.floridatbrc.org).

Other sources of information used in the project were: The Florida Office of Program Policy Analysis and Government Accountability (OPPAGA) Reports; Florida Government Accountability Reports (FGAR); 2007 Administrative Responsibilities of the Florida Supreme Court; Judicial Branch of Government – August 2007; Office of the State Court Administrator – Abstracts of Legislation 2007; Opening the Courthouse Doors – Florida Supreme Court Visitor’s Guide; Florida State Courts, Annual Report – 2007; Florida’s Judicial Branch: Trends for the Future, a presentation by Chief Justice Fred Lewis; and The Florida Handbook, 2005 – 2006.

## **FINDINGS**

### **State Courts System**

On September 27, 2007, the Governmental Services Committee held a meeting in the Supreme Court. The Honorable R. Fred Lewis, Chief Justice of the Florida Supreme Court delivered a presentation on the past, present, and future of the state courts system.

In his opening remarks, Chief Justice Lewis noted the importance of the state court system:

“Mr. Chair, members of the commission, it is an honor and privilege to be able to come before you as the representative of the Judicial Branch. However, that is not the only capacity in which I address you today.

My background is from the trenches that we are going to be talking about. I have represented plaintiffs and defendants. I have represented the powerful and the powerless. I have represented the wealthy and those stricken with poverty. I have represented the young and the old. I have represented government and individuals. I have spent my life, and dedicated my professional life, to what I am going to discuss with you this morning.

At times, my wife would tell you that I have spent birthdays and anniversaries writing briefs preparing to come in to the system. If I did not believe to the bottom of my soul in this system and its protections and its independence, then I would not have given myself in that fashion. So, I come to you not just as someone who has been at the public trough for 35 or 40 years. I come to you as an officer, truly as an officer, of this great branch.

Today, what we anticipated (and this may be a little bit redundant for the lawyers) was to explain who we are and what we do. It is very important for us all to come together to understand what it is we do, who we are, and where we have been if we are to engage in any

meaningful discussion of where we are going to go.”<sup>41</sup>

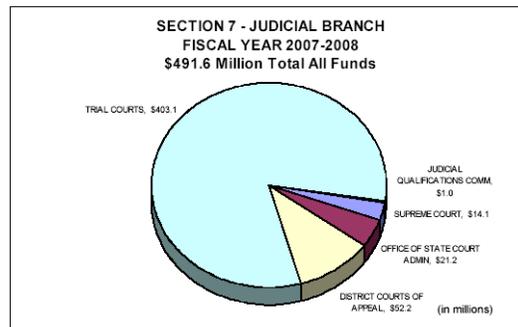
Chief Justice Lewis identified the vision of the courts system, “Justice in Florida will be accessible, fair, effective, responsive, and accountable.” The mission of the Judicial Branch is to protect rights and liberties, uphold and interpret the law, and provide for the peaceful resolution of disputes.<sup>42</sup>

Chief Justice Lewis summarized the evolution of Florida’s Court System to the committee. The State of Florida has undergone incredible changes in the courts system to make up the system we live under today. In 1950, there was no State Courts System. Today, 57 years later, Florida’s Courts are the aspiration of many other court systems across America.<sup>43</sup>

The current funding structure of the Judicial Branch is appropriated 0.7 percent of Florida’s total budget in Fiscal Year 2007-2008. While the State Courts received only \$491,234,853 for FY 2007-2008, the Justice System as a whole received \$1.29 billion in total appropriations.<sup>44</sup>

The Justice System is comprised of the State Courts System, the Justice Administration Commission, the Statewide Guardian ad Litem Program, State Attorneys, Public Defenders for the Circuit, Public Defenders for the Appellate, the Capital Collateral

Representative Council, and Conflict Regional counsels.<sup>45</sup>



Source: Actual Appropriations for Fiscal Year 2007-2008 Adjusted for Supplementals and Vetoes

The demographic trends of the State of Florida and its court systems are in a constant state of fluctuation. The population trends, as the Governmental Services Committee has heard in other meetings,<sup>46</sup> are growing at a rate which may rise faster than the State of Florida’s services can effectively keep pace. The courts will have to prepare for these demographic shifts.

One of the fastest growing segments of Florida’s population is the Non-English speaking inhabitants. Courts have been compelled to hire judges and staff who are fluent in languages other than English in order to service this segment of the population.<sup>47</sup>

Chief Justice Lewis indicated that technology in the courts is a critical area to streamline and increase productivity. Technology is changing how the courts do business. The courthouse of the

<sup>41</sup> Presentation by Fred Lewis, Florida Supreme Court Chief Justice, Governmental Services Committee, September 27, 2007.

<sup>42</sup> Ibid

<sup>43</sup> Ibid.

<sup>44</sup> General Appropriations Act, SB 2800, FY 2007-2008.

<sup>45</sup> Presentation by Fred Lewis, Florida Supreme Court Chief Justice, Governmental Services Committee, September 27, 2007.

<sup>46</sup> EDR Presentation by Amy Baker on Population and Economic Trends of the State of Florida, May 18, 2007.

<sup>47</sup> Presentation by Fred Lewis, Florida Supreme Court Chief Justice, Governmental Services Committee, September 27, 2007.

future will focus on instant communications and instant case processing. Video linkages, data processing, and personal computer technologies will enhance and speed up case resolution.

The budget drivers for the future of the State of Florida's Courts System are functions of projected case filings and a projected need for new judges in Florida. Extrapolating the data from the demographic trends indicates that, all things remaining constant, there may be some budget shortages in the future.<sup>48</sup>

Preparing for the Court's future and making accurate projections is often quite a difficult task. There are many variables which must be considered when preparing goals and strategies for the future. The Judicial Management Council's Steering Committee on Long-Range/Strategic Planning released a report, "Taking Bearings, Setting Course" which seeks to prepare the Judicial Branch for future challenges. The long-range strategic plan for the Florida Judicial Branch was produced by the Steering Committee on Long-Range/Strategic Planning – Judicial Management Council. It identifies the goals and strategies necessary to achieve the vision and fulfill the mission of the judicial branch.

The goals and strategies in "Taking Bearings, Setting Course" are organized around long-range issues, which are high priority strategic areas that must be addressed over the long term in order to achieve the vision and fulfill the mission. Goals refer to desired end

states; strategies refer to methods of achieving these goals or end states.<sup>49</sup>

Listed below are the long-range issues and associated goals from the report:

### **Long-Range Issue #1: Clarifying the Role of the Judicial Branch**

Florida's courts are being called on to provide an increasingly broad range of services in response to the needs of citizens and the inability of other societal institutions to meet these needs. Many of these expanded services go beyond the historic roles and responsibilities of courts. A consensus over the roles and responsibilities the courts should fulfill would give the judicial branch a clear mandate around which to organize its energies and resources, and would reinforce the principle of an independent judiciary.

#### **Goal 1.1: The role and responsibilities of Florida's judicial branch will be clearly defined.**

Strategies:

1.1(a) Build consensus on the appropriate roles and responsibilities of the judicial branch and of court officials.

1.1(b) Create a strategic management structure that effectuates the mission and vision of the judicial branch based on a clear understanding of the roles and responsibilities of the courts.

1.1(c) Clearly define the mission of each major area of litigation or division of the

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<sup>48</sup> Ibid.

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<sup>49</sup> The Long-Range Strategic Plan for the Florida Judicial Branch, "Taking Bearings, Setting Course," Judicial Management Council.

courts, the core processes and court functions of each area or division, and the outcomes or results each area or division is striving to achieve.

**Goal 1.2: The roles and responsibilities of the courts will be widely understood.**

Strategies:

1.2(a) Communicate and educate those who work in the courts, including judges, staff, and attorneys, about the roles and responsibilities of the courts and of court officials.

**Goal 1.3 Essential court-related services that are not within the roles or responsibilities of the courts will be provided by organizations outside of the judicial branch.**

Strategies:

1.3(a) Identify court-related services currently provided by the courts that would be more appropriately located outside the judicial branch, and shift responsibility for these services to appropriate private, non-profit, or governmental agencies.

1.3(b) Ensure that the needs of court users are understood and addressed by delivery organizations that provide court-related services.

**Long Range Issue #2: Improving the Administration of Justice**

The effective administration of justice requires deliberate attention to the core processes of the judicial branch. Increasing workloads which arise from greater demand for adjudication,

alternative dispute resolution, other core processes, and core court functions which support court processes will continue to put pressure on the Florida courts system's ability to fulfill its responsibilities effectively and efficiently.

**Goal 2.1: The judicial branch will provide a full range of core court processes and dispute resolution options statewide.**

Strategies:

2.1(a) Ensure that all jurisdictions are prepared to provide a range of core processes and dispute resolution options.

2.1(b) Ensure that every court is able to guide users to appropriate core court processes and dispute resolution forums.

**Goal 2.2: The judicial branch will fairly and timely resolve issues brought before it.**

Strategies:

2.2(a) Enable all courts to develop and implement a case management system that assists courts to resolve cases efficiently and timely consistent with equal protection and due process rights.

2.2(b) Ensure that accurate, timely, and complete information needed to make decisions is available to judges, court staff, attorneys, and other parties.

2.2(c) Enhance the ability of courts to effectively enforce compliance with court orders, including collection of fines, fees, and forfeitures.

2.2(d) Courts will have sufficient time to fully consider and explain decisions.

**Goal 2.3: Adequate provision will be made for the needs of the court system and funds will be expended prudently.**

Strategies:

2.3(a) Develop mechanisms to anticipate and assess future resource needs.

2.3(b) Produce budget requests sufficient to carry out the judicial branch and that are reflective of the priorities and strategies of the judicial branch long-range and operational plans.

2.3(c) Secure appropriate funding from each funding entity, including state, local, and federal sources.

2.3(d) Determine appropriate judicial branch outcomes and establish performance standards and indicators that measure the performance of the branch.<sup>50</sup>

Florida TaxWatch prepared a research project which proposed cost savings and increased accountability for the courts. The Chief Justice included an excerpt of the report in his presentation:

The State Courts System's Performance and Accountability Commission, over the next two years, is charged by the Supreme Court to make recommendations on effective and efficient management of due process services, including: court-appointed counsel, digital recording technology, and court reporting services; monitoring

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<sup>50</sup> The Long-Range Strategic Plan for the Florida Judicial Branch, "Taking Bearings, Setting Course," Judicial Management Council.

the management of dependency and termination of parental rights and post-conviction motions and appeals; and, as time and resources permit, developing recommendations to implement a performance and accountability system, beginning with circuit criminal cases.<sup>51</sup>

Governmental Services Committee Chair Roberto Martinez pointed out that the judicial branch is very powerful, but is also the weakest branch of government. He inquired about how the judicial branch handled communications with the other branches and levels of government. Chief Justice Lewis answered that the Office of State Court Administrator (OSCA) is often relied upon to play the role of lobbyist for the courts.<sup>52</sup>

Chief Justice Lewis also responded to a question from the chair regarding compensation for judges and justices. Florida operates on what is known as the tiered system. Until recently, judges in the State Courts System would go through a conference to request a pay increase from the Legislature.

After the completion of a two-year study commissioned by the courts, a unified benchmark system was found to be an easier approach. For example, the Supreme Court Justices receive a set benchmark salary (\$161,000), the DCA Judges receive a percentage less than the benchmark (five percent less), Circuit Judges receive a greater percentage less than the benchmark (ten percent less),

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<sup>51</sup> *Florida Government Has Unprecedented Opportunities to Increase Accountability and Achieve Cost Savings*, Florida TaxWatch Research Report, September 20, 2007.

<sup>52</sup> Remarks by Chief Justice Lewis, Governmental Services Committee meeting, September 27, 2007.

and the County Judges make less than all of the other State of Florida judges (fifteen percent less than the benchmark).<sup>53</sup>

Chair Martinez declared that judges usually do not like to talk about themselves and especially about their salaries. The Chair opined that the State of Florida's judges have been underpaid for years, and that judge's salaries should be reevaluated. Chief Justice Lewis responded that the Supreme Court justices have not even received a cost of living increase in over 10 years, much less a substantial pay increase.<sup>54</sup>

Commissioner Robert McKee asked, as a matter of reference, how much a Federal District Judge earns yearly. Chief Justice Lewis answered that he believed they earn \$170,000-\$175,000 annually. The average workday for a Supreme Court Justice is usually about 10-12 hours long. It is not uncommon to show up for work in the dark and to leave to go home in the dark.<sup>55</sup>

Chief Justice Lewis offered to have staff present members with more detailed information on the Courts System in writing. (See Appendix)

### **State Attorneys**

The committee heard a presentation by Bernie McCabe, 6<sup>th</sup> Judicial Circuit State Attorney from Pinellas County. Mr. McCabe offered a comparison of criminal justice statistics from 1986, 1996, and 2006. Felony filings in the State of Florida have experienced a significant spike over the last twenty

years. In 1986, there were 141,391 felonies filed; in 1996, there were 177,687 felonies filed; and in 2006, there were 224,026 felonies filed in the State of Florida.

Prison populations are another area for concern for the State. In 1986, the prison population in Florida was 29,712; in 1996, the prison population had more than doubled with 64,333; and in 2006, 88,576 inmates were held in Florida prisons.<sup>56</sup>

Mr. McCabe described the evolution of the courts system from 1986 to present day. The numbers of arrests, filings, and convictions have all increased since the year 1986. However, in that same period the percentage of convicts going to prison remains stable. According to Mr. McCabe, factors such as the revolving door of recidivism, the 85 percent statute, sentencing guidelines, and the criminal punishment code all contributed to the increase of the numbers between 1986 and 2006.

Other federal and state programs designed to be "tough on crime" had an effect on the court's numbers, as well. The "Three Strikes" law is another program which impacted the numbers of defendants in court as well as behind bars.<sup>57</sup>

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<sup>56</sup> Presentation by Bernie McCabe, 6<sup>th</sup> Judicial Circuit's State Attorney, Governmental Services Committee, September 27, 2007.

<sup>57</sup> The "Three Strikes and You're Out" rule is a sentencing enhancement created in 1994 under the Violent Crime Control and Law Enforcement Act to provide a mandatory life sentence to repeat offenders for their third conviction. The sentence is given to those that have met enhancement criteria and was created to curb growing violent crime rates.

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<sup>53</sup> Ibid.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

“Felonization” is a term coined by Mr. McCabe. In this context, “felonization” is the enhancement of misdemeanor crimes to felonies when the offender is convicted of the same misdemeanor numerous times. For example, driving under the influence may be charged as a felony when the offender is charged with a fourth DUI.<sup>58</sup>

Trends in the State Courts System have been established by the introduction and implementation of various policies. One of the most prevalent trends is the increase in “One Year + One Day” sentences. County judges are much more likely to sentence convicted inmates to over one year in order to send the inmate to a state or federal facility. This increase in “One Year + One Day” sentences is a direct result of overcrowding of local jails which allows judges to send inmates to state or federal prisons. Federal and state prison facilities are often larger, higher quality, and more well-funded than local jails.<sup>59</sup>

Mr. McCabe discussed more diversion and treatment options, such as: Pre-Trial Intervention, Domestic Violence Intervention, and various local juvenile diversion programs. The Florida Department of Corrections operates what is called the Pre-trial Intervention Program. This program, primarily for first-time offenders, offers an alternative to formal prosecution. The program is selective and cannot accept applicants without the approval of the victim, arresting officer, prosecutor, and judge. If an offender has no significant prior record, and is not charged with a violent

crime, the offender may be eligible for entry into the pre-trial intervention program.<sup>60</sup>

The Domestic Violence Intervention Program (DVIP) is dedicated to teaching new skills that replace abusive, violent, conflict resolution. The program promotes “zero tolerance” of violent behavior and it is designed for those who have been abusive to their partners. The program’s goal is to provide participants with information and practical tools to change those values, beliefs, and behaviors which have provided the foundation for their use of violence and other methods of abuse.<sup>61</sup>

There are several juvenile diversion programs offered through the State of Florida and local governments. The Multi-Agency Assessment Program (MAAP) is a grant program administered by the State Attorney's Office for juvenile offenders exhibiting multiple factors indicating they are at risk of re-offending. Participants are diverted out of court and are intensely monitored at home and at school by a State Attorney case manager. Appropriate counseling is made available when needed.<sup>62</sup>

## **Public Defenders**

C. Richard Parker, President of the Florida Public Defender Association and 8<sup>th</sup> Judicial Circuit Public Defender, spoke before the Governmental Services Committee. Mr. Parker notified the

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<sup>58</sup> Presentation by Bernie McCabe, 6<sup>th</sup> Judicial Circuit’s State Attorney, Governmental Services Committee, September 27, 2007.

<sup>59</sup> Ibid.

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<sup>60</sup> Ibid.

<sup>61</sup> <http://www.floridasafety.org/course/text.asp?class=33>.

<sup>62</sup> Presentation by Bernie McCabe, 6<sup>th</sup> Judicial Circuit’s State Attorney, Governmental Services Committee, September 27, 2007.

committee that, like State Attorney's Offices, one of the biggest problems for public defenders is the inadequacy of funds and an overload of cases. In some instances, public defenders must take on more than 600 cases per lawyer. According to Mr. Parker, despite these large caseloads, public defenders usually offer an excellent quality of legal work.<sup>63</sup>

Public defenders are often lured away from public service in order to secure a higher salary with a private firm or a higher-paying agency. Turnover is frequently high in Public Defender's offices. Taxpayers are paying to train new attorneys constantly because of the turnover.

On the average, law school graduate's from a public college or university run a debt of approximately \$60,000. Private schools are even higher, with graduates owing, on average, over \$100,000.<sup>64</sup>

Mr. Parker described the situation where law school graduates often choose more lucrative positions in public or private practice in order to pay off their student loans more rapidly. Lack of general revenue dollars is oftentimes to blame for the failure to retain higher-quality law graduates.

Commissioner Randy Miller asked if the Public Defender's Office can adjust the salary of a highly qualified and talented public defender. Mr. Parker answered that there is some room for upward adjustment, but only around \$1,000 per year difference. Mr. Parker noted that if

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<sup>63</sup> Presentation by Richard Parker, 8<sup>th</sup> Judicial Circuit's Public Defender, Governmental Services Committee, September 27, 2007.

<sup>64</sup> Ibid.

the State Courts had a trust fund with a dedicated funding source, higher quality and better motivated young lawyers would stay in the Florida Courts System longer.<sup>65</sup>

According to the Legislative's long-term projection for state attorneys and public defenders, the expected rate of budget growth over the next three years (2008-2011) is approximately 4.6 percent.<sup>66</sup> The Florida Public Defender Association concurred with this estimate, with the caveat that the growth would be in new General Revenue funding, exclusive of continuation, increases in matching costs (health insurance, etc.), and cost of living adjustments.<sup>67</sup>

### **Judicial Compensation Commissions**

The issue of compensation for state judiciaries is a sensitive subject not only for the State of Florida, but for many other states in the U.S. as well. One of the most frequently used methods for establishing compensation rates for judges, justices, and staff of the state courts is the creation and appointment of state judicial compensation commissions.

Currently, there are 21 states which have permanent compensation commissions authorized by statute or constitution to

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<sup>65</sup> Presentation by Richard Parker, 8<sup>th</sup> Judicial Circuit's Public Defender, Governmental Services Committee, September 27, 2007.

<sup>66</sup> Staff conversation with Claude Hendon, Staff Director, Senate Civil and Criminal Justice Appropriations Committee, November 27, 2007.

<sup>67</sup> Information provided by the Florida Justice Administration Commission, November 28, 2007.

evaluate and recommend salaries for state judges.<sup>68</sup>

The American Bar Association (ABA) has long supported adequate compensation for state and federal judges for the purposes of attracting and retaining the best-qualified people to serve on the bench and enhancing the institutional and decisional independence of American judges. The most recent ABA policy statement on state judicial compensation, the 1990 Standards for Judicial Compensation, addresses the need for compensation levels that are high enough to attract and retain highly qualified persons.

The 1990 Standards also call for regular, independent review of judicial compensation. The recommendation accompanying this report is intended to augment the 1990 ABA Standards for Judicial Compensation by providing more specific guidelines for independent commissions to set state judicial salaries.<sup>69</sup>

The National Center for State Courts (NCSC) recommends that states establish and maintain processes for determining judicial compensation that meet the objectives of equity, regularity, objectivity, and separation from politics. These four objectives emerged from the most comprehensive study conducted of state judicial compensation practices, undertaken by NCSC with funding from a private foundation. They represent the practices, distilled from long national experience, best calculated to promote judicial independence and maintain the

proper balance of powers among the three branches of government.<sup>70</sup>

In addition to the compensation of judges and justices, state court employee salaries are also considered by some to be in a state of stagnation. In his September 27, 2007 presentation to the Governmental Services Committee of the TBRC, Chief Justice Lewis indicated that fair and equitable pay increases for state court's staff is as important (if not more so) than raises for judges.<sup>71</sup>

**Equity:** Careers in public service demand sacrifice and those who join the bench must be ready to forego the more lucrative compensation available in the private sector. Nonetheless, judicial salaries should be broadly comparable to the remuneration received by attorneys taking similar career paths and by other public servants having comparable responsibility, training, and experience.<sup>72</sup>

**Regularity:** The real value of judicial compensation should be maintained through adjustments that respond to inflation so that the salary a judge accepts upon joining the bench is not eroded to the detriment of his or her family. Equity is rarely possible in the absence of regular reviews that respond to cost-of-living increases.<sup>73</sup>

**Objectivity:** Judicial compensation should be set and revised by reference to an agreed-upon set of objective criteria that can be easily evaluated by the

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<sup>68</sup><http://www.ncsconline.org/wc/CourTopics/ResourceGuide.asp?topic=JudCom>

<sup>69</sup><http://www.abanet.org/leadership/2003/journal/105a.pdf>

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<sup>70</sup><http://www.ncsconline.org/wc/CourTopics/ResourceGuide.asp?topic=JudCom>

<sup>71</sup> Presentation by Fred Lewis, Florida Supreme Court Chief Justice, Governmental Services Committee, September 27, 2007.

<sup>72</sup><http://www.ncsconline.org/wc/CourTopics/ResourceGuide.asp?topic=JudCom>

<sup>73</sup> Ibid.

public. The process also should be transparent to the public.<sup>74</sup>

***Separation from Politics:*** Decisions on judicial compensation should not be a basis for expressing Legislative or Executive Branch dissatisfaction with specific court decisions. Nor should judicial pay be adversely affected because of disagreement between the Legislative and Executive Branches over policy issues unrelated to the compensation of public officers. Failure to raise judicial compensation or provide cost-of-living adjustments is an inappropriate method for holding judiciaries accountable.<sup>75</sup>

Judicial salary issues should be insulated from the political process. Judicial pay levels should be set regularly and justified based on accepted, easy to measure, objective benchmarks that render the process more transparent and less political.<sup>76</sup>

According to the NCSC, permanent bipartisan or nonpartisan compensation commissions, such as the one proposed by the New York State Judiciary,<sup>77</sup> are the best vehicles for achieving credible review of judicial salaries.

### **Mental Health in the Courts**

At the Governmental Services Committee Meeting on January 25, 2008, Judge Stephen Leifman reported that between 1995 and 2007 the percentage of inmates in Florida prisons

receiving ongoing mental health services increased from 10.6 percent to 18.1 percent. Over the past 9 years, the daily population of inmates with mental illnesses in Florida prisons has increased from roughly 8,000 to nearly 17,000 individuals.

Based on these trends, Florida can expect the number of prison inmates with mental illnesses to nearly double in the next 9 years to over 32,000 individuals, with an average annual increase of roughly 1,700 inmates per year. A population this size would be enough to fill more than 20 of the state's largest existing correctional institutions, with the equivalent of one new prison the size of the states third largest institution added every year.

Combined with recent trends in the growth of the general prison population, the Department of Corrections is currently looking at spending almost \$2 billion over the next 5 years to build 19 new prisons - almost half just for people with mental illnesses.

While expenditures in the area of forensic mental health services place Florida near the top of the list nationally, the level of per capita spending expenditures on front-end community-based services intended to promote recovery, resiliency, and adaptive life in the community place the state near dead last at 48<sup>th</sup> nationally.

Last year alone, more than half of all adults with serious mental illnesses, and about a third of all children with severe emotional disturbances in need of treatment in Florida's public mental health system, had no access to care. Furthermore, where services do exist

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<sup>74</sup> Ibid.

<sup>75</sup> Ibid.

<sup>76</sup> <http://www.ncsconline.org/wc/CourTopics/ResourceGuide.asp?topic=JudCom>

<sup>77</sup> [http://www.ncsconline.org/WC/Publications/KIS\\_JudComNYNatlPerspective.pdf](http://www.ncsconline.org/WC/Publications/KIS_JudComNYNatlPerspective.pdf)

they are difficult to navigate and inefficient points of entry result in barriers to accessing preventative and routine care; and despite recent research which has led to the identification and development of increasingly effective, evidence-based interventions for serious mental illnesses, such treatments have yet to be adequately implemented by many service providers in the public mental health system.

Judge Leifman allowed that the justice system was never intended to serve as the safety net for the public mental health system and is ill-equipped to do so. Florida's jails and prisons have been forced to house an increasing number of individuals who are unable to access critically needed and competent care in the community.

In many cases, necessary linkages between the justice system and the community for individuals coming out of jails and prisons simply don't exist. As a result, individuals who may have been identified and received care while incarcerated are routinely released to the community with no reasonable plan or practical means for accessing follow-up services. In other situations, such as those involving individuals charged with misdemeanor offenses and found to be incompetent to stand trial, the system has no choice but to release the individual back to the community, often with no treatment at all.<sup>78</sup>

## **RECOMMENDATIONS**

The Governmental Services Committee, based on information received in public meetings, sponsored three proposals regarding Florida's Criminal Justice System.

**SR0037** – Statutory Recommendation related to Supervised Re-Entry Programs (Tabled by the Governmental Services Committee).

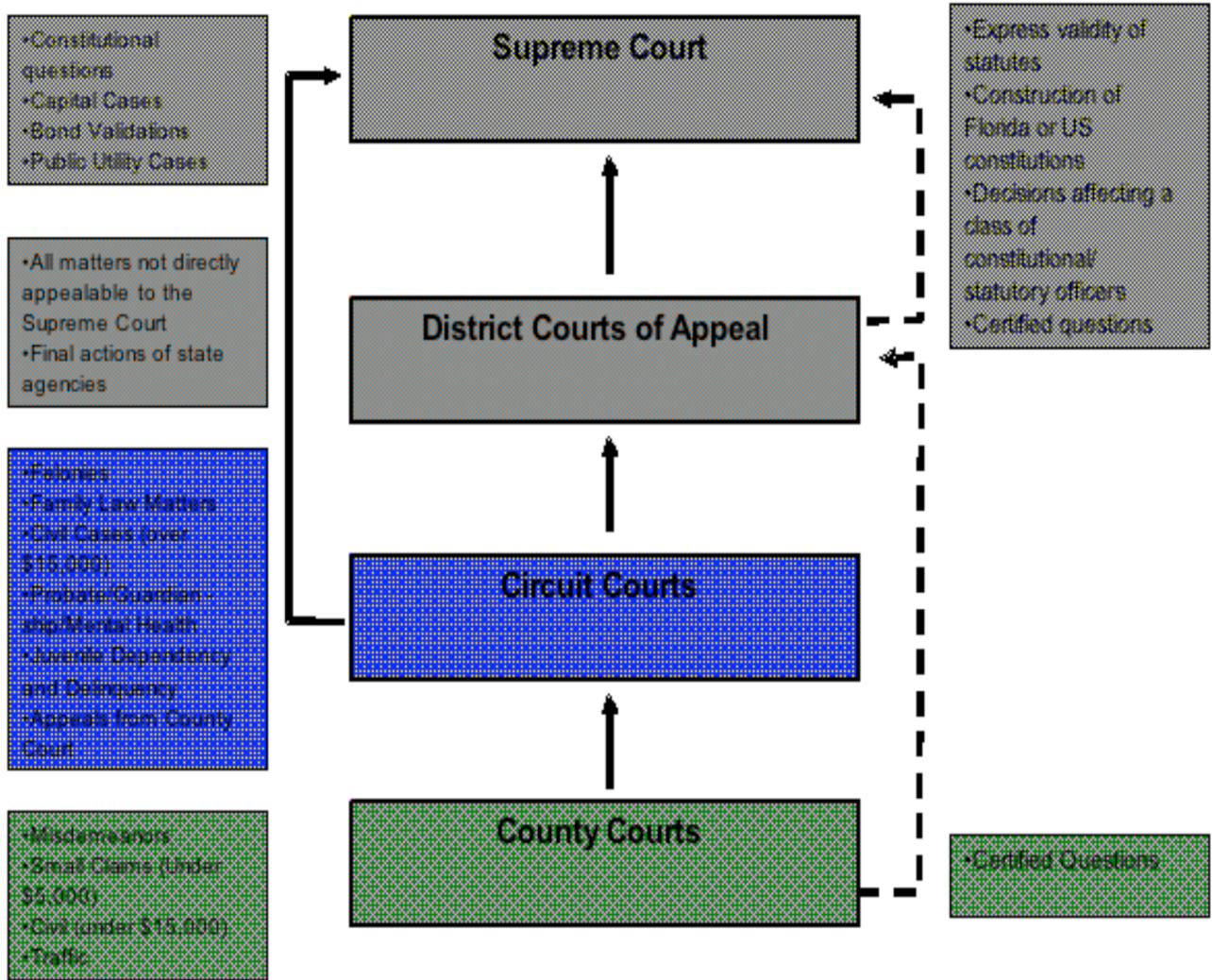
**SR0038** – Statutory Recommendation related to Alternative Corrections Programs for Offenders serving less than 1 Year with the Florida Department of Corrections (Tabled by the Planning & Budgetary Processes Committee).

**SR0039** – Statutory Recommendation related to Inmate Gain Time (Tabled by the Governmental Services Committee).

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<sup>78</sup> Statement of Judge Stephen Leifman to the Governmental Services Committee on January 25, 2008

# Florida State Court System Structure

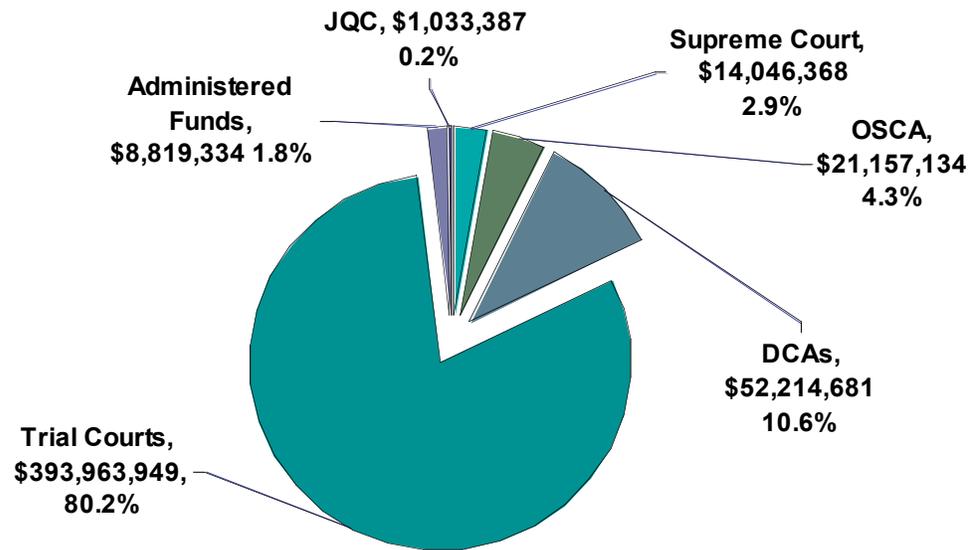


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<sup>79</sup> PowerPoint Presentation by Fred Lewis, Florida Supreme Court Chief Justice, Governmental Services Committee, September 27, 2007

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## State Courts System Appropriations: FY 2007 -08



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**Total Budget: \$491,234,853**

Source: General Appropriations Act – SB 2800

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<sup>80</sup> PowerPoint Presentation by Fred Lewis, Florida Supreme Court Chief Justice, Governmental Services Committee, September 27, 2007



## TAXATION AND BUDGET REFORM COMMISSION

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# Governmental Services Committee Report Public Education

## INTRODUCTION

The State of Florida has many important priorities that it must achieve to meet the growing demands by its residents for government services. However, one priority stands out – Education. The right of the people of the State of Florida to a “high quality system of free public schools” for its children and to the “operation of institutions of higher learning and other public education programs that the needs of the people may require,” is enshrined in the Constitution of the State of Florida – as indeed it should be. Education is the one government service with the potential for the greatest positive impact on the quality of life and economic prosperity of the residents of our state. Education is about the improvement of our most valuable resource: our people, and it is the principal vehicle that provides for unlimited opportunities for personal growth and societal progress. No greater test faces the State of Florida than the challenge to ensure that sufficient resources are dedicated in an effective and efficient manner to assure access to a high quality education for all its residents that prepares them to live and compete successfully in a world economy. The future of our state depends on whether Florida rises to meet that challenge.<sup>1</sup>

## SUMMARY

The State of Florida’s public education system consists of public schools, community colleges, and state universities.

**Public Schools** – Public schools provide education for pre-kindergarten, kindergarten, elementary, and secondary school children. Public schools include charter schools and virtual education, but do not include private schools or home-schooled students. In addition, public schools provide special classes such as adult education and certificate programs.

**Community College System** – Florida’s Community College System consists of all educational institutions that are operated by local community college district boards of trustees, under specific authority and regulations of the Florida Board of Education,

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<sup>1</sup> Comment given by Chairman Roberto “Bobby” Martinez on November 29, 2007. Chairman Martinez is the chair of the Governmental Services Committee of the TBRC as well as a member of the Florida State Board of Education.

offering courses and programs of general and academic education equivalent to the first two years of work in the state universities. Community colleges also offer workforce education, including Associates in Science degrees and certificate programs, adult education, and continuing workforce education; and, some offer four year degrees in a limited number of fields.

**State University System** – The State University System consists of all state-supported educational institutions offering bachelors degrees and above (other than community colleges) that are authorized and established by law. The Board of Governors oversees the State University System. A board of trustees at each institution provides local oversight of university operations.<sup>2</sup>

## **METHODOLOGY**

Public meetings held by the Governmental Services Committee of the Taxation and Budget Reform Commission served as a primary source of data collection used in creating this committee report. Meetings of the Governmental Services Committee held on July 20, 2007 in Tallahassee, on August 1, 2007 in Orlando, and on November 1, 2007 in Tallahassee were particularly helpful.

The committee heard presentations from a panel of presenters including the Florida School Boards Association by Dr. Wayne Blanton; the Florida Association of District School Superintendents by Dr. Bill Montford; Washington County Superintendent of Schools Calvin Stevenson; Hillsborough County Superintendent of Schools Jim Hamilton; and Mr. Vernon Carlton on behalf of Collier, Palm Beach, and Monroe county school districts. In addition, Mr. Robert Nabors spoke on behalf of the Constitutional Adequacy Commission.

The committee also heard presentations by a panel of members from the Florida Community College Council of Presidents and other representatives including: Dr. Jackson Sasser, Chair, Council of Presidents and President, Santa Fe Community College; Dr. Sanford Shugart, President, Valencia Community College; Mr. David Armstrong, former Chancellor, Florida Community College System and President, Broward Community College; Dr. Gwendolyn Stephenson, President, Hillsborough Community College; Dr. Edwin Massey, President, Indian River Community College; and Dr. Charles Mojock, President, Lake-Sumter Community College. The panel addressed issues related to community college higher education funding.

In addition, the Governmental Services Committee heard presentations from a panel of State University System representatives including: Dr. Mark Rosenberg, Chancellor, State University System; Dr. Joe Shepard, Vice President for Administrative Services, Florida Gulf Coast University; and Dr. Judy Genshaft, President, University of South Florida on issues related to university higher education funding.

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<sup>2</sup><http://www.oppaga.state.fl.us/profiles/2113/print.asp>.

Meeting minutes, audio recordings, presentations, and documents presented to the committee are available on the web at [www.floridatbrc.org](http://www.floridatbrc.org).

Other sources of information used in the project were: The Florida Office of Program Policy Analysis and Government Accountability (OPPAGA) Reports; Florida Government Accountability Reports (FGAR); The Florida Department of Education (FLDOE); The Collins Institute for Public Policy; The James Madison Institute; The Milton & Rose D. Friedman Foundation for Educational Choice; The Council for Education Policy, Research, and Improvement (CEPRI); The University of Central Florida Student Government Association; Florida House of Representatives Interim Projects; Florida Senate Interim Projects; and The Florida Board of Education. Committee staff examined studies and reports among these and other sources of education data.

The Governmental Services Committee and staff would like to thank everyone at the Florida Department of Education for their exceptional contribution and assistance with the research, preparation, and drafting of this report, in particular Senior Policy Advisor Kim McDougal, PhD., Deputy Commissioner of Finance and Operations, Linda Champion, and K-12 Deputy Chancellor Pamela Stewart who were invaluable to this project regarding the VPK thru 12<sup>th</sup> Grade years; Chancellor of the Community College System, Will Holcombe who contributed his expertise assisting with Florida's Community College System; and Chancellor of the State University System (SUS), Mark Rosenberg, who dedicated unselfishly of his time, passion, and commitment to the SUS, and who provided the Committee with invaluable information, unique insight, and statesman's like advice on how to improve quality and access in Florida's system of higher education.

## **FINDINGS**

**The information contained in the Findings section was provided in large part by the Florida Department of Education. None of the information in the VPK-12 section of the Findings was researched or written by the staff of the 2007-2008 Taxation and Budget Reform Commission, unless otherwise footnoted. The Community College System and State University System portions were researched and written with significant assistance from Florida Department of Education staff.**

### **VPK-12 FINDINGS**

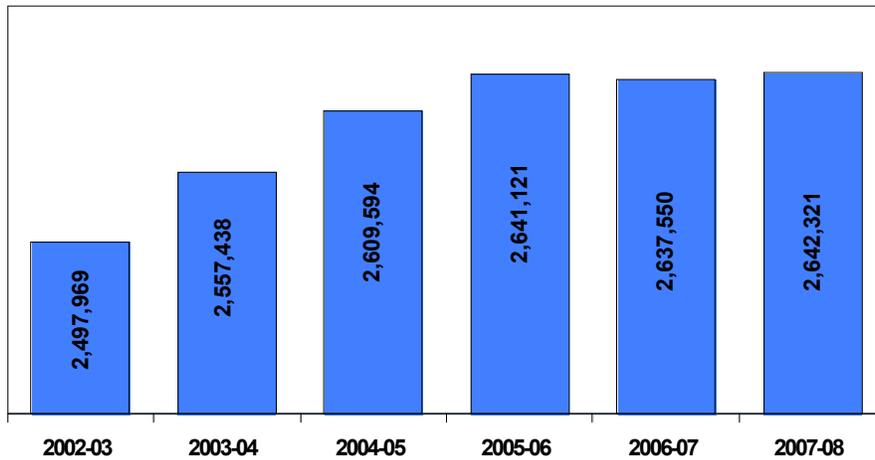
#### **STUDENT ENROLLMENT**

K-12 public school student enrollment for 2007-08 was estimated to be 2,642,320.87 full-time equivalent (FTE) students. Public school enrollment is established through a consensus estimating process of the K-12 Enrollment Estimating Conference pursuant to Sections 216.134 and 216.136, Florida Statutes. The principals include professional staff of the Executive Office of the Governor, coordinator of the Office of Economic and

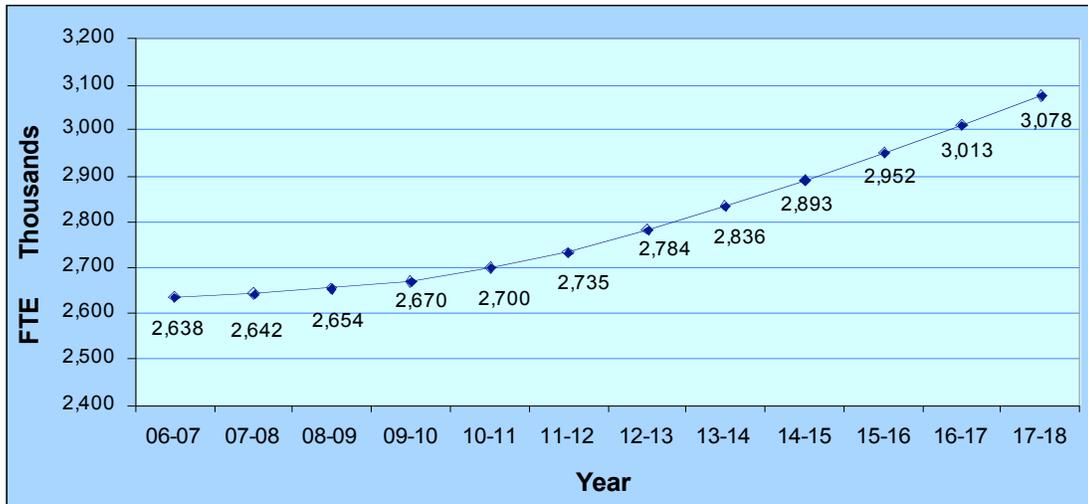
Demographic Research, professional staff of the Senate, and professional staff of the House of Representatives.

On the charts and graphs that follow, a review of historical and projected enrollment data is displayed. Beginning in 2006-07, especially significant is the observation that school district enrollment growth has slowed. During the period 1999-00 to 2004-05, growth in student enrollment ranged from 1.81% to 2.71%. This pattern slowed to a 1.21% growth in 2005-06. A comparison of the 2006-07 statewide total FTE to 2005-06 reveals a decline of 3,571 students. School district enrollment growth is expected to be relatively flat until the 2010-2011 school year. The projected student enrollment through 2017-18 below is also a product of the Enrollment Estimating Conference.

### Florida Education Finance Program Full-Time Equivalent (FTE) Student Enrollment History

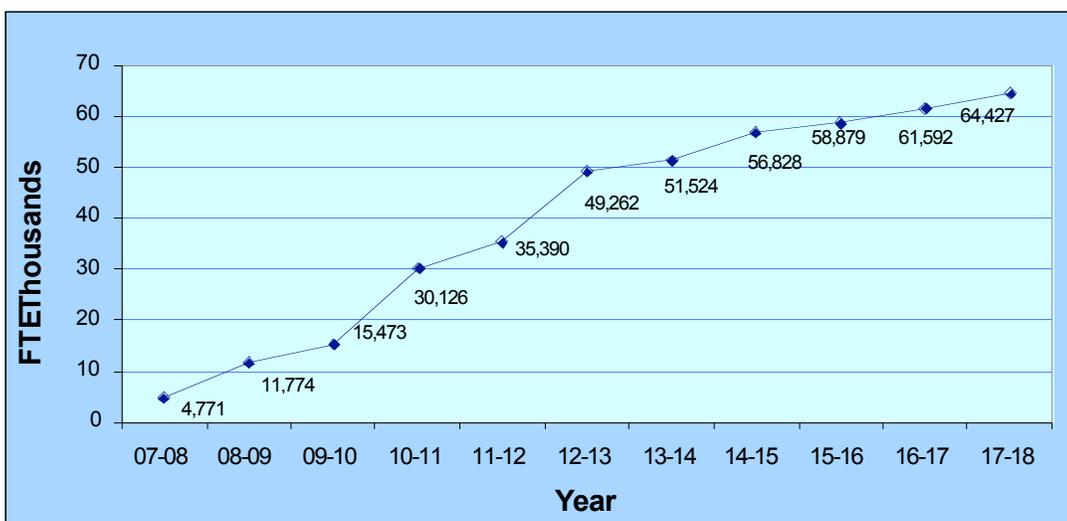


## Total FTE Student Enrollment 2006-07 to 2017 -18



Source: The September 25, 2007 K-12 Enrollment Estimating Conference

## Change in FTE Student Enrollment 2007-08 to 2017 -18



Source: The September 25, 2007 K-12 Enrollment Estimating Conference

Additional demographic information on Florida students reflects the following:

- Public school enrollment includes approximately 0.73% students in prekindergarten, 46.13% students in grades k-5, 23.14% students in middle grades, and 30.0% students in high school.
- Approximately 46.71% are white, 24.24% are Hispanic, 23.15% are black, 3.29% are multiracial, 2.31% are Asian/Pacific Islander, and 0.30% are American Indian/Alaskan Native.
- Of the 2.64 million students, approximately 52.4 % of elementary students qualify under the National School Lunch Act as eligible for free or reduced price meals. Among middle school students, 47.7% meet requirement for free or reduced price eligibility.
- An estimated 10.75% of elementary students, 5.6% of middle school students, and 5.1% of high school students are Limited English Proficient.
- Private schools serve approximately 349,000 students.

The Voluntary Prekindergarten Program (VPK) also relies upon an estimating conference for its enrollment projections. The same conference principals serve both K-12 and VPK estimating conferences. The most recent VPK conference was held on November 15, 2007. The following table reflects an estimated 138,913 participants in the VPK program for 2007-08.

AGENCY FOR WORKFORCE INNOVATION/OFFICE OF EARLY LEARNING  
 VPK ESTIMATING CONFERENCE  
 November 15, 2007

Statewide Summary				
	November 15, 2007 Conference (Current)	July 25, 2007 Conference	March 2, 2007 Conference	December 1, 2006 Conference
<b>2005-06 Enrollment</b>				
School Year	93,574	93,574	93,574	96,301
Summer	12,322	12,322	12,322	12,462
Program Year	105,896	105,896	105,896	108,763
Fiscal Year (Not a Full Fiscal Year)	99,735	99,735	99,735	102,532
<b>2006-07 Enrollment</b>				
School Year	114,052	114,172	113,021	
Summer	10,291	11,000	13,517	
Program Year	124,343	125,172	126,538	127,343
Fiscal Year	123,815	124,183	123,913	124,095
<b>2005-06 to 2006-07 Enrollment Growth Rate</b>				
School Year	21.9%	22.0%	20.8%	
Summer	-16.5%	-10.7%	9.7%	
Program Year	17.4%	18.2%	19.5%	17.1%
Fiscal Year	24.1%			
<b>Fiscal Year Enrollment</b>				
2007-08	138,913	140,302	139,997	145,188
2008-09	151,172	153,119	152,786	
2009-10	161,355	163,379	163,024	
2010-11	169,205	171,978		
<b>Fiscal Year Enrollment Growth Rate</b>				
2007-08	12.2%	13.0%	13.0%	17.0%
2008-09	8.8%	9.1%	9.1%	
2009-10	6.7%	6.7%	6.7%	
2010-11	4.9%	5.3%		
<b>October 1 Population 4-Year Olds</b>				
2005	221,924	222,001	222,001	222,001
2006	225,958	226,832	226,832	226,832
2007	229,476	231,062	231,062	231,062
2008	234,186	234,842	234,842	
2009	239,525	238,297	238,297	
2010	244,047	241,945		
<b>Fiscal Year Pseudo Participation Rate</b>				
2005-06				
2006-07	54.8%	54.7%	54.6%	54.7%
2007-08	60.5%	60.7%	60.6%	62.8%
2008-09	64.6%	65.2%	65.1%	
2009-10	67.4%	68.6%	68.4%	
2010-11	69.3%	71.1%		
<b>Pay-out Rate</b>				
2006-07 School Year	87.3%	87.5%		

Key	
Data	Example
Actual	999,999
Estimated (based on actual data)	999,999
Projected (based on estimated data)	999,999

## CONSTITUTIONAL FRAMEWORK

The right of Florida's children to a high quality system of free public schools providing a high quality education is enshrined in Florida's Constitution. The Constitution provides, at Article IX, Section I, as follows:

*"The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require."<sup>3</sup>*

Constitutional Revision No. 6 to Article IX, Section 1, Florida Constitution, as proposed by the 1997-98 Constitutional Revision Commission and approved by the people in 1998, substantially revised the Florida education clause. Below are the first three sentences of revised Article IX, Section 1, blacklined to show the changes from the prior language, resulting from the approval by the people of Revision No. 6:

### ARTICLE IX EDUCATION

SECTION 1. ~~System of Public education.~~--The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.

After the 1998 revision, the Florida education clause is unique among state education clauses in its detailed description of the duty placed on the State. A comparison of Article IX of the Florida constitution with the education clauses of other states shows the uniqueness of Florida's mandate to provide a system of public schools. The unique combination of constitutional elements in the Florida education clause sets it above all other state clauses into a category of its own with a higher imposed duty than the constitutional educational clauses of other states. Florida's amended Article IX is unique because of the way in which it sets high standards for the state's education system and imposes a strong mandate upon all branches of the state to meet those standards.<sup>4</sup>

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<sup>3</sup> Excerpt from the Constitution of the State of Florida, Article IX, Section I.

<sup>4</sup> Constitution Accountability Commission's Final Report (2005), at page 4.

## MAJOR EDUCATION GOVERNANCE REORGANIZATIONS

In addition to the 1998 constitutional revisions, over the past ten years Florida's education governance system has undergone many significant fundamental changes.

### 1998: Florida State Board of Education

- 1998 Florida Constitutional Amendment reconstituted the Florida State Board of Education to oversee a seamless K-20 educational system as a seven-member board appointed by the Governor and confirmed by the Florida Senate.
- Reconstituted the Commissioner of Education as a position appointed by the State Board of Education.
- Changes effective January 2003.

### 2001: Transition to K-20 System

- "Florida Board of Education" and "Secretary" of Florida Board of Education created in statute to oversee Department functions and facilitate the reorganization and transition to K-20 system of governance, including recommending revisions to the Florida School Code.
- Florida Board of Regents (governing the institutions of the State University System) and the Florida State Board of Community Colleges (coordinating the Community College System) abolished by law effective July 1, 2001. Boards of trustees for each university and community college were established in statute at the same time.

### 2002: Florida School Code Rewrite

- Codified new K-20 Florida State Board of Education and Commissioner of Education.
- Reorganized Florida School Code into new statutory sections (Chapters 1000 through 1012, Florida Statutes).
- Division of Vocational Rehabilitation and Division of Blind Services moved under the auspices of the State Board of Education within the Department of Education.

### 2002: Pre-Kindergarten Program

- 2002 Florida Constitutional Amendment created the Voluntary Pre-Kindergarten Education program.
- Implementing legislation in 2005 provided for the Department of Education to be responsible for the program's standards, curriculum and accountability, credentialing and licensing of staff and facilities under the Department of Children and Families, and for the day-to-day operations of the program under the Agency for Workforce Innovation.

2003: State Board of Education

- State Board of Education began operation in January of 2003, taking over from the Florida Board of Education, which had overseen the transition and reorganization of Florida's statewide educational system.

2003: Florida Board of Governors

- 2002 Florida Constitutional amendment created the Florida Board of Governors, separate from the State Board of Education, to oversee the coordination of Florida's State University System.
- Codified in the Florida Constitution the establishment of a local Board of Trustees/Governors for each Florida state university under the coordination of the Florida Board of Governors.

## **OVERVIEW OF FLORIDA'S CURRENT VPK-12 EDUCATION GOVERNANCE SYSTEM**

**State Board of Education.** The State Board of Education is the chief implementing and coordinating body of public education in Florida except for the State University System.<sup>5</sup> The State Board of Education is responsible for supervising Florida's public education system and is the body that acts as the agency head for the Department of Education.<sup>6</sup> The State Board of Education consists of seven members appointed by the Governor to staggered four-year terms, subject to confirmation by the Senate.<sup>7</sup> The State Board of Education appoints the Commissioner of Education.<sup>8</sup>

The mission of Florida's K-20 education system is to allow its students to increase their proficiency by allowing them the opportunity to expand their knowledge and skills through rigorous and relevant learning opportunities. The priorities of Florida's K-20 education system include:

- (a) *Learning and completion at all levels, including increased high school graduation rate and readiness for postsecondary education without remediation.*--All students demonstrate increased learning and completion at all levels, graduate from high school, and are prepared to enter postsecondary education without remediation.
- (b) *Student performance.*--Students demonstrate that they meet the expected academic standards consistently at all levels of their education.
- (c) *Alignment of standards and resources.*--Academic standards for every level of the K-20 education system are aligned, and education financial resources are

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<sup>5</sup> s. 1001.02(1), Florida Statutes.

<sup>6</sup> Constitution of the State of Florida, Article IX, Section 2 and s. 20.15(1), Florida Statutes.

<sup>7</sup> s. 1001.01(1), Florida Statutes.

<sup>8</sup> Constitution of the State of Florida, Article IX, Section 2 and s. 20.15(2), Florida Statutes.

aligned with student performance expectations at each level of the K-20 education system.

(d) *Educational leadership.*--The quality of educational leadership at all levels of K-20 education is improved.

(e) *Workforce education.*--Workforce education is appropriately aligned with the skills required by the new global economy.

(f) *Parental, student, family, educational institution, and community involvement.*--Parents, students, families, educational institutions, and communities are collaborative partners in education, and each plays an important role in the success of individual students. Therefore, the State of Florida cannot be the guarantor of each individual student's success. The goals of Florida's K-20 education system are not guarantees that each individual student will succeed or that each individual school will perform at the level indicated in the goals.<sup>9</sup>

The Strategic Plan of the State Board of Education (SBE) is structured around priorities, objectives and projects that target meeting and exceeding Florida's state education mission and goals, as established in law. The SBE bi-annually adopts a Strategic Plan based on what are called "Strategic Imperatives", or in other words, "priority" issues identified by the State Board of Education. Each Strategic Imperative has a "Champion" (leader), ultimate goal, objective(s), performance measures, trend and target data, and priority projects.

The State Board of Education's adopted strategic priorities are:

- Increase the Supply of Highly Effective Teachers
- Set, Align and Apply Academic Curricular and Testing Standards
- Improve Student Learning and Independence
- Improve the Quality of Instructional Leadership
- Increase the Quantity and Improve the Quality of Education Options
- Align Workforce Education Programs with Skills Requirements of the New Economy
- Align Financial Resources with Performance
- Improve Student Opportunities for Access and Advancement

**School Boards.** School boards operate, control and supervise all free public schools within the school district and determine the rate of school district taxes within their limits.<sup>10</sup> All public schools within a district are under the direction and control of the district school board with the district school superintendent as executive officer.<sup>11</sup> Each school district has a superintendent of schools who is elected for a four-year term or

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<sup>9</sup> s. 1000.03, Florida Statutes.

<sup>10</sup> Constitution of the State of Florida, Article IX, Section 4.

<sup>11</sup> s. 1001.33, Florida Statutes.

appointed by the school board.<sup>12</sup> As of November 2007, Florida has 44 elected and 23 appointed superintendents.<sup>13</sup>

**K-12 Public School System.** Florida has 67 school districts, with each county constituting a school district. Florida's school districts vary greatly across the state in terms of the number of students served. For example in the Fall of 2006, Miami-Dade County served over 350,000 students and Lafayette county served around 1,000 students.<sup>14</sup> As of 2006-07, Florida had approximately 3,877 traditional public schools, over 365 charter schools, and 7 university research schools and special school districts. During the 2006-07 school year there were 1,905 Elementary Schools, 592 Middle Schools, 865 Senior High Schools, 325 Combination Schools, and 190 Adult Schools operating under the Florida public education system.<sup>15</sup>

The public K-12 schools include charter schools and consist of kindergarten classes; elementary, middle, and high school grades and special classes; workforce education; career centers; adult, part-time, and evening schools, courses, or classes, as authorized by law to be operated under the control of district school boards; and lab schools operated under the control of state universities. The Florida Virtual School is a component of the delivery of public education within Florida's K-20 education system.<sup>16</sup>

Public education is a basic function and responsibility of the state of Florida. The state's K-12 public education program is designed to ensure the establishment and provision of a state system of schools, courses, classes and institutions, and services to meet the basic educational needs of all citizens of the state. This statewide system is administered in local school districts overseen by a school board and monitored by the Department of Education. The state is responsible for establishing standards and regulations to ensure the efficient operation of all schools and adequate educational opportunities for all Florida children. Florida public schools provide numerous educational programs, ranging from basic to specialized instruction, and operational programs that support student education. In addition, public schools are involved in state school improvement, accountability, and testing initiatives to ensure that students meet established academic standards so they successfully progress from grade to grade, are successful in attaining higher education, and become productive members of society. Florida offers parents the opportunity to make choices from a wide range of public schools offering appropriate educational programs for their children.<sup>17</sup>

The 2006 Legislature created the Florida Schools of Excellence Commission. The Commission is an independent, state-level charter school authorizing entity. The Commission has the power to authorize and act as a sponsor of charter schools, including the approval or denial of charter school applications. In addition, the Commission has the

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<sup>12</sup> Constitution of the State of Florida, Article IX, Section 5.

<sup>13</sup> Florida Association of District School Superintendents.

<sup>14</sup> Florida Department of Education, Statistical Brief "Membership in Florida's Public Schools (Fall 2006)".

<sup>15</sup> Florida Department of Education, "Florida Public Schools by School Type," 08 May 2007.

<sup>16</sup> s. 1000.04, Florida Statutes.

<sup>17</sup> Office of Program Policy Analysis and Government Accountability: Florida Government Accountability Report".

power to authorize municipalities, state universities, community colleges, and regional educational consortia to act as cosponsors of charter schools.<sup>18</sup>

The public school system serves a substantial portion of Florida's students, and works together with the state's nonpublic school organizations in serving Florida's diverse student population. During the 2006-07 school year, Florida had 2,158 private schools serving 349,059 students, including students funded through the John M. McKay Scholarships for Students with Disabilities Program discussed below.

## **SCHOOL CHOICE OPTIONS**

Florida law stipulates that parents of public school students may seek whatever public school choice options that are applicable to their students and are available to students in their school districts. These options may include controlled open enrollment, lab schools, charter schools, charter technical career centers, magnet schools, alternative schools, special programs, advanced placement, dual enrollment, International Baccalaureate, International General Certificate of Secondary Education, Advanced International Certificate of Education, early admissions, credit by examination or demonstration of competency, the New World School of the Arts, the Florida School for the Deaf and Blind, and the Florida Virtual School. These options may also include the public school choice options of the Opportunity Scholarship Program, and McKay Scholarships for Students with Disabilities Program.<sup>19</sup> Florida also has a Voluntary Pre-Kindergarten Education Program.

Florida's emphasis on providing numerous school choice options for families and students is based on three basic principles: every student has different learning needs so there is no one best school for everyone; diversity in school structure and programs is necessary to accommodate all students and enable them to succeed; and students will achieve more if they and their parents or guardians have freely chosen a learning environment.

## **PUBLIC SCHOOL OPTIONS**

**Charter Schools.**<sup>20</sup> Charter schools are public schools that are independently operated and committed to academic achievement. Since 1996 in Florida, charter schools have played a key role in increasing parental options in public education and providing innovative learning opportunities for students. Since charter schools are public schools, no separate forecasting of charter school student enrollment is done.

2006-2007 School Year<sup>21</sup>

356 Charter Schools

98,755 Charter School Students

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<sup>18</sup> s. 1002.335(4), Florida Statutes

<sup>19</sup> s. 1002.20(6), Florida Statutes.

<sup>20</sup> s. 1002.33, Florida Statutes.

<sup>21</sup> Charter Schools, July 2007 Fast Facts, Florida Department of Education.

**Virtual Education.** The Florida Virtual School (FLVS) is a public on-line school offering virtual education options for students in grades 6-12, including honors, advanced placement, and GED courses.<sup>22</sup> The FLVS currently offers over 80 online courses to students in grades six through twelve. Courses are free to Florida middle and high school students, including public, charter, private, and home educated students. Priority is given to students who need expanded access to courses to meet their educational goals. Separate forecasting of student enrollment for the Florida Virtual School is not performed.

2006-2007 School Year<sup>23</sup>  
Over 113,900 Half-Credit Course Enrollments

The 2003 Legislature authorized the Department of Education to provide for the creation of at least two pilot K-8 virtual schools.<sup>24</sup> The K-8 Virtual Schools pilot program allowed eligible K-8 virtual schools to be created as independent public schools that use on-line and distance learning technology to deliver instruction to full-time students in kindergarten and grades one through eight. The K-8 Florida Virtual Schools Pilot Program, includes the Florida Virtual Academy and Florida Connections Academy, and were initially funded for the 2003-04 school year. During the 2006 legislative session, the Legislature codified the program and made it subjective to annual appropriations. The appropriations process serves to cap student enrollment at the funding level provided.

2006-2007 School Year<sup>25</sup>  
2 Participating Schools  
1,384 Students

**Magnet Schools.** Magnet schools are public schools with a particular theme or academic focus on such topics as medical, criminal justice, science and mathematics, technology, performing arts, International Baccalaureate, and foreign languages.<sup>26</sup> Magnet schools offer students specialized programs and create innovative learning approaches in a diverse environment.

**Career Academies.** Career academies are research-based programs that integrate rigorous academic curriculum with an industry-specific curriculum aligned directly to priority workforce needs established by the regional workforce board.<sup>27</sup>

**Dual Enrollment.** Dual enrollment allows eligible high school students to enroll in postsecondary courses.<sup>28</sup> Students earn credit toward high school graduation and at the same time earn credit toward a college degree or technical certificate.

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<sup>22</sup> s. 1002.37, Florida Statutes.

<sup>23</sup> Virtual Schools Program, Fast Facts, July 2007, Florida Department of Education.

<sup>24</sup> s. 1002.415, Florida Statutes.

<sup>25</sup> Virtual Schools Program, Fast Facts, July 2007, Florida Department of Education.

<sup>26</sup> s. 1002.31, Florida Statutes.

<sup>27</sup> s. 1003.493, Florida Statutes.

<sup>28</sup> s. 1007.271, Florida Statutes.

**Advanced Placement (AP) Program.** The College Board’s Advanced Placement (AP) Program is a nationwide program consisting of more than 30 college-level courses and exams offered at participating high schools.<sup>29</sup>

**Advanced International Certificate of Education (AICE) Program.** The Advanced International Certificate of Education (AICE) Program is an international curriculum and examination program modeled on the British pre-college curriculum and “A-Level” exams.<sup>30</sup>

**International Baccalaureate (IB) Diploma Program.** The International Baccalaureate (IB) Diploma Program is a rigorous pre-university course of study. The program’s comprehensive two-year curriculum allows its graduates to fulfill requirements of many different nations’ education systems.<sup>31</sup>

## SCHOLARSHIP PROGRAMS

**Opportunity Scholarship Program.** The Opportunity Scholarship Program allows parents to choose a higher-performing public school of their choice if their children attended, or are assigned to attend, a failing Florida public school. Students entering kindergarten or first grade who have been notified that their assigned school is a failing school may also be eligible to participate<sup>32</sup>. *[Note: In Bush v. Holmes, 919 So.2d392 (Fla. 2006), the issue before the Florida Supreme Court was whether the State of Florida was prohibited from expending public funds via the Opportunity Scholarship Program (s. 1002.38, Florida Statutes) to allow students to obtain a private school education in kindergarten through grade twelve, as an alternative to a public school education. The Supreme Court ruled that portion of the Opportunity Scholarship Program to be unconstitutional as a violation of Article IX, section 1(a) of the Florida Constitution because it allowed some children to receive a publicly funded education through an alternative system of private schools that are not subject to the uniformity requirements of the public school system. However, the Supreme Court denied invalidate the portion of the Opportunity Scholarship Program that allows parents of children in failing public schools to place their children in an alternate satisfactory performing public school.]*

2006-2007 School Year<sup>33</sup>

1,090 Participating Students

### **John M. McKay Scholarships for Students with Disabilities Program.**

The John M. McKay Scholarships for Students with Disabilities Program, commonly known as the McKay Scholarship Program, allows parents of students with disabilities to choose the best academic environment for their children.<sup>34</sup> This scholarship program provides a variety of options allowing parents to make informed choices. Eligible

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<sup>29</sup> s. 1007.27(6), Florida Statutes.

<sup>30</sup> s. 1007.27(9), Florida Statutes.

<sup>31</sup> s. 1007.27(8), Florida Statutes.

<sup>32</sup> s. 1002.38, Florida Statutes.

<sup>33</sup> Opportunity Scholarship Program, Fast Facts, July 2007, Florida Department of Education.

<sup>34</sup> s. 1002.39, Florida Statutes.

students include students with disabilities who have an individual educational plan (IEP), and who were enrolled and reported for funding by a Florida school district.

2006-2007 School Year<sup>35</sup>

811 Participating Private Schools

18,273 McKay Scholarship Recipients

Although no student enrollment projections have been made for John M. McKay Scholarship students, growth is slowing and is expected to stabilize in the next few years with only incremental growth anticipated in future years.

**Corporate Tax Credit Scholarship Program.** The newest of Florida's three state scholarship programs, the Corporate Tax Credit Scholarship Program, was established to encourage private, voluntary contributions from corporate donors to non-profit scholarship funding organizations that award scholarships to children from low-income families<sup>36</sup>. This program expands educational opportunities and school choice for children of families that have limited financial resources. The Legislature establishes the level of funding for corporate tax credits which serves to cap the level of participation in this program. Therefore, no student enrollment forecasting is done for the Corporate Tax Credit Scholarship Program.

2007 School Year<sup>37</sup>

906 Participating Private Schools

19,416 Corporate Tax Credit Scholarship Recipients

## **OTHER EDUCATION OPTIONS**

**Home Education.** Home education is a parent-directed educational choice established by law in Florida in 1985.<sup>38</sup> Home education allows the opportunity to explore and learn at the pace of the individual student while avoiding extensive regulation by the state. No enrollment forecasts for home education students are performed.

2006-2007 School Year<sup>39</sup>

36,939 Home Education Families

55,822 Home Education Students

## **COLLINS CENTER FOR PUBLIC POLICY RECOMMENDATIONS**

The Collins Center for Public Policy, Inc. presented the following conclusions to the Tax and Budget Reform Commission on innovations in education in the State of Florida.<sup>40</sup>

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<sup>35</sup> John M. McKay Scholarship Program, 2007 July Quarterly Report, Florida Department of Education.

<sup>36</sup> s. 220.187, Florida Statutes.

<sup>37</sup> CTC Scholarship Program, 2007 November Quarterly Report, Florida Department of Education.

<sup>38</sup> s. 1002.41, Florida Statutes.

<sup>39</sup> Home Education Program, 2007 Annual Report, Florida Department of Education.

<sup>40</sup> Tough Choices or Tough Times—National Center on Education and the Economy

The Future of Education—the daVinci Institute [www.davinciinstitute.com](http://www.davinciinstitute.com).

Florida Department of Education 2006-07 Florida Charter School Capital Outlay.

1. Innovation results in more education choices for parents and children while providing efficient answers to challenges such as over crowding and diverse, mobile families
2. Legal threats create barriers to innovation in public education
3. Expand public education to encourage more innovation and offer more education choices for families

**Why Innovation?** Market factors in the world are impacting all aspects of education. Trying to stop these factors from driving this expansion of public education is like trying to stop gravity. This expansion is going to happen and public education should do a better job of managing these market factors.

What are these key market forces?

- Improvement in information and communication technology
- Customization
- More accountability for performance
- Consumer demands
- A growing culture of entrepreneurship

Florida's old and tired definition of public education promotes "uniformity of delivery" instead of "uniformity of opportunity." A school or program that works for one student may not work for another student. We can do a better job of promoting uniformity of opportunity in public education by encouraging innovation.

A consequence of providing more innovation in public education is more choices for parents. All parents deserve the right and the ability to match their children with the learning environment that best meet their children's needs. Innovation spurs more customized education offerings which in turn encourage parents to be more consumer oriented or "empowered."

**Innovation and Efficiencies.** Innovation also has other benefits. Innovation helps find more efficient ways to meet challenges such as over crowded schools and mobile families. Florida's Constitution requires "Adequate provision shall be made by law for a uniform, **efficient**, safe, secure, and high quality school system of free public schools...." The following list of innovations provides a clear picture of how innovation promotes efficiencies.

The Collins Center presentation focused on six public school offerings that are creating efficiencies and providing parents more educational choices for their children. These six innovations are:

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Florida Department of Education "Florida Charter Schools—A Decade of Progress."  
Florida Department of Education Office of Independent Education and Parental Choice.  
Collins Center for Public Policy "The Florida Corporate Income Tax Credit Scholarship Program: Updated Fiscal Analysis February 2007."

1. Florida Virtual School
2. Charter School
3. Home School
4. Universal Pre-K
5. Corporate Income Tax Credit Scholarship Schools
6. McKay Scholarship Schools

These six innovative programs are an efficient way to use Florida tax dollars and to provide *statewide* tax savings for Floridians. The Collins Center conservatively calculated that these six innovative education programs have saved Florida tax payers over \$4.4 billion dollars.

<b>Financial Efficiencies of Six Public Education Innovations</b>	
■ Students served:	323,797
■ Operating savings:	\$389,687,253
■ Capital savings:	\$4,075,435,449
■ <b>Total Tax Payer Savings:</b>	<b>\$4,465,435,449</b>
<ul style="list-style-type: none"> <li>• <b>2005 FY data</b></li> <li>• <b>2006 FY Virtual School data</b></li> <li>• <b>2006 FY Charter School Outlay</b></li> </ul>	

These calculations focused on two important financial costs: operating costs and capital costs. The operating costs are calculated by taking the number of enrolled students and multiplying that by the cost savings to the state. The capital costs are calculated by taking the number of enrolled students and multiplying that by the cost of building an elementary student station in 2005. It can be argued that the capital costs should be amortized over several years, but the Collins Center considered that it had used a very conservative figure in calculating the total capital savings.

**Legal Threats to Innovation in Public Education.** The Florida Supreme Court’s Holmes decision could threaten the expansion of education innovations in Florida. If this decision is applied to the Corporate Income Tax Credit Scholarship Program, the McKay Scholarship Program, and the Voluntary Pre-K program, the cost to Florida tax payers might reach an additional \$4.1 billion dollars in additional operating and capital costs.

**Expand Public Education.** Public education is not formally defined in the Florida Constitution or in the Florida Statutes. The Collins Center made a recommendation to redefine public education to encourage innovation and strengthen public education. The expansion of “public education” should include qualified publicly-funded private providers who will stimulate more innovation.

The Collins Center also recommended a focus on “uniformity of opportunity” instead of “uniformity of delivery” as the Holmes decision implies, and a need to remove barriers to innovations. According to the Collins Center: “This means we need a regulatory

environment that will seek a balance between customer choice and accountability. Traditional public schools are over regulated and teachers in these schools resent the over-regulation. Schools need flexibility with the class size amendment to encourage innovations in delivering education. We should also take the resources used in fighting the “voucher wars” and reallocate them to help students and teachers innovate.”

## **VOLUNTARY PREKINDERGARTEN PROGRAM**

**Background Information.** In 2002, Article IX, Section 1 of Florida’s Constitution was amended to require that:

*(b) Every four-year-old child in Florida shall be provided by the State a high quality pre-kindergarten learning opportunity in the form of an early childhood development and education program which shall be voluntary, high quality, free, and delivered according to professionally accepted standards. An early childhood development and education program means an organized program designed to address and enhance each child’s ability to make age appropriate progress in an appropriate range of settings in the development of language and cognitive capabilities and emotional, social, regulatory and moral capacities through education in basic skills and such other skills as the Legislature may determine to be appropriate.*

*(c) The early childhood education and development programs provided by reason of subparagraph (b) shall be implemented no later than the beginning of the 2005 school year through funds generated in addition to those used for existing education, health, and development programs. Existing education, health, and development programs are those funded by the State as of January 1, 2002 that provided for child or adult education, health care, or development.*

During a special session in 2004, legislation was passed to implement the state’s Voluntary Prekindergarten (VPK) Education program (House Bill 1A; Chapter 1002, Florida Statutes)

**Implementation of VPK.** The implementing legislation specifies state and local-level governance structures that built upon existing functions including the:

- Designation of the Agency for Workforce Innovation (AWI) as responsible for the state-level coordination and day-to-day operations of the VPK and school readiness programs.
- Creation of the Florida Early Learning Advisory Council, comprised of the chairs of the 31 early learning coalitions, within AWI, to submit recommendations on early learning policy.
- Designation of the Department of Education (DOE) as responsible for the accountability requirements, including administration of the statewide kindergarten screening system and calculation of readiness rates for VPK providers, and certification of school district eligibility to deliver the school-

year program; and the State Board of Education (SBE) as responsible for the adoption of performance standards, VPK curricula standards,

- Standards for the required emergent literacy course and standards for the prekindergarten (PreK) director credential.
- Designation of the Department of Children and Families (DCF) as responsible for licensing, issuing credentials to VPK staff, and approving standards for Child Development Associate (CDA)-Equivalent programs.

**VPK Program Options.** Parents of eligible four-year-olds have the following program options:

- A 540-instructional hour school-year VPK program delivered by a private provider that has classes of at least 4 and not more than 18 students with an instructor that holds at least a Child Development Associate (CDA) or equivalent state-approved credential and an additional prekindergarten instructor.
- A 540-instructional hour school-year VPK program delivered by a public school that has classes of at least 4 and not more than 18 students with an instructor who holds at least a CDA or equivalent state-approved credential and an additional prekindergarten instructor.
- A 300-instructional hour summer VPK program delivered by a public school or private provider that has classes of at least 4 and not more than 10 students with at least one Florida-certified teacher or instructor who holds a bachelor's degree or higher in specified early learning programs.

**VPK Appropriations and Participation.** The following summarizes the VPK FTE appropriations, actual VPK participation, and expenditure data for 2005-06 through 2008-09.

	2005-06	2006-07	2007-08*	2008-09**
<b>Appropriations</b>	\$ 387,137,762	\$388,100,000	\$350,446,171	
<b>Total Number of Four-Year-Olds</b>	220,857	222,198	231,062	234,186
<b>Appropriated Participation Rate</b>	66.67%	64.91%	60.59%	64.55%
<b>Appropriated Est. VPK Students</b>	147,235	144,228	139,997	151,172
<b>Payout Rate***</b>	-	-	89.00%	-
<b>Est. VPK Students with Payout Rate Applied</b>	-	-	124,597	-
<b>Revised Total # of Four-Year-Olds (July 2007)</b>	-	226,832	-	-
<b>Actual Participation (as of 10/31/07)</b>	105,896	125,172	113,545	-
<b>Actual Participation Rate</b>	47.95%	55.18%	49%	-
* Special Session Reductions				
**2008-09 Total Number of Four-Year-Olds as of 11/15/07 VPK Estimating Conference				
*** Payout Rate - converts the VPK "head count" to full-time equivalent (FTE); first used in 2007-08 appropriation				

The following summarizes the VPK Base Student Allocation from 2005-06 to 2007-08 and the Department of Education’s request for 2008-09.

	2005-06	2006-07	2007-08	2008-09
<b>BSA</b>	\$2,500	\$2,560	\$2,677	\$2,728
<b>% Increase</b>	NA	2.40%	4.57%	1.90%
<b>Source : General Appropriation Act</b>				

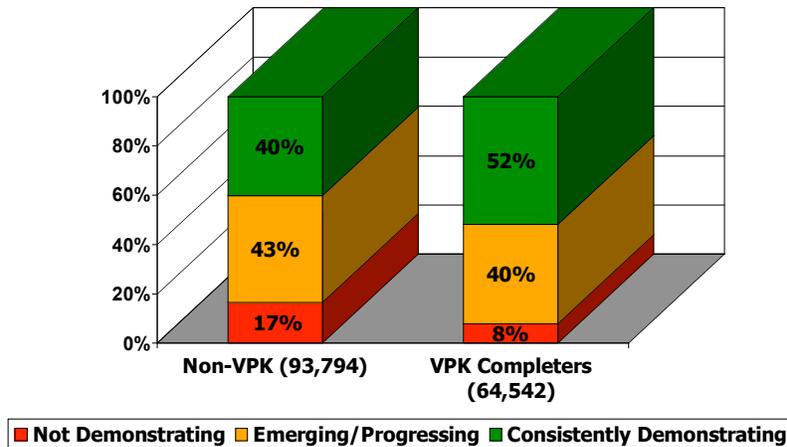
National research indicates that when children participate in high quality early learning experiences there is a direct cost benefit. This research includes:

- The High/Scope Perry Preschool Project which resulted in higher IQ scores upon entry into kindergarten, better grades through age 19, high scores on achievement tests through age 14, and fewer welfare recipients through age 27 and higher monthly earnings at age 27 and fewer criminal arrests for participating children. The cost-benefit analysis was estimated at \$7.16 for every dollar invested.
- The Carolina Abecedarian Project which resulted in high IQ scores, high scores on achievement tests through age 21, fewer placements in special education and high college-attendance for participating children. The cost benefit analysis was estimated at \$4.00 for every dollar invested with a savings of more than \$11,000 per child in special education or remedial costs.
- The Chicago Child-Parent Center Program which resulted in high scores on achievement tests through age 14, less average time spent in special education through age 14, higher graduation rate from high school and lower number of arrests for participating children. The cost benefit analysis was estimated at \$7.10 for every dollar invested in preschool.

**Effectiveness of Florida’s VPK Program and Kindergarten Screening.** The effectiveness of the Florida’s VPK program is determined, in part, by an outcome-based system, which measures the performance of the VPK graduates on the subsequent year’s kindergarten three screening measures. The Early Childhood Observation System (ECHOS) measures mastery of selected kindergarten skills, such as oral comprehension, counting objects, and writing, based on observations by the child’s kindergarten teacher. As indicated by the chart below:

*92% of the children who completed the VPK program in 2005-06 scored “Ready for Kindergarten” (Consistently Demonstrating or Emerging/Progressing) as opposed to 63% of children who did not participate in VPK.*

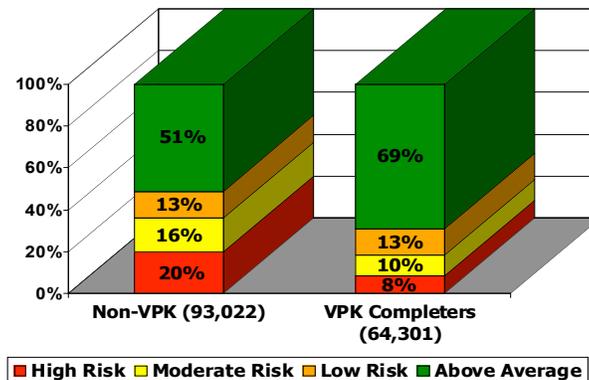
## ECHOS Results: VPK Completers vs. Non-Participants



The Dynamic Indicators of Basic Early Literacy Skills: Letter Naming Fluency – measures a child’s ability to recognize letters of the alphabet. As indicated by the chart below:

*82% of the children who completed the VPK program in 2005-06 scored “Ready for Kindergarten” (Above Average or Low Risk) as opposed to 64% of children who did not participate in VPK.*

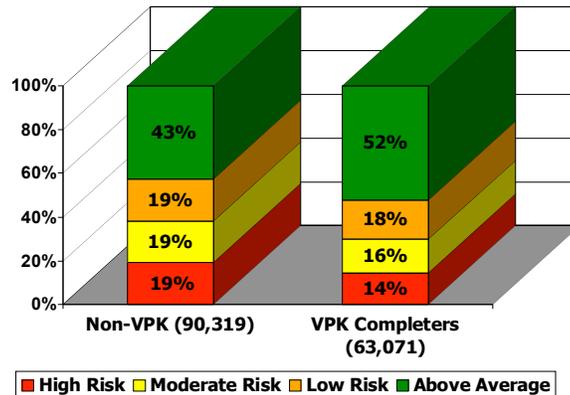
## DIBELS: Letter Naming VPK Completers vs. Non-Participants



The Dynamic Indicators of Basic Early Literacy Skills: Initial Sound Fluency – measures a child’s ability to the beginning sounds of words. As indicated by the chart below:

*70% of the children who completed the VPK program in 2005-06 scored “Ready for Kindergarten” (Above Average or Low Risk) as opposed to 52% of children who did not participate in VPK.*

### DIBELS: Initial Sound VPK Completers vs. Non-Participants



## EDUCATION REFORM HIGHLIGHTS IN FLORIDA

**A+ Plan.** In 1999, building on Florida’s basics, Governor Bush created the A+ Plan for Education. The 1999 Florida Legislature passed House Bill 751 and Governor Bush signed this legislation into law which became the foundation for education reform in Florida. The major premise of the A+ Plan was the state would hold schools accountable for the education of ALL students and that annual student learning progress would be measured. The plan was based on two principles: Each student would gain a year’s worth of knowledge in a year’s time in a Florida public school; and No student will be left behind. Additionally, several key initiatives, such as Just Read, Florida, have been implemented to serve as a vehicle for uniting all of Florida’s policies together into one comprehensive A+ approach. Reading is the most powerful skill a child can learn, as it influences success in school and improves the overall quality of life.<sup>41</sup>

**Just Read, Florida!** Until Governor Bush signed Executive Order 01-260 in September of 2001 establishing Just Read, Florida!, there was no comprehensive and coordinated statewide reading initiative in Florida. Just Read, Florida! prioritizes reading in Florida’s public schools and among all the community groups and volunteer organizations that support them. Just Read, Florida! is based on the latest reading research and is charged with establishing reading as a core value in this state and with the unequivocal goal of every child being able to read at or above grade level by the year 2012.

Prior to the establishment of the Just Read, Florida! Initiative, the “Reading Office” in the Department of Education consisted of one program specialist for reading housed in the

<sup>41</sup> Florida’s A+ Approach: Ensuring Every Child Gains a Year’s Worth of Knowledge in a Year’s Time – Research and Results. Florida Department of Education. (January, 2006).

DOE curriculum office, There was some federal funding as a part of the precursor to *Reading First* entitled the *Reading Excellence Act* (REA), but there was no state level funding for reading. The Legislature statutorily created the Just Read, Florida! Office in 2006.<sup>42</sup> With this bold and visionary move, Governor Bush laid the foundation for all education reform in Florida. Governor Bush could have planned his education reforms based on any number of priorities, but he chose reading because he understood that reading truly is the foundation of all learning. If a child cannot read their dreams are diminished and future success is limited. For adults, illiteracy is an obstruction to employment that limits their ability to provide for their families. Illiteracy is a repressive cycle that must be broken if we are going to make a better Florida.

Even as the Just Read, Florida! initiative has expanded over the last six years to improve its focus on adolescent, adult, and family literacy, it has remained true to its roots and founding philosophy that the best return on investment in long-term literacy growth is early, high-quality instruction and intervention. This focus on early intervention has worked its way not just into the Department of Education's pre-kindergarten initiative, but also into birth-to-age-5 "school readiness" initiatives, including an emphasis on higher-quality child care. This focus on high-quality early development, care and education is driven by the premise that we will never be successful with middle or high school literacy reform until we drastically reduce the number of students entering the middle and upper grades with literacy abilities that are inadequate to read, write, and learn from challenging content text in math, science, social studies, and English. Far too many of our students -- even among those who pass the FCAT and graduate -- are ill-prepared for the literacy demands in the world of work or must be placed in remedial courses in post-secondary institutions.

If we are to meet our goal of 100% literacy, we must acknowledge the gap that begins at birth, and then widens, for many of our students in the pre-K-12 education system in Florida. This gap is the most prominent barrier to children learning to read. About 44 percent of children in low-income families can recognize most letters of the alphabet compared to 66 percent of children from high-income families.<sup>43</sup>

Parents, of course, have a major role in their children's success. As just one example of the challenges faced, in the average high-income household, a child hears 2,150 words per hour; in a low-income household, that average is 620 words per hour. The estimated gap in the number of words heard in the home by three years of age between high-income and low-income students is perhaps 20 million words. The pre-K-12 system will, in many cases, spend the next 14 years trying to close this gap in oral language and vocabulary development. These statistics underscore that children in poverty tend to need additional assistance and strong early intervention to achieve the same level of readiness as their higher-income peers. Once children are enrolled in these programs, it is essential that adequate professional development steeped in scientifically based reading research is given to providers to develop the early literacy skills each child needs.<sup>44</sup>

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<sup>42</sup> s.1001.215, Florida Statutes.

<sup>43</sup> 2006-07 Florida Kindergarten Screening Results.

<sup>44</sup> Hart & Risley, *Meaningful Differences*, 1995.

With each passing year in the public school system that children's reading and literacy difficulties are not addressed through appropriate instruction and intensive intervention, the gap widens and becomes even more difficult to close. The biggest challenge and only solution in K-12 education is developing teachers who can deliver high-quality differentiated reading instruction. Providing professional development grounded in scientifically based reading research is the key to success. Reading coaches play a significant role in this professional development solution through their site-based, job-embedded work with teachers.

Florida clearly recognizes that, in order to produce better reading outcomes for children, the K-12 sector must make changes in three areas. First, educators must increase the quality and consistency of instruction to reflect the instructional principles derived from scientifically based research in reading. Second, educators must improve the use of information obtained from early reading assessments so that struggling readers can be identified and provided additional instruction in an appropriate and timely manner. Finally, educators must establish procedures to provide struggling readers with intensive interventions to supplement the instruction they receive in the regular classroom.

All reading instruction in Florida must be systematic, high-quality instruction that focuses on the five components of reading instruction: Phonemic awareness, phonics, fluency, comprehension, and vocabulary. Meanwhile, assessing progress is critical in making progress in reading. Instruction should be data-driven based on genuine assessment. All instruction should be grounded in scientifically based reading research and aligned with Florida's Sunshine State Standards for reading. Many children and adult learners will require immediate and intensive intervention to make adequate progress in learning to read. Just Read, Florida! is committed to helping all educators develop expertise in all these areas.

Progress depends on having and knowing the data. Just to use one example: In Florida's voluntary universal prekindergarten program for 4 year olds, the necessary data includes knowing this for each child: The lead teacher's credentials, what curriculum is being used, socio-economic status, racial-national learner, primary language, and parents' education. Knowing those few items tells parents, teachers and policymakers what is working and what is not.

Reading First has provided a strong model that exemplifies the power of well-designed early reading instruction and intervention that is targeted to the needs of individual children. Through the continued financial support of Florida Legislature over the last six years, Florida has been able to build upon this model in its adolescent literacy efforts. While many states are just beginning to explicitly extend their K-3 reading focus to the upper grades, Florida has been doing so for several years and has already seen substantial results from this investment. Currently, it is unknown if there will be Reading First funding after the 2007-2008 school year. Since NCLB reauthorization has been delayed, Congress has the option of continuing to fund the Reading First program at current levels. Congress could also decide to reduce the amount states are awarded or decide not to fund states at all. If Congress decides to reduce the amount awarded, this will force some

difficult decisions about who will be supported by Reading First funds. There is the possibility of losing reading coach support in many schools. If Reading First is not funded at all, this will be the last year of Reading First. If the latter takes place, many, possibly all, Reading First reading coaches will be eliminated due to the lack of funding. This could cause a loss of momentum in improving student performance in the primary grades and result in decreased performance in the upper grades.

**Florida's Office of Mathematics and Science.** Florida's Office of Mathematics and Science in the Department of Education is charged with defining and implementing research-based state education policies and programs for the state of Florida to increase student knowledge of and performance in the content areas of mathematics and science. This office has the following responsibilities:

- (1) Facilitate the implementation of Florida law and rule related to K-12 mathematics and science education.
- (2) Develop world-class education standards in mathematics and science with support from international and national content and standards experts, the general public, and the education stakeholders of Florida.
- (3) Continue partnerships with the Florida Engineering Association and the Boston Museum of Science to develop a plan for standards in Florida in the area of engineering.
- (4) Complete the development of a web-based standards database tool for educators that includes for each benchmark: remarks and examples that clarify for the teacher the content of the benchmark; a complexity rating that defines the level of rigor that is expected of the instruction, assessment, and student level of mastery; a glossary; a model lesson; and an example of appropriate use of technology if applicable. When this tool is completed for mathematics and science it will become available for all content areas and managed by the Department of Education. This tool will be the foundation for building course descriptions, content area professional development, and end-of-course assessments.
- (5) Develop the specifications for the adoption of mathematics and science instructional materials.
- (6) Coordinate mathematics and science improvement efforts with other content area and special student population support offices.
- (7) Coordinate K-12 mathematics and science improvement efforts with pre-k, workforce, and post-secondary offices.
- (8) Provide technical assistance to school districts in the development and implementation of aligned K-12 research-based mathematics and science and integrated mathematics and science instructional methods.
- (9) Coordinate the work of the Florida State University's Florida Center for Research in Science, Technology, Engineering, and Mathematics (FCR-STEM) to provide information on research-based mathematics and science programs and professional development programs for mathematics and science teachers.
- (10) Periodically review Florida's world-class standards for mathematics and science at all grade levels.

- (11) Periodically review Florida’s mathematics and science course descriptions to determine alignment to student requirements and student preparation for success in the workforce of the future.
- (12) Periodically review teacher certification examinations to ascertain whether the examinations measure the skills and content area knowledge needed for research-based mathematics and science instruction that is aligned to Florida’s world-class standards.
- (13) Continue to champion the need to increase mathematics and science graduation requirements and the percent of students enrolled in rigorous course content through legislative policy proposals and communications to educators and the general public. This includes a public relations campaign that introduces audiences to Florida student mathematics and science stars.
- (14) Work with teacher preparation programs to assure alignment to Florida’s world-class K-12 standards and research-based mathematics and science instructional strategies.
- (15) Provide parents with information and strategies for supporting their children in mastery of mathematics and science knowledge.
- (16) Administer state and federal funds allocated to the improvement of mathematics and/or science education to meet the goal of all students graduating from high school prepared to enter postsecondary or the workforce without required remediation in mathematics and/or science. Prioritize Florida’s allocated federal Math and Science Partnership funding for professional development to teachers on Florida’s world-class education standards.
- (17) Facilitate the development and implementation of training for highly effective mathematics and science lead teachers in every school in Florida.
- (18) Facilitate the identification of multiple designations of effective mathematics and science instruction, with accompanying credentials.
- (19) Continue to apply for additional funding for Florida to support increased student performance in STEM areas working with the Investor Protection Trust and Florida’s Office of Financial Regulation; the National Governors Association; the National Math and Science Initiative; and others.

For additional information on Florida’s Office of Mathematics and Science visit: <http://www.fldoestem.org/center13.aspx>.

## **MOVING FROM SUNSHINE STATE STANDARDS TO WORLD CLASS EDUCATION STANDARDS**

**The History of the Sunshine State Standards.** The Sunshine State Standards were first approved by the State Board of Education in 1996 as a means of identifying academic expectations for student achievement in Florida. These original standards were written in seven subject areas and were divided into four separate grade clusters (PreK-2, 3-5, 6-8, and 9-12).

As Florida moved toward greater accountability for student achievement at each grade level, the Sunshine State Standards were further defined with specific K-8 “Grade Level

Expectations” added in 1999. However, as time went on, two realities appeared that magnified the need to increase the level of rigor in Florida’s academic standards. First, as the achievement of Florida students began to increase over time, it was recognized that the level of rigor of the 1996 standards was inadequate to address the increased levels of achievement registered by our students. Second, ample evidence from both national and international measures of student achievement indicated the urgent need for even higher expectations for all of our students.

In 2006, the State Board of Education adopted a systematic six-year cycle for the revision of the Sunshine State Standards to World Class Education Standards. It was the intent of the State Board of Education to establish a process in which the Department of Education would collaborate with national and international experts in the area of mathematics, science, reading, social studies, physical and health education, arts, and world languages. This process would include the alignment of the new standards with assessments, instructional materials, professional development, and teacher licensure exams. With this comprehensive approach, the new standards and their higher levels of rigor will be fully integrated into the entire culture of K-12 instruction and assessment. This move sets the stage for higher levels of rigor and higher academic achievement for decades to come.

The process for revising the Sunshine State Standards entails a variety of activities including multiple opportunities for stakeholder input. These activities include meetings with content supervisors, teachers, content specialists, professional organizations, and other stakeholders. Continued stakeholder input is encouraged through both hard copy and a Web-based input system that ensures stakeholder ease in providing meaningful feedback so that the Sunshine State Standards will represent multiple viewpoints.

In 2006, the Florida Legislature stated its commitment to higher and more challenging standards for Florida’s children by passing House Bill 7087. Florida law now reads:

*The state board shall establish a schedule to facilitate the periodic review of the standards to ensure adequate rigor, relevance, logical student progression, and integration of reading, writing, and mathematics across all subject areas.*<sup>45</sup>

It is the role of the State Board of Education to approve the student performance standards known as the Sunshine State Standards. These standards are to be developed in key academic subject areas at all grade levels.<sup>46</sup> The implementation of new state standards takes place incrementally. Generally speaking, it takes a full three years to thoroughly and completely transition to the new standards. This process occurs in three phases:

**Year 1: Initial Implementation.** The teacher becomes aware of the new standards and uses crosswalks that compare the old standards to the new in order to see how he or she can begin to incorporate them into existing lesson plans. Districts begin realigning their

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<sup>45</sup> s. 1001.03(1), Florida Statutes.

<sup>46</sup> Rule 6A-1.09401, Florida Administrative Code.

curriculum based upon the new standards, and professional development linked to the new standards begins.

**Year 2: Adaptation.** The teacher becomes more familiar with the new standards and how to incorporate them into his or her lesson plans. Districts have a newly realigned curriculum that guides instruction and ensures consistency in instruction across the district. Professional development helps to build knowledge among teachers regarding the new standards.

**Year 3: Full Implementation.** The teacher fully and confidently includes the new standards in daily instructional strategies and activities. Realigned assessments are given to measure student progress on the new standards.

**A++ Plan.** The 2006 Legislature passed and Governor Jeb Bush signed House Bill 7087, Relating to Education, into law. This bill has more commonly been referred to as A++. Its provisions address numerous areas including secondary reform, differentiated pay for teachers, school leadership development, school improvement, paperwork reduction, and school start date. Highlights of this comprehensive education reform legislation are presented below:

- Created the Just Read, Florida! (JRF) Office in statute within DOE. Codified into statute the Florida Center for Reading Research (FCRR) at Florida State University.
- Created a research-based reading instruction allocation in the FEFP. Required districts to write plans to provide comprehensive reading instruction to students in Kindergarten through grade 12.
- Established new middle school promotion requirements.
- Required each middle school to offer at least one high-school-level mathematics course for which students may earn high school credit.
- Required all public school students in grades 6-12 to use the same grading system and interpretation of letter grades that is currently in effect for high school students (A= 90-100%, B= 80-89%, C= 70-79%, D= 60-69%, F= 0-59%).
- Created new general requirements for high school graduation beginning with newly enrolled 9th grade students in 2007-2008. Beginning with students entering their first year of high school in the 2007-2008 school year, a student must successfully complete at least 24 credits, an International Baccalaureate curriculum, or an Advanced International Certificate of Education curriculum to graduate.
- Required high school students to select a major area of interest (8 credits in a major, minor, or electives; selected by the student as a part of the personalized education plan).
- Required high school students who score at Level 1 on FCAT Reading to be enrolled in and complete an intensive reading course the following year, and provides that placement of Level 2 readers in either an intensive reading

course or a content area course in which reading strategies are delivered shall be determined by diagnosis of reading needs.

- Revised GPA weighting for dual enrollment courses by requiring that all dual enrollment courses receive the same weight as advanced placement, International Baccalaureate, and Advanced International Certificate of Education courses when grade point averages are calculated.
- Required the student's guidance counselor or other school personnel to conduct an exit interview with the student to determine the reasons for the student's decision to drop out of school and what actions could be taken to keep the student in school.
- Required that professional development plans established by district school boards incorporate school improvement plans and are aligned with principal leadership training as a part of the plan.
- Required that, beginning with the 2007-2008 school year, each district school board shall adopt a salary schedule with a differentiated pay policy for both instructional personnel and school-based.
- Implemented initiatives designed to reduce the paperwork burden on the state's teachers and other school-based and district-based employees.
- Provided that each teacher assigned to a classroom must be used in the calculation for compliance with the constitutional class size requirements and provides criteria for which team-teaching is allowable in individual classrooms.
- Established the William Cecil Golden Professional Development Program for School Leaders to provide high standards and sustained support for principals as instructional leaders.
- Provided that school districts may not assign a higher percentage than the school district average of first-time teachers, temporarily certified teachers, teachers in need of improvement, or out-of-field teachers to schools with above the district average of minority and economically disadvantaged students or schools that are graded D or F.
- Created career and professional academies as research-based programs that integrate a rigorous academic curriculum with an industry-driven career curriculum. Created the Florida Ready to Work Certification Program to enhance the workplace skills of Florida's students to better prepare them for successful employment in a specific occupation.
- Required the State Board of Education to establish a schedule to facilitate the periodic review of the standards to ensure adequate rigor, relevance, logical student progression, and integration of reading, writing, and mathematics across all subject areas.
- Required schools to develop and implement a progress monitoring plan for each student that fails to meet certain performance levels, including scoring below Level 3 in FCAT Reading or Mathematics.
- Required the Commissioner to assign a community assessment team to every school district or governing board with a school graded "F," to review the school's performance data and determine causes for the low performance.

- Required that DOE develop a school report card to be delivered to parents, including those whose information regarding school improvement, an explanation of school improvement as measured under the No Child Left Behind Act (NCLB), and indicators on return on investment.
- Required alternative schools that provide dropout prevention and academic intervention services to receive a school-improvement rating.
- Stipulated that beginning with the 2007-2008 school year and each year thereafter, the opening date for schools may not be earlier than 14 days before Labor Day.

## **ACCOUNTABILITY IN FLORIDA'S PUBLIC SCHOOLS**

It is the intent of the Legislature that the performance accountability system implemented to assess the effectiveness of Florida's seamless K-20 education delivery system provides answers to the following questions in relation to its mission and goals<sup>47</sup>:

1. What is the public receiving in return for funds it invests in education?
2. How effectively is Florida's K-20 education system educating its students?
3. How effectively are the major delivery sectors promoting student achievement?
4. How are individual schools and postsecondary education institutions performing their responsibility to educate their students as measured by how students are performing and how much they are learning?

The Legislature has statutorily directed that the State Board of Education establish performance measures and set performance standards for individual public schools and community colleges, with measures and standards based primarily on student achievement.<sup>48</sup> Furthermore, it is the intent of the Legislature that all public schools be held accountable for students performing at acceptable levels. A system of school improvement and accountability that assesses student performance by school, identifies schools in which students are not making adequate progress toward state standards, institutes appropriate measures for enforcing improvement, and provides rewards and sanctions based on performance shall be the responsibility of the State Board of Education.<sup>49</sup>

Pursuant to Art. IX of the State Constitution prescribing the duty of the State Board of Education to supervise Florida's public school system and notwithstanding any other statutory provisions to the contrary, the State Board of Education shall intervene in the operation of a district school system when one or more schools in the school district have failed to make adequate progress for 2 school years in a 4-year period.<sup>50</sup> The Legislature has established that the State Board of Education may recommend one or more of the following actions to district school boards to enable students in schools designated with a grade of "F" to be academically well served by the public school system:

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<sup>47</sup> s. 1008.31(1), Florida Statutes.

<sup>48</sup> s. 1008.31(1)(e), Florida Statutes.

<sup>49</sup> s. 1008.33, Florida Statutes.

<sup>50</sup> s. 1008.33, Florida Statutes.

- (a) Provide additional resources, change certain practices, and provide additional assistance if the state board determines the causes of inadequate progress to be related to school district policy or practice;
- (b) Implement a plan that satisfactorily resolves the education equity problems in the school;
- (c) Contract for the educational services of the school, or reorganize the school at the end of the school year under a new school principal who is authorized to hire new staff and implement a plan that addresses the causes of inadequate progress.
- (d) Allow parents of students in the school to send their children to another district school of their choice; or
- (e) Other action appropriate to improve the school's performance, including, if the school is a high school, requiring annual publication of the school's graduation rate calculated without GED tests for the past 3 years, disaggregated by student ethnicity.

**Assistance Plus.** Assistance Plus is a State of Florida educational initiative designed to provide support to school districts and schools that fail to meet state education performance standards. Assistance Plus was created as a means of assistance and intervention for low-performing schools and implemented by the State Board of Education. The Governing Principles of Assistance Plus are as follows:

- The District shall be held accountable for providing necessary resources to have all students performing at acceptable levels.
- The State shall provide expectations and necessary resources to enable districts to have all students performing at acceptable levels.
- The State Board of Education shall be prepared to take action in the event that districts are unsuccessful at having all students performing at acceptable levels.

Assistance and Intervention for plans shall be provided for each school designated School Performance Grade F and School Performance Grade. State Board of Education Rule requires that: each school designated School Performance Grade F shall develop its school improvement plan in collaboration with the school advisory council, school board and the Department. The school improvement plan shall take into account the unique demographic characteristics of the school. The school board shall have final approval of the plan. Each school designated School Performance Grade F or School Performance Grade D shall receive specific assistance and interventions, including additional

resources if needed, from the district school board as provided in Section 1001.42(16)(c), Florida Statutes.<sup>51</sup>

Through the Assistance Plus Initiative, districts and schools receive technical assistance as Department of Education staff monitors the implementation of Florida's Continuous Improvement Model (FCIM) and the School Improvement Plan. Districts and schools receive resources to assist their students in reaching highest student achievement. Resources provided have included: targeted funding, dedicated K-12 staff and School Improvement Facilitators, FCIM training, data analysis tools (DART), research-based documents and the School Improvement Plan on-line template.

## COMPONENTS OF FLORIDA'S ACCOUNTABILITY SYSTEM

**School Grades Calculation and Reporting.** School grades (A-F) are based on:

- 1) current-year student performance (50% of grade) on four FCAT-tested subjects (reading, math, writing, and science) and
- 2) learning gains from the prior year (50% of grade) in two FCAT-tested subjects (reading and math).

For more information, see <http://schoolgrades.fldoe.org/reports/0607/guide07.asp>.

**Alternative School Improvement Rating Calculation and Reporting.** Beginning in 2007-08, alternative schools will have the option of being graded like regular schools or receiving a school improvement rating (*improving, maintaining, declining*) in lieu of a grade, in which case the test results for students at the alternative school will also be included in the school grade calculation for the students' referring school.

**Adequate Yearly Progress (AYP) Calculation and Reporting.** As required by the federal No Child Left Behind Act, schools are evaluated on each of 39 components measured for AYP, including reading and math proficiency requirements for students in each of nine subgroups. Detailed information on the calculation is available at <http://schoolgrades.fldoe.org/pdf/0607/2007AYPTAP.pdf>. For more information on NCLB, see <http://www.fldoe.org/NCLB/>.

**Identification of Title 1 Schools in Need of Improvement.** Performed after completion of AYP calculations, results are provided to the Bureau of Student Assistance, Title 1 Office, for school improvement action. For more on Title 1 activities, see <http://www.fldoe.org/bsa/title1/default.asp>.

**Annual School Report Cards.** In compliance with Florida law, these reports include the school grade, AYP information, school improvement information, and information on indicators relating to return on investment (ROI). Annual School Report Cards are accessible online via the site at <http://schoolgrades.fldoe.org/default.asp>.

**Voluntary Pre-Kindergarten (VPK) Readiness Rates.** Information on the VPK readiness rate calculation is available at <http://www.fldoe.org/earlylearning/pdf/provider-veri-faqs.pdf>.

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<sup>51</sup> Rule ^A-1.09981(11), Florida Administrative Code.

**Florida School Recognition Program.** Schools that have achieved a letter grade of “A” or have improved at least one letter grade from the prior year are eligible for Florida School Recognition awards. More information on this program is available at <http://www.fldoe.org/fefp>. The program meets the statutory requirements of [s. 1008.36](#), Florida Statutes.

**Accountability for Supplemental Education Services (SES) Providers (Calculation).** Beginning in 2007-08, providers of Supplemental Education Services (to meet NCLB school improvement requirements) will be evaluated for effectiveness in helping students in remediation achieve necessary skills. The school grade calculation is expected to provide a model for the SES provider accountability rating system.

## **FLORIDA’S GRADUATION AND DROPOUT RATES**

**Overview.** The Florida Department of Education (FDOE) bases its graduation rate on data that follows every single student from ninth grade to graduation, yielding a more precise calculation than is possible with many national-level studies that produce estimates based on aggregate enrollment and diploma counts. Florida was the first state to compile and track individual student records for reporting accurate four-year graduation rates at the school level. In a 2005 report released by the National Governors Association, Florida is cited as a national leader and model for calculating graduation rates.<sup>52</sup>

Variation among graduation-rate estimates among national-level studies is well-documented in current education research.<sup>53</sup> Depending on the study being referenced, Florida’s graduation rate ranking also varies relative to other states’ rankings. The main reason why such variation exists is that a standardized method of collecting, reporting, and tracking individuals has not been implemented in all (or even most) states, such that the authors of the studies must rely on reported aggregate data for school enrollment by grade level and state-reported diploma counts in order to produce an estimated graduation rate by state. The limitations of such approaches are evident based on the varying results provided. If these estimates were completely accurate, they would not vary. They would coincide.

The key factor in producing an accurate graduation rate is the ability to track the progress of each individual in the cohort population. Without the ability to track individuals, researchers are unable to account for the effect on graduation rates of outgoing and incoming transfers into the population, and, with regard to dropout rates, there would also not be a way to account for the effect of retentions (students who are retained but remain enrolled) and non-graduating completers (certificate recipients, who are also not classified as dropouts).

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<sup>52</sup> National Governors Association, *Graduation Counts: A Report of the National Governors Association Task Force on State High School Graduation Data*. (Washington, D.C., 2005), p. 19. URL: <http://www.nga.org/Files/pdf/0507GRAD.PDF>.

<sup>53</sup> See, for example, Ulrich Boser’s “Calculating High School Graduation Rates,” Center for Public Education (June 23, 2006). URL: [http://www.centerforpubliceducation.org/site/c.kjJXJ5MPIwE/b.1808145/k.EDDF/Graduation\\_rates\\_What\\_do\\_they\\_mean\\_and\\_what\\_can\\_we\\_do.htm](http://www.centerforpubliceducation.org/site/c.kjJXJ5MPIwE/b.1808145/k.EDDF/Graduation_rates_What_do_they_mean_and_what_can_we_do.htm)

**National Comparisons among States (State Rankings).** Results of national studies that provide graduation rate estimates include the following:

Manhattan Institute (Jay Greene)

[http://www.manhattan-institute.org/html/cr\\_48\\_t2.htm](http://www.manhattan-institute.org/html/cr_48_t2.htm)

2002-03: Florida rate = 61%, 41<sup>st</sup> out of 49 states; U.S. rate = 70%

National Center for Education Statistics (U.S. Department of Education)

<http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2006606rev>

2002-03: Florida rate = 66.7%, 42<sup>nd</sup> out of 51 states; U.S. rate = 73.9%

Ed Week (EPE Research Center)

2002-03: Florida rate = 57.5%, 47<sup>th</sup> out of 51 states; U.S. rate = 69.6%

Dropout rates, reported by NCES

<http://nces.ed.gov/pubs2006/2006062.pdf>

2000-01: Florida rate = 4.4% vs. U.S. rate of 5.0%;

2001-02: Florida rate = 3.7% vs. U.S. rate of 3.6%.

Data obtained from studies that provide cross-state comparisons are often dated because of the amount of time it takes to collect state-reported information at the national level (e.g., Common Core Data collected by NCES) and the additional lag time involved in processing/compiling/reporting the data by entities such as NCES, which provide a clearinghouse source for researchers.

## **WHY GRADUATION RATES FOR FLORIDA THAT ARE PUBLISHED BY NATIONAL STUDIES DIFFER FROM RESULTS FOR FLORIDA REPORTED BY THE FDOE**

**Differences in Methodology and Access to Student-Level Data.** Researchers for national level studies do not have access to student records required for tracking the progress of individuals in a cohort; these studies may estimate the effect of population changes and mobility on the rate but have no way to account for these effects at the individual level. Florida bases its calculation on the compilation and tracking of individual student records and can account directly for the effects of student mobility on the rate.

**Differences in Defining the Terms *Graduate*, *Dropout*, and *Transfer*.** Florida includes all diploma recipients as graduates in its regular rate calculation – including standard diploma recipients, GED-based diploma recipients, and students with disabilities who have received special diplomas for meeting graduation requirements of their individual education plans (IEPs). National-level studies vary in their definition of “graduate.” Some studies classify GED-based diploma recipients as non-graduates. Florida law confers the same credential for college entry on an equivalency diploma (GED diploma) as it does on a standard diploma (s. 1003.435 [6] [a], F.S.).

Florida adjusts its four-year cohort to remove students who have transferred out of the school/district to attend another public or private school system, a home education program, or an adult education program. In Florida law, a student who withdraws from a regular high school to attend an adult education program is not considered a dropout (s. 1003.01 [9] [c], F.S.). However, national-level studies that compare enrollment and diploma counts for estimating a graduation rate do not attempt to make adjustments for students who withdraw from high school to attend adult education programs, and it is possible that researchers of such studies would consider these students to be dropout equivalents.

If the denominator of Florida's regular graduation rate were re-adjusted to retain adult-education withdrawals in the denominator, the resulting rate figures would be much closer to what's reported for Florida in national studies:

	2002-03	2003-04	2004-05	2005-06
<b>Florida Regular Rate</b>	69.0%	71.6%	71.9%	71.0%
<b>NCES Reported Rate (Averaged Freshman Four-Year Graduation Rate), Florida</b>	66.7%	66.4%	NA	NA
<b>Manhattan Institute Rate, Florida</b>	61.0%	NA	NA	NA
<b>Florida Regular Rate with Adult Ed. Withdrawals Included in Denominator</b>	62.9%	65.7%	66.1%	65.3%

**State Board of Education Strategic Plan Targets.** The State Board of Education is currently in the process of updating its strategic plan. The following graduation rate information is shown on p. 34 of the Strategic Plan document at [http://www.fldoe.org/Strategic\\_Plan/pdfs/S\\_I\\_DataTrends.pdf](http://www.fldoe.org/Strategic_Plan/pdfs/S_I_DataTrends.pdf).

REPORT YEAR	FLORIDA'S REGULAR HS GRADUATION RATE
2000-01	63.8%
2001-02	67.9%
2002-03	69.0%
2003-04	71.6%
2004-05	71.9%
<b>TARGET 2005-06</b>	<b>73.5%</b>
<b>TARGET 2006-07</b>	<b>75.0%</b>
<b>TARGET 2015</b>	<b>95%</b>

Florida's graduation rate rose to 72.4 percent in 2006-07, an increase of 1.4 percent compared to last year's rate (71.0 percent) and an overall increase of 12.2 percent since 1998-99 (60.2 percent). Meanwhile, Florida's annual high school dropout rate declined

from last year, dropping 0.2 percentage points to 3.3 percent, a decrease of 2.1 points since 1998-99. This year's graduation rate is the highest it has been since Florida employed new, more accurate data collection methods in 1998-99. Graduation rates for African-American and Hispanic students showed the largest growth this year, increasing by 1.8 and 2.3 percent respectively.<sup>54</sup>

The latest annual decline in the state's dropout rate occurred primarily as a result of continuing improvements by minority students. From 2005-06 to 2006-07, the dropout rate decreased for Hispanic, American Indian, and multiracial students, with American Indian students showing the greatest decrease (improvement) in the dropout rate. Forty of Florida's 67 school districts saw a decline in their dropout rates. Franklin County experienced the greatest decrease—6.6 percent. The dropout rate also fell in several larger school districts, including Miami-Dade, Duval, Hillsborough, Orange, and Pasco.

The following chart shows Florida's annual high school graduation rates by race/ethnicity from 1998-99 through 2006-07.<sup>55</sup>

	<b>White</b>	<b>Black</b>	<b>Hispanic</b>	<b>Asian</b>	<b>American Indian</b>	<b>Multi-racial</b>	<b>Total</b>
<b>1998-99</b>	66.9%	48.7%	52.8%	73.4%	61.7%	64.7%	60.2%
<b>1999-00</b>	69.4%	50.6%	53.7%	77.4%	65.1%	64.8%	62.3%
<b>2000-01</b>	71.2%	51.9%	56.0%	77.5%	68.8%	68.4%	63.8%
<b>2001-02</b>	75.9%	54.9%	60.1%	82.0%	70.0%	74.1%	67.9%
<b>2002-03</b>	78.1%	54.2%	61.1%	81.0%	72.1%	73.8%	69.0%
<b>2003-04</b>	80.1%	57.3%	64.0%	82.3%	73.2%	78.1%	71.6%
<b>2004-05</b>	80.8%	57.1%	64.5%	82.2%	73.3%	77.7%	71.9%
<b>2005-06</b>	79.9%	56.9%	63.7%	83.2%	75.7%	75.9%	71.0%
<b>2006-07</b>	81.0%	58.7%	66.0%	83.2%	74.7%	75.4%	72.4%

<sup>54</sup> Florida Department of Education, Education Information and Accountability Services ([www.fldoe.org/eias](http://www.fldoe.org/eias)).

<sup>55</sup> Florida Department of Education, Education Information and Accountability Services (<http://www.fldoe.org/eias>).

The following chart shows Florida's annual high school dropout rates by race/ethnicity from 1998-99 through 2006-07.<sup>56</sup>

	<b>White</b>	<b>Black</b>	<b>Hispanic</b>	<b>Asian</b>	<b>American Indian</b>	<b>Multi-racial</b>	<b>Total</b>
<b>1998-99</b>	4.2%	6.6%	8.3%	2.8%	4.8%	4.2%	5.4%
<b>1999-00</b>	3.2%	5.5%	5.9%	2.2%	3.7%	3.7%	4.6%
<b>2000-01</b>	3.1%	4.7%	4.7%	2.1%	3.1%	3.0%	3.8%
<b>2001-02</b>	2.6%	3.9%	3.8%	1.7%	2.5%	2.2%	3.2%
<b>2002-03</b>	2.5%	4.1%	3.7%	1.8%	2.8%	2.2%	3.1%
<b>2003-04</b>	2.3%	3.6%	3.7%	1.6%	2.9%	2.2%	2.9%
<b>2004-05</b>	2.4%	3.9%	3.6%	1.5%	2.9%	2.0%	3.0%
<b>2005-06</b>	2.6%	4.7%	4.3%	1.5%	3.1%	2.6%	3.5%
<b>2006-07</b>	2.4%	4.7%	3.9%	1.7%	2.6%	2.3%	3.3%

## **NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS**

Known as the "nation's report card," the NAEP is a congressionally mandated project overseen by the National Center for Education Statistics to continuously monitor the knowledge, skills, and performance of the nation's children and youth.<sup>57</sup> The Florida Legislature codified its intent that Florida participate in NAEP in the law.<sup>58</sup> Since 1969, NAEP has measured and reported on the knowledge and abilities of America's fourth, eighth, and twelfth grade students, providing data about students' performance in a variety of subject areas at national, regional and state levels. Florida was one of only four states with significant increases in both fourth and eighth grade reading since 2005. Minority students and students with disabilities also met or exceeded the performance of students nationally.

Improvement is needed in secondary reading as indicated by Florida's eighth grade reading scores on the National Assessment of Educational Progress (NAEP). Although improved over previous years, Florida's 2007 eighth grade NAEP reading scores are still only equal to the national average. In 2007, Florida students scored 260 on NAEP reading compared to 261 for the nation as a whole. Mathematics achievement of Florida's eighth graders on NAEP is below the national average, even though there has been some improvement in Florida scores recent years. In 2007, Florida students scored 277 compared to 280 for the nation as a whole.<sup>59</sup>

<sup>56</sup> Florida Department of Education, Education Information and Accountability Services (<http://www.fldoe.org/eias>).

<sup>57</sup> <http://nationsreportcard.gov/>

<sup>58</sup> s. 1008.22(2), Florida Statutes

<sup>59</sup> <http://www.fldoe.org/asp/naep/naep2007.asp>

#### **Fourth Grade Reading and Mathematics Results – 2005 to 2007:**

- Fourth grade students improved five points in reading from 219 to 224. This is four points higher than the national average score of 220. Florida was one of only 18 states whose average fourth grade reading score increased between 2005 and 2007.
- Fourth grade students improved three points in mathematics from 239 to 242. This is three points higher than the national average of 239. Florida was one of only 23 states whose average fourth grade mathematics score increased between 2005 and 2007.

#### **Eighth Grade Reading and Mathematics Results – 2005 to 2007:**

- Eighth grade reading scores increased four points (from 256 to 260), matching the national average. Florida was one of only six states whose eighth grade reading average scores increased between 2005 and 2007.
- Eighth grade students improved three points in mathematics (from 274 to 277), but remain three points below the national average.

#### **Long-Term National Performance – 2003 to 2007:**

- 2003 marks the first year in which every state in the nation participated in NAEP and serves as the most accurate benchmark for determining long-term performance trends.
- This year, Florida's fourth graders outperformed 58 percent of other states in reading and 60 percent in mathematics, up from 37 percent in both reading and mathematics in 2003.
- Additionally, Florida's eighth graders outperformed 35 percent of other states in reading and 31 percent in mathematics this year, up from 19 percent in reading and 25 percent in mathematics in 2003.
- Florida was a top-gaining state in fourth grade mathematics, with a score increase of eight points between 2003 and 2007.

#### **Closing the Achievement Gap and Student Group Performance**

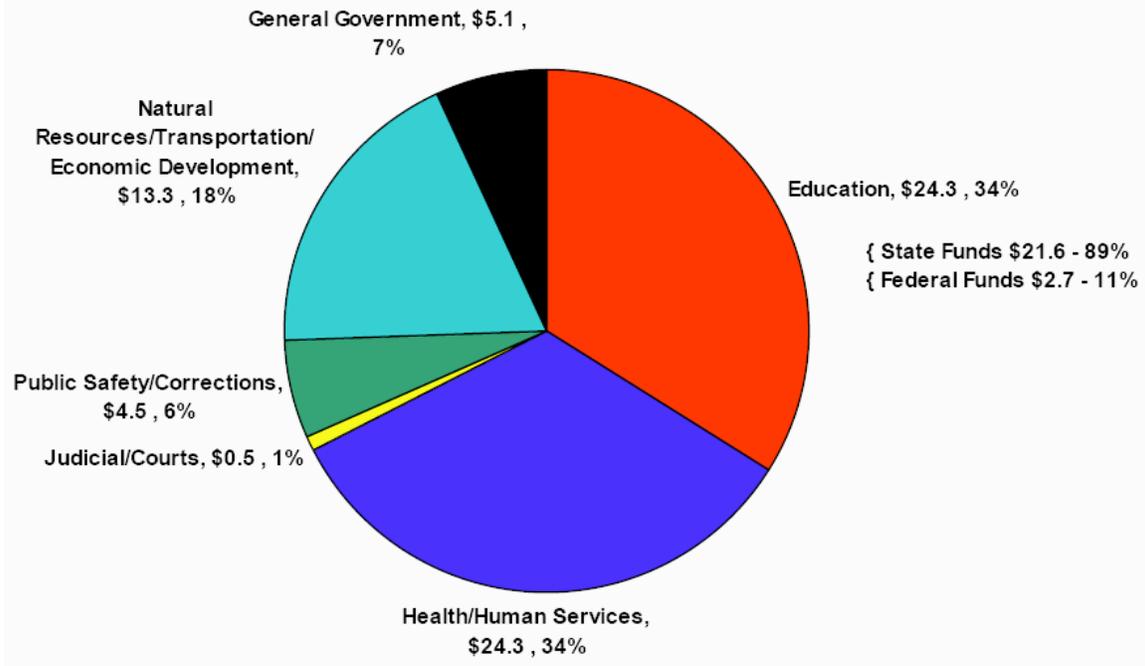
- African American fourth grade reading and mathematics scores have significantly risen. This year, the average score has risen to 208 in reading and 225 in mathematics, up from 198 in reading and 215 in mathematics in 2003.
- Florida is one of five states that showed a significant narrowing of the White/African American achievement gap between 2003 and 2007 in fourth grade reading.
- African American eighth grade students also showed a significant increase in mathematics scores. In 2007, the average score has risen to 259, up from 249 in 2003.

- Florida is one of only seven states where the achievement gap between White and African-American eighth grade students decreased significantly in eighth grade mathematics.
- Since 2003, Hispanic fourth grade reading and mathematics scores have significantly risen. In 2007, the average score has risen to 218 in reading and 238 in mathematics, up from 211 in reading and 232 in mathematics in 2003.
- Hispanic eighth grade students also showed increases in reading and mathematics scores. In 2007, the average score has risen to 256 in reading and 270 in mathematics, up from 251 in reading and 264 in mathematics in 2003.
- Since 2003, fourth grade students with disabilities reading and mathematics scores have significantly risen. In 2007, the average score has risen to 195 in reading and 223 in mathematics, up from 184 in reading and 214 in mathematics in 2003.
- Eighth grade students with disabilities also showed a significant increase in mathematics scores. In 2007, the average score has risen to 246 in mathematics, up from 235 in 2003.
- Since 2003, low-income fourth grade students' reading and mathematics scores have significantly risen. In 2007, the average score has risen to 213 in reading and 233 in mathematics, up from 205 in reading and 222 in mathematics in 2003.
- Low-income eighth grade students also showed a significant increase in mathematics scores. In 2007, the average score has risen to 265 in mathematics, up from 256 in 2003.
- Between 2003 and 2007, Florida is one of only two states where the achievement gap between low and higher income fourth grade students decreased significantly in mathematics and one of only three states where it decreased in reading.

For more information regarding Florida's performance on the 2007 NAEP Reading and Mathematics, visit [www.nationsreportcard.gov](http://www.nationsreportcard.gov). For charts depicting Florida's NAEP results (PDF, 128KB), visit <http://www.fldoe.org/asp/naep/naep2007.asp>.

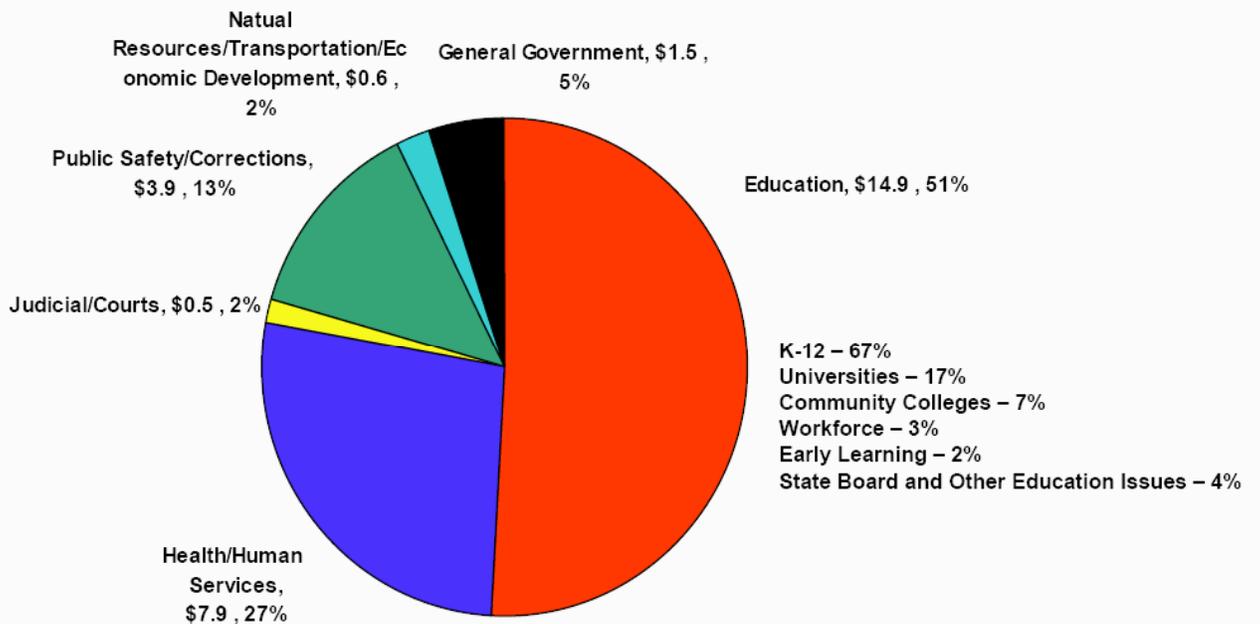
## **EDUCATION FUNDING**

2007-08 Statewide Funds  
Operations and Fixed Capital Outlay  
= \$71.9 billion



The 2007-08 appropriations act (Chapter 2007-72, L.F.) included a total general revenue and trust fund appropriation of \$71.9 billion for both operations and fixed capital outlay. Both education and health and human services appropriations were funded at \$24.3 billion and each represented 34% of the budget.

**2007-08 Statewide General Revenue Appropriations  
(Operations and Fixed Capital Outlay) = \$29.2 billion**



Total general revenue appropriations were \$29.2 billion for 2007-08. Education appropriations accounted for \$14.9 billion or 51%. Of the education appropriations, K-12 education was allocated 67% of the funds, Community Colleges 7% and State Universities 17%.

## VOLUNTARY PREKINDERGARTEN

**VPK Appropriations and Participation.** The following summarizes the VPK FTE appropriations, actual VPK participation, and expenditure data for 2005-06 through 2008-09.

	2005-06	2006-07	2007-08*	2008-09**
<b>Appropriations</b>	\$ 387,137,762	\$388,100,000	\$350,446,171	
<b>Total Number of Four-Year-Olds</b>	220,857	222,198	231,062	234,186
<b>Appropriated Participation Rate</b>	66.67%	64.91%	60.59%	64.55%
<b>Appropriated Est. VPK Students</b>	147,235	144,228	139,997	151,172
<b>Payout Rate***</b>	-	-	89.00%	-
<b>Est. VPK Students with Payout Rate Applied</b>	-	-	124,597	-
<b>Revised Total # of Four-Year-Olds (July 2007)</b>	-	226,832	-	-
<b>Actual Participation (as of 10/31/07)</b>	105,896	125,172	113,545	-
<b>Actual Participation Rate</b>	47.95%	55.18%	49%	-
* Special Session Reductions				
**2008-09 Total Number of Four-Year-Olds as of 11/15/07 VPK Estimating Conference				
*** Payout Rate - converts the VPK "head count" to full-time equivalent (FTE); first used in 2007-08 appropriation				

The following summarizes the VPK Base Student Allocation from 2005-06 to 2007-08 and the Department of Education's request for 2008-09.

<b>BSA</b>	\$2,500	\$2,560	\$2,677	\$2,728
<b>% Increase</b>	NA	2.40%	4.57%	1.90%

## K-12 EDUCATION FUNDING

In 1973 the Florida Legislature enacted the Florida Education Finance Program (FEFP) and established the state policy on equalized funding to guarantee to each student in the Florida public education system the availability of programs and services appropriate to his or her educational needs that are substantially equal to those available to any similar student notwithstanding geographic differences and varying local economic factors.

To provide equalization of educational opportunity, the FEFP formula recognizes: (1) varying local property tax bases; (2) varying education program costs; (3) varying costs of living; and (4) varying costs for equivalent educational programs due to sparsity and dispersion of the student population.

The FEFP is the primary mechanism for funding the operating costs of Florida school districts. There are other sources of funding; however, the FEFP is the foundation for financing Florida's K-12 educational programs. A key feature of the FEFP is that it bases financial support for education upon the individual student participating in a particular educational program rather than upon the number of teachers or classrooms.

Florida's education funding formula withstood each challenge that alleged it violated article IX, section 1 requiring a "uniform system of free public schools." It appears doubtful that uniformity or financial equity would be the primary focus of any future suit...The trend in other states has been away from "uniformity" or "equality suits," which emphasize state equal protection clauses and equity of per pupil expenditures, to "adequacy" or "quality suits," which emphasize the state education clause and quality of education delivered. Because of this trend, it is likely that any challenge to Florida's system of school funding in the near future would focus on what "adequate provision" means in article IX, section 1.<sup>60</sup>

A full-time equivalent (FTE) student for FEFP funding purposes is one student in membership in one or more FEFP programs for a school year or its equivalent. The FTE student is the basic component of the FEFP and is a major factor in the funding formula for the distribution of operating funds to school districts and schools. The time equivalent for a school year varies with the school and student as shown below.

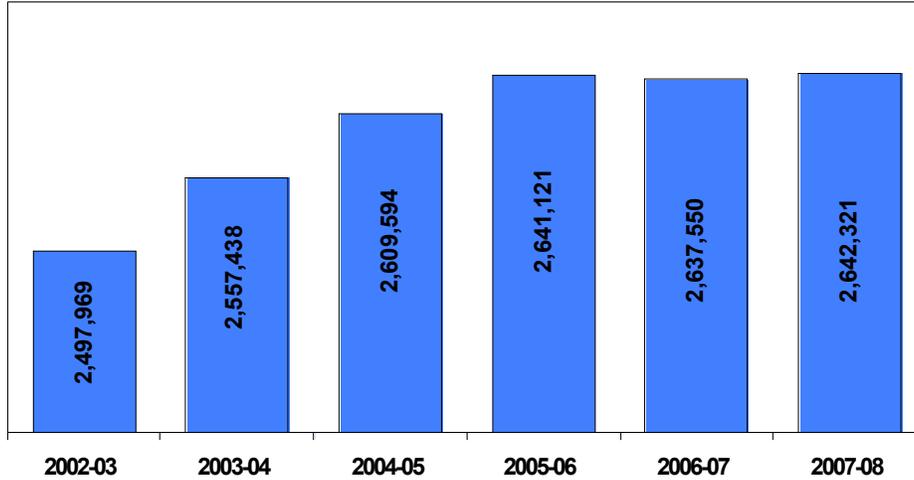
- (a) Student in grades 4 through 12 – 900 hours of instruction, or 5 hours per day for 5 days a week for 180 day term.
- (b) Student in kindergarten through grade 3 or in an authorized prekindergarten exceptional program – 720 hours of instruction or 4 hours per day for 5 days per week for 180 day term.

Virtually all of the FEFP components of the formula use the FTE student data in some fashion for determining each school district's annual entitlement of funds. On the charts and graphs that follow, a review of historical and projected enrollment data is displayed. Beginning in 2006-07, especially significant is the observation that school district enrollment growth has slowed. During the period 1999-00 to 2004-05, growth in student enrollment ranged from 1.81% to 2.71%. This pattern slowed to a 1.21% growth in 2005-06. A comparison of the 2006-07 statewide total FTE to 2005-06 reveals a decline of 3,571 students. School district enrollment growth is expected to be relatively flat until the 2010-2011 school year. This slow growth pattern has obvious implications for the short-term funding of Florida schools.

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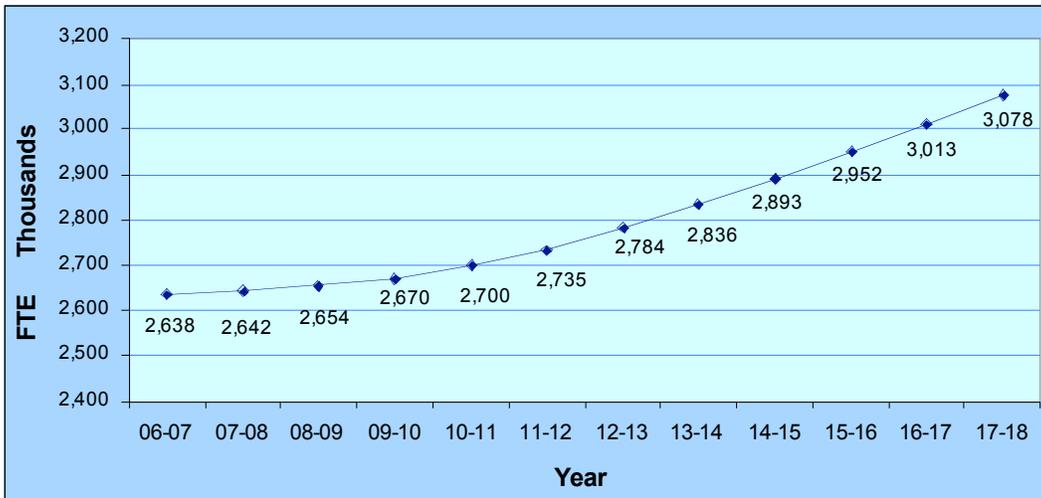
<sup>60</sup> Stetson Law Review, School Finance Litigation in Florida: A Historical Analysis by Barbara J. Staros.

## Florida Education Finance Program Full-Time Equivalent (FTE) Student Enrollment History



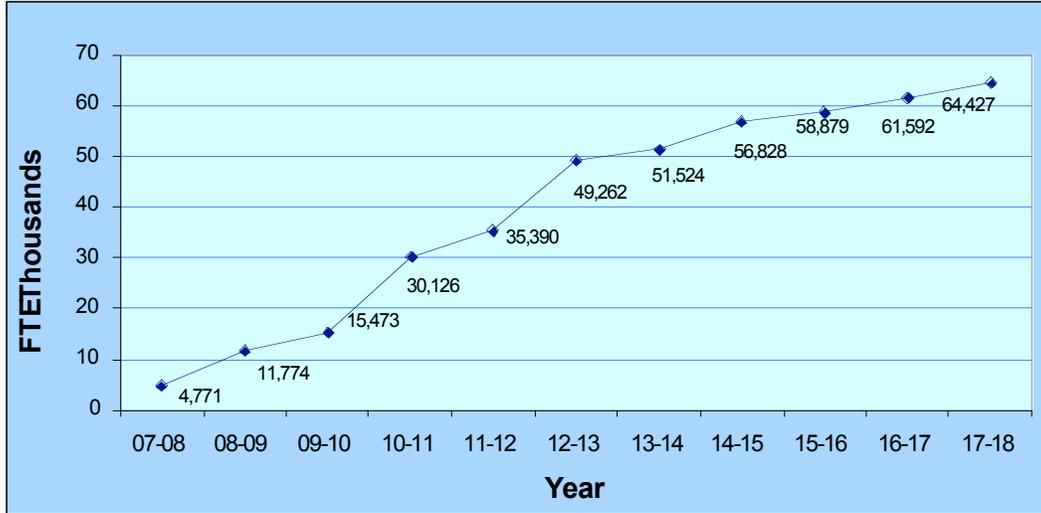
Source: Florida Education Finance Program Appropriation Allocation Conference workpapers.

## Total FTE Student Enrollment 2006-07 to 2017 -18



Source: The September 25, 2007 K-12 Enrollment Estimating Conference

# Change in FTE Student Enrollment 2007-08 to 2017 -18



Source: The September 25, 2007 K-12 Enrollment Estimating Conference

FEFP funds are primarily generated by multiplying the number of full-time equivalent (FTE) students in each of the funded education programs by cost factors to obtain weighted FTEs. Weighted FTEs are then multiplied by a base student allocation and by a district cost differential in the major calculation to determine the base funding from state and local FEFP funds. Program cost factors are determined by the Legislature and represent relative cost differences among the FEFP programs. In addition to the base funding allocation, two major allocations within the FEFP are the Supplemental Academic Instruction Allocation and Exceptional Student Education Guaranteed Allocation.

### 07-08 FTE Estimate -- 2nd Calculation

Program	Prog #	FTE Statewide	Pct	
Basic Non-ESE	Grades K-3	101*	604,517	22.88%
	Grades 4-8	102*	728,190	27.56%
	Grades 9-12	103*	543,098	20.55%
Basic ESE	Grades K-3	111**	141,158	5.34%

	Grades 4-8	<b>112**</b>	220,883	<b>8.36%</b>
	Grades 9-12	<b>113**</b>	138,176	<b>5.23%</b>
ESOL	Grades K-12	<b>130***</b>	164,363	<b>6.22%</b>
ESE Level IV	Grades PK-12	<b>254***</b>	19,629	<b>0.74%</b>
ESE Level V	Grades PK-12	<b>255***</b>	6,253	<b>0.24%</b>
Vocational	Grades 9-12	<b>300***</b>	76,055	<b>2.88%</b>
		<b>Total</b>	<b>2,642,321</b>	<b>100.00%</b>

\*Basic includes Programs 101, 102 and 103

\*\*ESE Basic includes Programs 111, 112 and 113

\*\*\*Weighted Group 2 includes 130, 254, 255 and 300

The \$14.6 billion combined total of base funding (\$11.9 billion) and class size reduction funds (\$2.7 billion) represents 75.8% of the \$19.3 billion total state and local FEFP. In addition to base funding that provides for the special funding needs of students through an index of program cost factors and bonus funds for high performing students, there are additional FEFP components that have been implemented to fund targeted special needs. The components are Safe Schools, Supplemental Academic Instruction Allocation, Exceptional Student Education Guaranteed Allocation and the Reading Allocation.

An amount of \$77,150,000 was appropriated for Safe Schools activities for the 2007-08 fiscal year. The funds are to be allocated so that each district is guaranteed a minimum of \$75,000. From the remaining appropriation, 67 percent shall be allocated based on the latest official Florida Crime Index provided by the Department of Law Enforcement, and 33 percent shall be allocated based on each district's share of the state's total unweighted student enrollment. Safe Schools activities include: (1) after-school programs for middle school students; (2) other improvements to enhance the learning environment, including implementation of conflict resolution strategies; (3) alternative school programs for adjudicated youth; (4) suicide prevention programs; and (5) other improvements to make the school a safe place to learn. Each district shall determine, based on a review of its existing programs and priorities, the amount of its total allocation to use for each authorized Safe Schools activity.

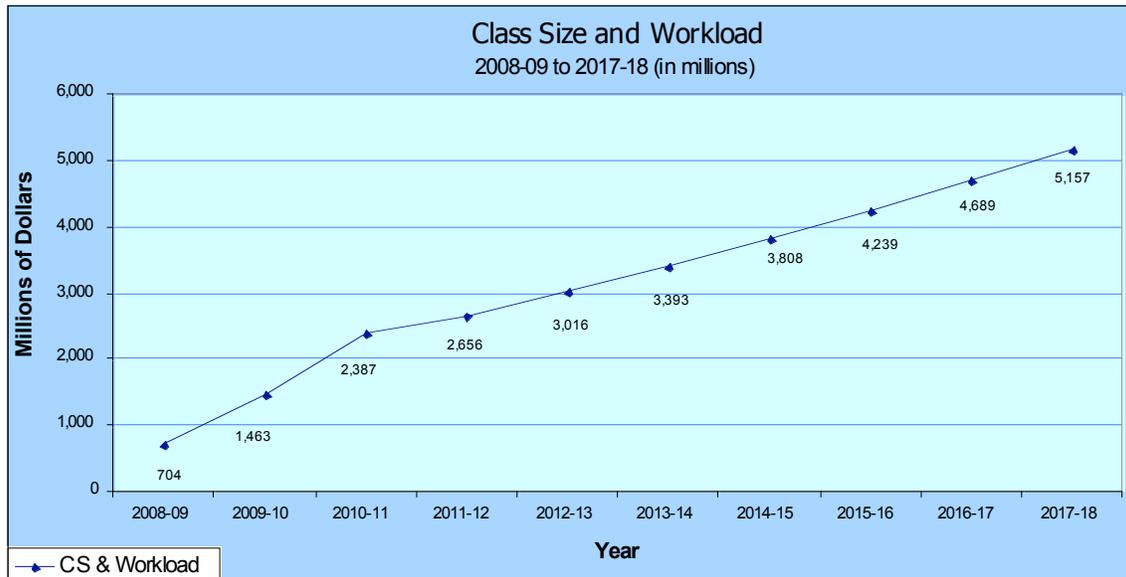
The Supplemental Academic Instruction (SAI) component of the FEFP formula provides funding of \$736,402,596 for the 2007-08 fiscal year. The primary purpose of this allocation is to provide supplemental intensive instruction, consistent with the Sunshine State Standards, including summer school and intensive English immersion instruction, for students in grades 3 and 10 who scored a Level I in FCAT reading or math. Each

district's SAI allocation shall be the amount shown in the legislative work papers for the 2007-08 appropriation for the FEFP and shall not be recalculated during the school year.

Exceptional education services for students whose level of service is less than Support Levels 4 and 5 are funded through the ESE Guaranteed Allocation. The students generate FTE funding using the appropriate Basic Program weight for their grade level. This allocation provides for the additional services needed for these students. District allocations from the appropriation of \$1,133,668,598 for the 2007-08 fiscal year are not recalculated during the year. School districts that have provided education services in 2006-07 for exceptional students who are residents of other districts shall not discontinue providing such services without the prior approval of the Department of Education.

Beginning with the 2007-08 fiscal year, a district's expenditure of funds from the guaranteed allocation for students in grades 9 through 12 who are gifted may not be greater than the amount expended during the 2006-07 fiscal year for gifted students in grades 9 through 12.

Funds in the amount of \$116,909,260 for the Reading Program for the 2007-08 fiscal year are provided for a K-12 comprehensive, district-wide system of research-based reading instruction. The amount of \$100,000 shall be allocated to each district and the remaining balance shall be allocated based on each district's proportion of the state total K-12 base funding.<sup>61</sup>



Source: Department of Education

The graph above represents projected funding for operations in each year from 2008-09 to 2017-18 necessary to meet the anticipated needs for student enrollment growth and class size reduction. The estimates do not include a cost of living adjustment.

<sup>61</sup> Specific Appropriation 86, 2007 General Appropriations Act (Chapter 2007-72, Laws of Florida).

## **STUDENTS WITH SPECIAL NEEDS**

In Florida, children who have special learning needs because of a disability, as defined under the Individuals with Disabilities Education Act (IDEA), are called exceptional students. The purpose of exceptional student education is to help each child with a disability to progress in school and prepare for post-secondary goals for continuing education and/or competitive employment. Exceptional student education services may include special teaching methods and materials. They may also include technology devices, therapy, special transportation, or other supports. Decisions about a child's services are made by a team, including the parent(s), and an individual educational plan (IEP) is developed to reflect those services.

Section 504 is part of a federal civil rights law known as the Rehabilitation Act of 1973. This law specifically prohibits discrimination against students with disabilities and guarantees them a free and appropriate public education (FAPE). Discrimination, as defined in Section 504, is the failure to provide students with disabilities the same opportunity to benefit from education programs, services, or activities as is provided to their non-disabled peers. Therefore, schools cannot exclude students with disabilities from facilities, programs, benefits, activities, or services that are provided to students without disabilities. Schools must make sure that all students receive equal access to educational opportunities. Students with disabilities receiving exceptional student education (ESE) services, as defined by the Individuals with Disabilities Education Act (IDEA), are protected under Section 504, but not all Section 504 students are eligible for ESE.

## **ENGLISH FOR SPEAKERS OF OTHER LANGUAGES (ESOL)**

The English for Speakers of Other Languages (ESOL) program in Florida, as authorized by Section 1003.56, F.S. and the Consent Decree in the League of United Latin American Citizens et al. v. the State Board of Education requires that students be identified through a Home Language Survey to determine whether further assessment of their English language proficiency is needed. Students identified as being potentially limited in English proficiency are further assessed in listening, speaking, reading and writing, and those classified as English language learners are placed in the ESOL program. Instructional services provided in the ESOL program include primary language arts (listening, speaking, reading and writing in English using ESOL strategies), and the other core subject areas of mathematics, science, social studies and computer literacy may taught either using ESOL strategies or in the students' native language. The approved instructional models in Florida include: Sheltered English, Sheltered Core/Basic Subject Areas, Mainstream/Inclusion – English, Mainstream/Inclusion – Core/Basic Subject Areas, One-way Developmental Bilingual Education, and Dual Language (Two-way Developmental Bilingual Education. ESOL instruction is to be provided by qualified personnel and is funded under Florida Education Finance Program under a weighted cost factor.

## Florida Education Finance Program State vs. Local Funding

	State %	Local %
2007-08	53.21%	46.79%
2006-07	54.18%	45.82%
2005-06	56.68%	43.32%
2004-05	58.55%	41.45%
2003-04	58.75%	41.25%
2002-03	59.10%	40.90%

**Source of Funds for School Districts** – The following paragraphs provide background information regarding financial support for Grade K-12 education in Florida. School districts in 2005-06 received 40.71 percent of their financial support from state sources, 49.31 percent from local sources (including the Required Local Effort portion of the FEFP), and 9.98 percent from federal sources.

**State Support.** Funds for state support to school districts are provided primarily by legislative appropriations. The major portion of state support is distributed under the provisions of the FEFP. State funds appropriated to finance the 2007-08 FEFP total \$9,851,444,784. An appropriation of \$9,713,096,636 from the state’s General Revenue Fund accounts for 98.60 percent of this sum. The remainder of the FEFP appropriation consists of an appropriation of \$138,348,148 from the Principal State School Trust Fund.<sup>62</sup> Although taxes from a number of sources are deposited in the General Revenue Fund, the predominant tax source is the sales tax.

The Legislature established the Education Enhancement Trust Fund, which includes the net proceeds of the Florida Lottery and the tax proceeds on slot machines in Broward County. The Education Enhancement Trust Fund is used to finance other appropriations for school district operations: District Discretionary Lottery Funds/School Recognition Program, \$263,449,842; and Class Size Reduction, \$156,850,158.<sup>63</sup> Lottery proceeds were also used to fund the \$166,892,742 appropriation that provides the cash and debt service requirements for the Classrooms First and 1997 School Capital Outlay Bond

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<sup>62</sup> Specific Appropriations 86 through 91, 2007 General Appropriations Act (Chapter 2007-72, Laws of Florida).

<sup>63</sup> Specific Appropriations 7 and 8, 2007 General Appropriations Act (Chapter 2007-72, Laws of Florida).

Programs and \$125,310,506 for debt service for the Class Size Reduction Lottery Capital Outlay Program.<sup>64</sup>

In addition, funds are appropriated to meet other needs by means of categorical programs. In 2007-08 major programs and allocations include Instructional Materials, Student Transportation, Florida Teachers Lead Program, and Class Size Reduction. Other minor state funding sources include receipts from mobile home licenses and state forest funds.

**Local Support.** Local revenue for school support is derived almost entirely from property taxes levied by Florida's 67 counties, each of which constitutes a school district.

Each school board participating in the state allocation of funds for the current operation of schools must levy the millage set for its required local effort from property taxes. The Legislature set the amount of \$7,909,357,201 as adjusted required local effort for 2007-08. Each district's share of the state total required local effort is determined by a statutory procedure that is initiated by certification of the property tax valuations of each district by the Department of Revenue. This certification occurs no later than two working days prior to July 19. No later than July 19, the Commissioner of Education certifies each district's required local effort millage rate. These rates are primarily determined by dividing the dollar amount of required local effort by 95 percent of the aggregated taxable value for school purposes of all districts. Certifications vary due to the use of assessment ratios designed to equalize the effect on the FEFP of differing levels of property appraisal in the counties. Millage rates are also adjusted because required local effort may not exceed 90 percent of a district's total FEFP entitlement.

Based on the 2007 tax roll provided by the Department of Revenue, the Commissioner of Education certified the required millage of each district on July 16, 2007. Certifications for the 67 districts varied from 5.052 mills to 4.485 mills due to the use of assessment ratios. The state average was 4.843 mills. The 90 percent limitation reduced the required local effort of 11 districts. The districts and their adjusted millage rates were: Charlotte (3.611), Collier (2.786), Flagler (4.999), Franklin (1.437), Gulf (3.893), Indian River (4.657), Lee (4.361), Martin (4.009), Monroe (1.408), Sarasota (3.541), and Walton (1.696).

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<sup>64</sup> Specific Appropriations 1 and 2, 2007 General Appropriations Act (Chapter 2007-72, Laws of Florida).

## Florida Education Finance Program Local Funding

	Required Local Effort (RLE) Millage	Change from Prior Year	% Change from Prior Year
<del>2007</del> 2008	4.843	(0.167)	(3.33%)
<del>2006</del> 2007	5.010	(0.229)	(4.37%)
<del>2005</del> 2006	5.239	(0.233)	(4.26%)
<del>2004</del> 2005	5.472	(0.207)	(3.65%)
<del>2003</del> 2004	5.679	(0.129)	(2.22%)
<del>2002</del> 2003	5.808	(0.008)	(0.13%)
<del>2001</del> 2002	5.800	(0.140)	(2.36%)

School boards may set the following discretionary tax levies:

- Current operation – The Legislature set the maximum discretionary current operating millage for 2007-08 at 0.510 mills; however, districts may make an additional supplemental levy, not to exceed 0.25 mills, which will raise an amount not to exceed \$100 per FTE student. (See page 14 for a description of the Discretionary Tax Equalization component of the FEFP formula.)

In addition to levies established by the school board, qualified electors may vote an additional millage levy for operations and capital outlay purposes for a period not to exceed two years. Tax levies for debt service are in addition to the levies for current operation, but are limited by State Board of Education Rule to six mills and 20 years' duration except with specific State Board approval. Qualified electors may vote to retire a local bond issue by a millage levy. State Board of Education Rules prohibit school districts from issuing school bonds in excess of ten percent of the nonexempt assessed valuation of the district without specific State Board approval (Sections 1010.40 - 1010.46, 1011.73, and 1011.74, F.S.; and Rule 6A-1.037, FAC).

The 2001 Legislature provided authority for an additional levy, not to exceed four years, for operational purposes to be authorized by the electorate through a local referendum or in conjunction with a general election. This voted levy and the levies established by the school board must not exceed ten mills in total. This levy is distinguished from the constitutional authority for voted millage noted in the previous paragraph because it is for operations only, may be approved for up to four years instead of two years, and is included in the ten-mill limit established by the state constitution.

Budgeted revenues from local taxes are determined by applying millage levies to 95 percent of the taxable value of property. School board adoption of millage levies is

governed by the advertising and public meeting requirements of Chapter 200, F.S. (Determination of Millage).

Developmental research schools (lab schools) at state universities are classified for funding as special school districts, as is the Florida Virtual School. Because these special districts have no taxing authority, the state provides the same dollar amount per student as is generated for district students by the tax base of the district where the school is located. Local required effort is not deducted from the FEFP calculation, nor is the amount that would have been raised by the discretionary levy of 0.510 mills. For 2007-08, the contribution for discretionary millage is \$4,083,827.

## K-12 Public Schools Local Funding

	2007-08 Millage	2007-08 Revenue
Required Local Effort	4.843	\$7,909.6 Million
Discretionary Local Tax	0.51	\$884.2 Million
Equalized Discretionary Local Tax	0.25	\$256.6 Million
School Capital Outlay Tax	2.000	\$3,253.2 Million

**Federal Support.** The State Board of Education may approve plans for cooperating with the federal government in carrying out any phase of the education program and must provide for the proper administration of funds apportioned to the state from federal appropriations.

The Commissioner of Education is responsible for recommending ways of cooperating with the federal government on any phase of the education program in which cooperation is desirable. The Commissioner recommends policies for administering funds appropriated from federal sources to the state for any educational purpose and provides for the execution of plans and policies.

School districts receive funds from the federal government directly and through the state as an administering agency. School districts may receive federal funds from various agencies such as the Department of Labor, Veterans Administration, Department of Interior, Department of Education, Department of Defense, and Department of Agriculture.

**Comparative State Rankings.** The latest national rankings regarding financial statistics reported by the National Center for Education Statistics (NCES) is from 2004-05. It reflects that Florida ranks 36<sup>th</sup> in total revenue per pupil when compared with other states. Florida reports revenue of \$8,775 per pupil while the national average is \$10,159. NCES also provides a ranking of 40<sup>th</sup> in current expenditures per pupil based on Florida's reported \$7,207. This compares to the national average of \$8,701.<sup>65</sup>

**CAPITAL OUTLAY FUNDING**

The provision of capital outlay funds to the districts is authorized in two sections of the Constitution of the State of Florida. Article XII, Section 9(d), of the State Constitution, guarantees a stated amount for each district annually from proceeds of licensing motor vehicles. Article XII, Section 9(a)(2), of the State Constitution, provides that school districts may share in the proceeds from gross receipts taxes as provided by legislative allocation. Gross Receipts Taxes are source of funding for the Public Education Capital Outlay Trust Fund (PECO). The following tables provide historical PECO appropriations as well as the projections for this fund source to 2012-13.

**Prior 5-Year Appropriations from Public Education Capital Outlay (PECO)  
(in millions)**

	<b>FY 03-04</b>	<b>FY 04-05</b>	<b>FY 05-06</b>	<b>FY 06-07</b>	<b>FY 07-08</b>
<b>Appropriations</b>	\$742.6	\$761.9	\$844.4	\$1,853.8	\$1,799.3

FY06-07 includes \$445,302,010 for Class Size Reduction Projects.

**5-Year Outlook Public Education Capital Outlay (PECO)  
(in millions)**

	<b>11/15/2007 Estimating Conference</b>				
	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>	<b>FY 11-12</b>	<b>FY12-13</b>
<b>Appropriations</b>					
<b>Bonded Projects</b>	\$993.5	\$268.9	\$393.8	\$551.0	\$435.2
<b>Cash (Non-Bonded) Projects</b>	\$403.5	\$238.8	\$224.9	\$225.2	\$221.7
<b>Total</b>	<b>\$1,397.0</b>	<b>\$507.7</b>	<b>\$618.7</b>	<b>\$776.2</b>	<b>\$656.9</b>

FY08-09 through FY12-13 amounts are based on revised interest rates requested by the conferees. Updated revenue estimates provided to DOE on 11/20/07.

<sup>65</sup> U.S. Census Bureau, 2004-05 Annual Survey of Local Government Finances, Table 11.

Funds collected by the Florida Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering, have been made available to each county commission in equal amounts. Many county commissions have shared this revenue with school districts directly or according to legislative acts of local application. These amounts are distributed by the state directly to the school districts. Pari-Mutuel moneys are generally dedicated to payment of debt service on revenue bonds issued for facilities construction.

The Legislature established the Education Enhancement Trust Fund, which includes the net proceeds of the Florida Lottery and the tax proceeds on slot machines in Broward County. Lottery proceeds were used to fund the \$166,892,742 appropriation that provides the cash and debt service requirements for the Classrooms First and 1997 School Capital Outlay Bond Programs and \$125,310,506 for debt service for the Class Size Reduction Lottery Capital Outlay Program.

Discretionary tax levies that may be established by school boards include: Capital outlay and maintenance – School boards may levy up to 2.0 mills as prescribed in Section 1011.71(2), F.S. This section authorizes expenditures of the funds raised by the two-mill capital outlay levy for the fiscal year 2007-08 to be used for the following:

- The educational plant – Costs of construction, renovation, remodeling, maintenance, and repair of the educational plant.
- Expenditures that are directly related to the delivery of student instruction – Purchase, lease, or lease-purchase of equipment, educational plants, and construction materials directly related to the delivery of student instruction.
- Conversion of space – Rental or lease of existing buildings, or space within existing buildings, originally constructed or used for purposes other than education, for conversion to use as educational facilities.
- A new school's library media center collection – Opening day collection for the library media center of a new school.
- School buses – Purchase, lease-purchase, or lease of school buses or the payment to a private entity to offset the cost of school buses pursuant to Section 1011.71(2)(i), F.S.
- Servicing of payments related to certificates of participation – Servicing of payments related to certificates of participation issued for any purpose under authority of prior enactments of this law. Costs associated with the lease-purchase of equipment, educational plants, and school buses may include the issuance of certificates of participation on or after July 1, 2000, and the servicing of payments related to such certificates.

Violation of these expenditure provisions will result in an equal reduction of FEFP funds in the year following an audit citation.

A district may share a portion of these funds with charter schools for expenditures identified in Section 1013.62(2), F.S.

School boards are authorized under Section 212.055(6), F.S., to levy a sales surtax of up to 0.5 percent for capital outlay purposes if approval is obtained by referendum. This surtax may take effect on the first day of any month, but may not take effect until at least 60 days after the date of approval by the electors. The resolution providing for imposition of the surtax shall set forth a plan for use of the proceeds for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses that have a useful life expectancy of five or more years. The plan shall address any land acquisition, land improvement, design, and related engineering costs. Additionally, the plan shall include the costs of retrofitting and providing for technology implementation, including hardware and software, for the various sites within the school district.

Surtax revenues may be used for the purpose of servicing bond indebtedness to finance authorized projects and any interest that accrues thereto may be held in trust to finance such projects. Neither the proceeds of the surtax nor any interest accrued thereto shall be used for operational expenses.

Any school district imposing the surtax must implement a freeze on noncapital local school property taxes at the millage rate imposed in the year prior to the implementation of the surtax, for a period of at least three years from the date of imposition of the surtax. This provision does not apply to existing debt service or required state taxes. The Department of Revenue distributes the surtax revenue to the school board imposing the tax.

## **PROPERTY TAX REFORM**

Committee Substitute for Senate Joint Resolution 2-D enacted in 2007 Special Legislative Session D gives voters the opportunity to amend the Florida Constitution to provide property tax exemptions and assessment limitations for homestead and non-homestead property. For homestead property the amendment provides an additional \$25,000 homestead exemption and allows portability of the Save Our Homes assessment differential. For non-homestead property the amendment provides a \$25,000 exemption for tangible personal property and creates a 10 percent limit on annual assessment increases.

- The amendment provides an additional \$25,000 homestead exemption for the assessed value of homestead property above \$50,000, effective January 1, 2008. This exemption does not apply to school taxes.
- With portability, homestead property owners are allowed to transfer their Save Our Homes benefit (up to \$500,000) to a new homestead within two years of giving up their previous homestead. If the just value of the new homestead is more than the previous home's just value, the entire differential up to \$500,000 can be transferred; if the new homestead has a lower just value, the amount of the accumulated benefit that may be transferred is proportional to the value of the new homestead, and is capped at \$500,000. (For those who gave up their homestead in 2007 before the amendment was passed, the

differential may be transferred if they apply for a new homestead January 1, 2008 or January 1, 2009.) This provision applies to all taxes.

- A \$25,000 exemption is provided for each tangible personal property return. This provision applies to all taxes and is effective January 1, 2008.
- Non-homestead property will have a 10 percent assessment cap (similar to the Save Our Homes limitation) but the cap will apply only to non-school levies. The 10 percent cap will sunset after 10 years, unless re-approved by the voters. Most residential property will be reassessed at just value when it is sold; commercial property and residential properties with 10 or more units will be reassessed after a significant improvement or sale. The legislature may provide that commercial and large residential property is not reassessed upon sale. This provision will not take effect until the 2009 tax roll. This provision does not apply to school taxes.

If approved by the electors, the double homestead exemption, portability and \$25,000 exemption for tangible personal property take effect January 1, 2008. The assessment limitation for non-homestead property will apply to assessments beginning January 1, 2009.

Should the amendment pass, for 2008-09 the impact on school district local property tax revenue is estimated to be a loss of \$204 million. The 5-year impact from 2008-09 to 2012-13 on school district local revenue is estimated to be \$2,757 billion.

### **CLASS SIZE REDUCTION**

In November 2002, Article IX, Section 1, Florida Constitution, was amended to read:

Section 1. Public Education. –

The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require. To assure that children attending public schools obtain a high quality education, the legislature shall make adequate provision to ensure that, by the beginning of the 2010 school year, there are a sufficient number of classrooms so that:

1. The maximum number of students who are assigned to each teacher who is teaching in public school classrooms for prekindergarten through grade 3 does not exceed 18 students;

2. The maximum number of students who are assigned to each teacher who is teaching in public school classrooms for grades 4 through 8 does not exceed 22 students;  
and

3. The maximum number of students who are assigned to each teacher who is teaching in public school classrooms for grades 9 through 12 does not exceed 25 students.

4. The class size requirements of this subsection do not apply to extracurricular classes. Payment of the costs associated with reducing class size to meet these requirements is the responsibility of the state and not of local school districts. Beginning with the 2003-2004 fiscal year, the legislature shall provide sufficient funds to reduce the average number of students in each classroom by at least two students per year until the maximum number of students per classroom does not exceed the requirements of this subsection.

**Class Size Amendment – Figures.** Due to the lack of available scientific data, the drafters of the Constitutional amendment on class size reviewed reports available at the time including: Keeping The Promise to Our Children: The Principles, Process, and Policies That Should Guide Florida In Implementing Amendment 9 by Florida’s Coalition to Reduce Class Size & People For the American Way; and “The Crisis,” an introduction to: An Urgent Crisis, An Effective, Affordable Remedy, September 2002, People For the American Way and the Coalition to Reduce Class Size. The drafters used these reports to approximate Florida’s class size limits found in the Constitution of Florida.<sup>66</sup>

**History.** As indicated above, in November 2002, the voters amended the Florida Constitution to establish, by the beginning of the 2010-2011 school year, the maximum number of students in core-curricula courses assigned to a teacher in each of the following three grade groups:

- 18 students in prekindergarten through grade 3.
- 22 students in grades 4 through 8
- 25 students in grades 9 through 12

Section 1003.03(2), Florida Statutes, Implements the Constitutional Amendment by establishing measures for compliance,

- Establishes a baseline based on data from the February 2003 student membership survey.
- Establishes a method of measuring compliance and schedule for implementation.
- Establishes requirements of those districts found to be non-compliant.

The implementation schedule created by s. 1003.03, F.S., requires:

- Compliance with class size reduction requirements to be measured at the district-level during the 2003-2004, 2004-2005, and 2005-2006 school years.
- Charter schools were not included in the district averages for these school years.

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<sup>66</sup> TBRC staff telephone conversation with Mark Herron, Counsel for Coalition to ReduceClassSize on November 28, 2007.

- Beginning with the 2006–2007 school year, progress toward class-size reduction will be measured at the school-level for traditional public schools and charter schools.
- To be in compliance, the school-level average of a school must meet the class size caps by grade groups – that is, 18 students in grades K-3; 22 students in grades 4-8; and 25 students in grades 9-12.
- A school that does not meet the Constitutional caps may be in compliance if it has a two-student reduction from the previous year.

The 2005 Legislature amended the class size requirements to authorize and encourage districts to use the following measures to comply with the class size reduction requirements:

- Encourage qualified students to take dual enrollment courses.
- Encourage students to take courses from the Florida Virtual School.
- Repeal district school board policies that require students to have more than 24 credits to graduate from high school.
- Adopt policies to allow students to graduate from high school as soon as they pass the grade 10 FCAT and complete the courses required for high school graduation.
- Use methods to maximize use of instructional staff, such as changing required teaching loads and scheduling of planning periods, deploying district employees that have professional certification to the classroom, using adjunct educators, or any other method not prohibited by law.
- Use innovative methods to reduce the cost of school construction by using prototype school designs, using SMART Schools designs, participating in the School Infrastructure Thrift Program, or any other method not prohibited by law. Use joint-use facilities through partnerships with community colleges, state universities, and private colleges and universities.
- Adopt alternative methods of class scheduling, such as block scheduling.
- Redraw school attendance zones to maximize use of facilities while minimizing the additional use of transportation.
- Operate schools beyond the normal operating hours to provide classes in the evening or operate more than one session of school during the day.
- Use year-round schools and other nontraditional calendars that do not adversely impact annual assessment of student achievement.
- Review and consider amending any collective bargaining contracts that hinder the implementation of class size reduction.
- Use any other approach not prohibited by law.

During both the 2005 and 2006 legislative sessions, joint resolutions were introduced which would have placed the constitutional amendment back on the ballot for voter consideration of changes to measure compliance at the school district class size average. Both Legislatures failed to pass a joint resolution.

**Accountability.** Accountability is a significant part of the class size reduction requirements:

Beginning in the 2005-2006 school year, the Department of Education must determine and report to the Legislature by January 1 of each year which districts have not met the two-student-per-year reduction by comparing the October survey for the current school year and the February 2003 baseline.

Districts that have not met the two-student-per-year reduction will be required to implement one of the following policies in the subsequent school year unless the department finds that the district comes into compliance based upon the February student membership survey:

1. Year-round schools;
2. Double sessions;
3. Rezoning; or
4. Maximizing use of instructional staff by:
  - changing required teacher loads and scheduling of planning periods;
  - deploying school district employees who have professional certification to the classroom,
  - using adjunct educators,
  - operating schools beyond the normal operating hours to provide classes in the evening, or operating more than one session during the day.

A school district that is required to implement one of the policies outlined previously must correct in the year of implementation any past deficiencies and bring the district into compliance with the two-student-per-year reduction.

Beginning in the 2006-2007 school year, the department annually must determine which districts do not meet the requirements. The statute authorizes the department to reevaluate these findings based upon the February student membership survey and the other accountability policies listed. The department then has enforcement authority, including a funds transfer and a required compliance plan.

For districts that are not in compliance after reevaluation, the Department of Education is to develop a constitutional compliance plan for each district that is not in compliance. This plan includes redrawing school attendance zones to maximize use of facilities while minimizing the additional use of transportation. Each district school board shall implement the constitutional compliance plan developed by the state board until the district complies with the constitutional class size maximums.

**Appeals, compliance plans, and transfer calculations.** After the Department of Education determines which districts do not meet the class size reduction requirements, the districts may appeal those findings. The appeals may be based on three factors:

- Unexpected student growth

- Teachers hired after October 2006 student membership survey
- District reporting errors

Only after the appeal process is complete does the department implement the fiscal transfer of funds from the district operating category to fixed capital outlay. The appeals process begins after the final class size averages are calculated in late November. Following is the schedule for the 2006-2007 school year.

- **November 29** – Districts and Charter Schools received October 2006 school-level class size averages and appeals process begins.
- **December 26** - Districts and charter schools notified of the proposed transfer calculation.
- **January 2** - Deadline for submission of appeal and supporting documentation.
- **January 3 - February 10** - Review of appeals.
- **February 20** - State Board of Education meeting for final determination of transfer calculation.
- **February 22** - Legislative Budget Commission meeting for final approval of transfer calculation.

The chart below shows the history of the appeals process. The significant difference noted in 2006-2007 is because, in that year, class size is calculated at the school level, not the district level. Only 24 districts had any of their traditional public schools or charter schools out of compliance after appeals.

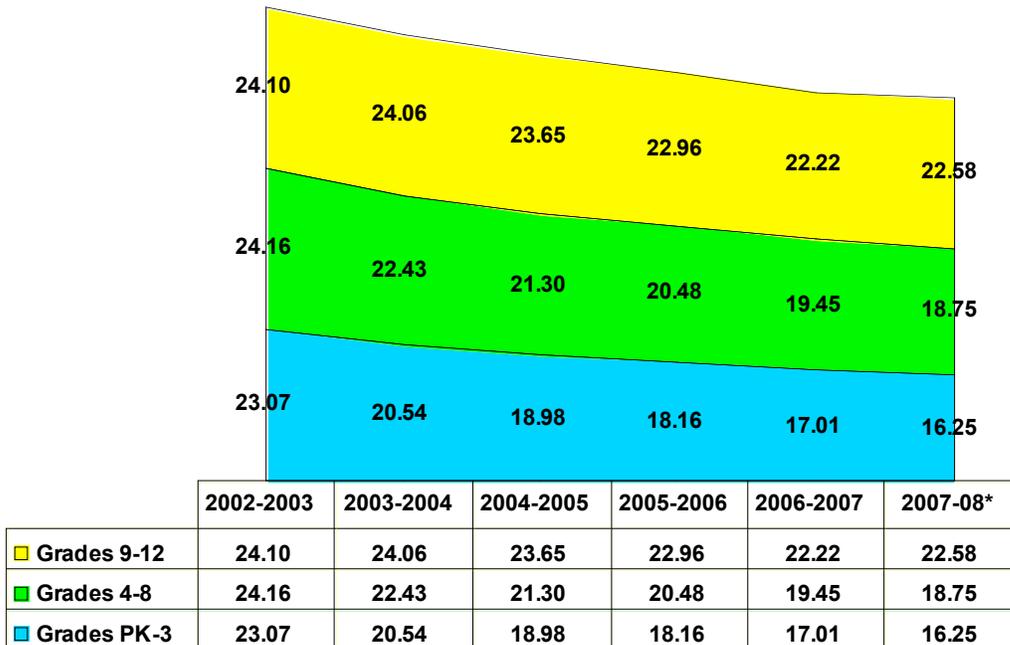
	<b>Number of Districts Not in Compliance – Pre-Appeals</b>	<b>Number of Districts Not in Compliance – Post-Appeals</b>
<b>2003-04</b>	17	8
<b>2004-05</b>	18	9
<b>2005-06</b>	3	1
<b>2006-07</b>	42 Districts – 177 Traditional Public Schools 88 Charter Schools	24 Districts – 86 Traditional Public Schools 49 Charter Schools

The chart below shows the results of the first round of appeals in 2006-2007. After appeals, the transfer calculation was less than 37 percent of the calculation prior to appeals:

	<b>Transfer Calculation Prior to Appeals</b>	<b>Transfer Calculation Following Appeals</b>
<b>PK-Grade 3</b>	\$6,649,287	\$3,191,991
<b>Grades 4-8</b>	\$5,162,829	\$1,870,210
<b>Grades 9-12</b>	\$2,856,222	\$328,720
<b>Total</b>	\$14,668,338	\$5,318,921

**Progress.** School districts are making progress toward meeting the class size reduction requirements. The state-wide district averages in 2007-08 are preliminary, but they demonstrate significant progress since 2002-2003. As the graph below shows, the average class size in 2007-2008 is 16.25 in grades pre-Kindergarten through grade-3, 18.75 in grades 4-8, and 22.58 in grades 9-12.

**Trends In Class Size Reduction – Updated with Preliminary 2007-2008 Averages**

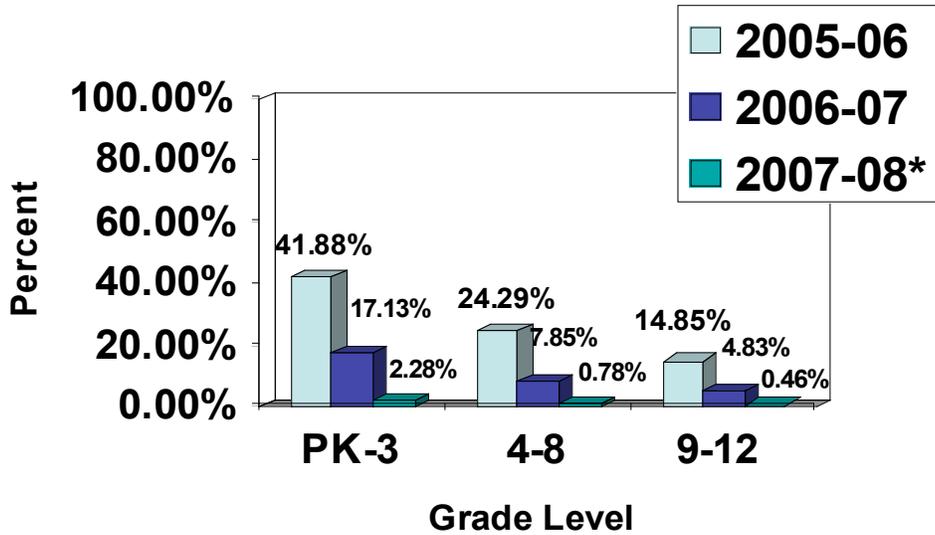


**Traditional Public Schools Progress.** The graph below demonstrates the progress made by traditional public schools since 2005-2006. The percentage of schools over the class size cap has decreased in every year (note that the data for 2007-2008 are preliminary):

- For pre-kindergarten – grade 3, the percentage has fallen from 41.88 percent in 2005-06 to 2.28 percent in 2007-08.
- For Grades 4-8, the percentage has fallen from 24.29 percent in 2005-06 to 0.78 percent in 2007-08.
- For Grade 9-12, the percentage has fallen from 14.85 percent in 2005-06 to 0.46 percent to 2007-08.

**Number of Schools Over Class Size Cap**

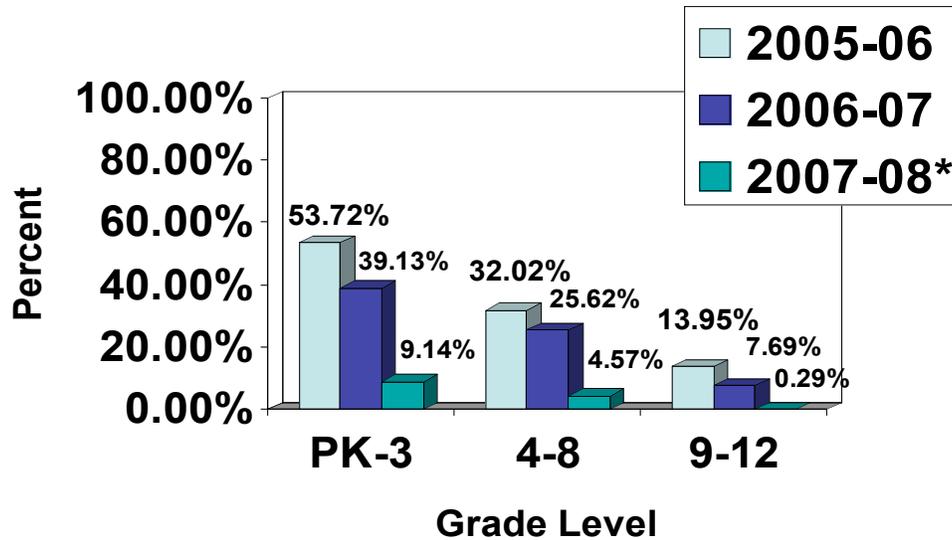
**Traditional Schools**



**Charter Schools Progress.** The graph below shows that charter schools are making similar progress, although not as many charter schools are in compliance as are traditional public schools. The 2007-2008 data are preliminary, as of November 2, 2007.

### Number of Schools Over Class Size Cap

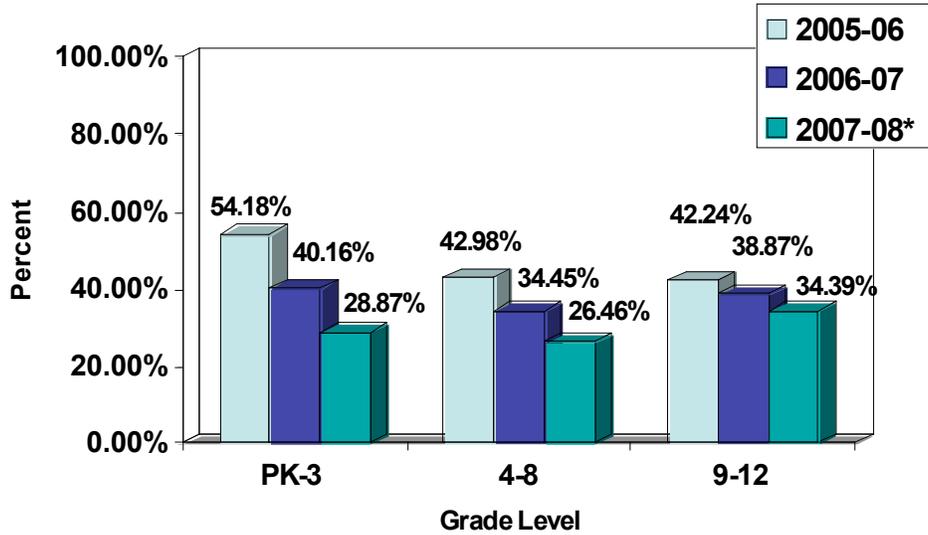
#### Charter Schools



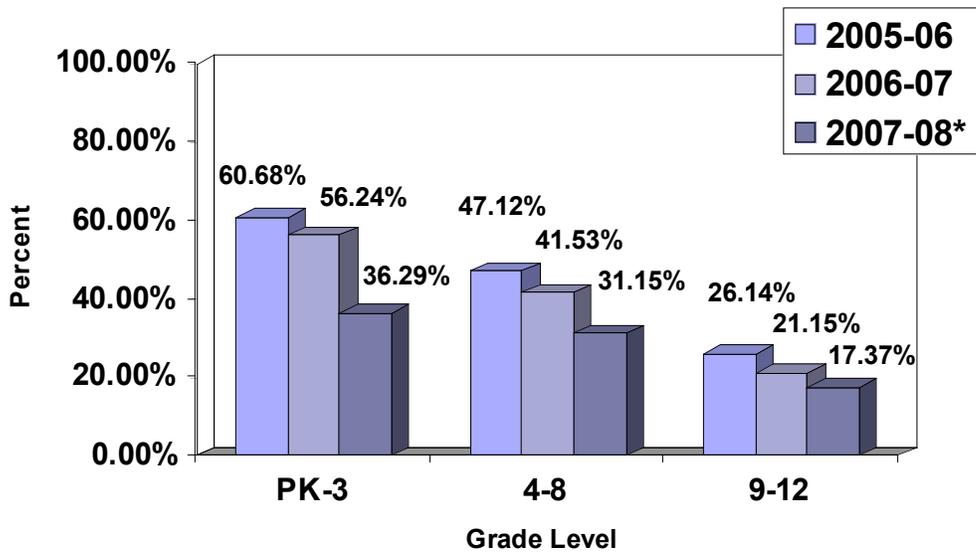
- For PK-3, the percentage over the cap has fallen from 53.72 percent in 2005-06 to 9.14 percent in 2007-08.
- For Grades 4-8, the percentage has fallen from 32.02 percent in 2005-06 to 4.57 percent in 2007-08.
- For Grade 9-12, the percentage has fallen from 13.95 percent in 2005-06 to 0.29 percent in 2007-08.

The graph below shows the number of classrooms by grade groupings that exceeded the class size cap. The 2007-2008 data are preliminary, as of November 2, 2007.

### Number of Classrooms Over Class Size Cap Traditional Schools



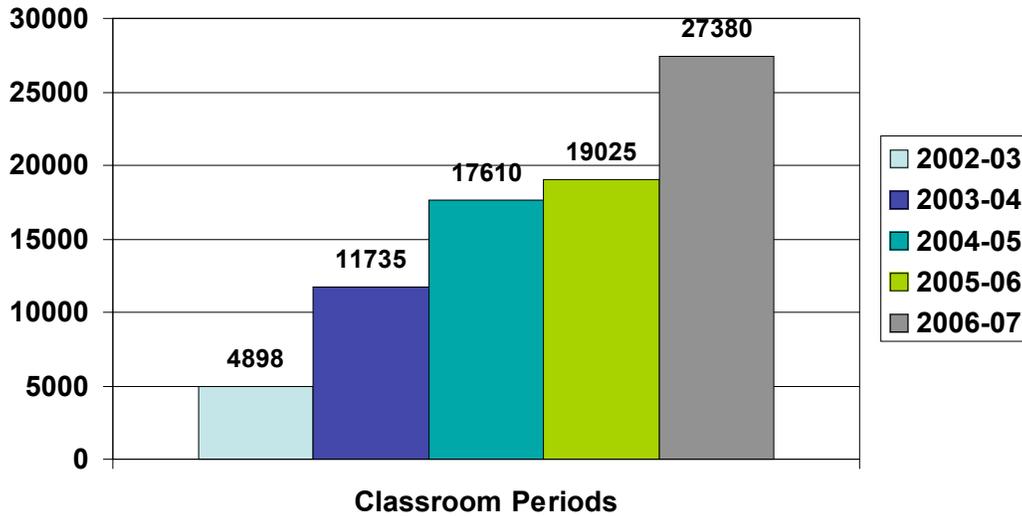
### Number of Classrooms Over Class Size Cap Charter Schools



\*Preliminary counts based on class size processing as of 11/02/07

The school districts have initiated a number of strategies recommended by the Legislature to comply with the class size reduction requirements. The graph below shows that the number of classrooms reported as having more than one teacher assigned to the students in that classroom has increased, but the number is still only a fraction of the total number of classrooms in Florida's public schools.

**Implementation Strategies – Team Teaching**



**Cost of Implementing the Class Size Reduction Requirements.** In the chart below, the amounts reflected for 2003-04 through 2007-08 are actual operating and fixed capital outlay costs for class size reduction. The 2008-09 amounts represent the funding requested in the Department of Education's 2008-09 Legislative Budget Request.

	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	8 Yr Total
2003/04	468,198,634	468,198,634	468,198,634	468,198,634	468,198,634	468,198,634	468,198,634	468,198,634	3,745,589,072
2004/05		503,992,582	503,992,582	503,992,582	503,992,582	503,992,582	503,992,582	503,992,582	3,527,948,074
2005/06			535,008,480	535,008,480	535,008,480	535,008,480	535,008,480	535,008,480	3,210,050,880
2006/07				601,329,648	601,329,648	601,329,648	601,329,648	601,329,648	3,006,648,240
2007/08					599,882,664	599,882,664	599,882,664	599,882,664	2,399,530,656
2008/09						614,739,485	614,739,485	614,739,485	1,844,218,445
2009/10							645,261,868	645,261,868	1,290,523,736
2010/11								704,640,635	704,640,635
<b>Operating Costs</b>	468,198,634	972,191,216	1,507,199,696	2,108,529,344	2,708,412,008	3,323,151,493	3,968,413,361	4,673,053,996	<b>19,729,149,748</b>
<b>FCO Costs</b>	600,000,000	100,000,000	83,400,000	1,100,000,000	650,000,000	514,559,727	0	0	<b>3,047,959,727</b>
<b>TOTAL to Implement</b>	1,068,198,634	1,072,191,216	1,590,599,696	3,208,529,344	3,358,412,008	3,837,711,220	3,968,413,361	4,673,053,996	<b>22,777,109,475</b>

**Class Size Research.** The issue of smaller class sizes is seen by many as an “elixir” that will, by itself, increase student achievement.<sup>67</sup> Unfortunately, this is not the case. The

<sup>67</sup> Finn and Petrilli (1998). “The Elixir of Class Size.”

issue has been studied extensively, and the majority of studies conclude that there is little to no benefit in reducing class size, except at the earliest elementary grades.

In a meta-analysis of 277 studies that examined class size and student outcomes, 72 percent found no relationship between class size and achievement. However, while 15 percent indicated that class size produced higher achievement, a nearly equal amount, 13 percent, showed that achievement actually *decreased* when class sizes were made smaller.<sup>68</sup> The reason for this is clear: Requiring more teachers means that schools must be less selective with the teachers they hire, so as more teachers are needed, the overall quality of instruction goes down.

This can be seen in international comparisons. Singapore and South Korea, countries whose students regularly outperform those in the United States in math and science, have average class sizes of 35 and 53, respectively,<sup>69</sup> compared to a U.S. average of 21.1 at the elementary level and 23.6 at the secondary level.<sup>70</sup> In a study of international class sizes at the secondary level and academic achievement, researchers from Harvard and Munich found that “in general, the countries with the smallest classes tended to be the worst performers....In 11 of the 18 nations [studied]...students in larger classes perform significantly better than students in smaller classes.”<sup>71</sup> Some countries place a higher value on the quality of teachers as opposed to having smaller class sizes, and these countries also tend to group students by ability, thus narrowing the range of abilities that the teacher has to teach.<sup>72</sup>

Referring to South Korea and Singapore, the authors concluded: “Both countries recognize that while class size has relatively little impact on the quality of student outcomes, teacher quality does.”<sup>73</sup> As a result, teacher salaries and teacher status are higher in those countries. For example, South Korea has doubled teacher salaries over time, while maintaining the same overall funding.<sup>74</sup> “While differences in cultures may play a role, authors of the report did not address this issue specifically. However, authors of the McKinsey report believe that “applying these best practices universally could have enormous imp [act in improving failing school systems, wherever they might be located.”<sup>75</sup>

The study most frequently cited as the reason for decreasing class sizes at the early elementary grades is Project STAR (Student/Teacher Achievement Ratio), which was conducted in Tennessee. Students were randomly assigned to smaller classes (13-17 students), regular classes (22-26 students) or regular classes with an aide. Students from

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<sup>68</sup> Hanushek (2003). “The Evidence on Class Size.”

<sup>69</sup> West and Woessmann (Summer 2003). “Crowd Control: Does reducing Class Size Work?” *Education Next*, vol. 3, no. 3.

<sup>70</sup> National Center for Education Statistics (July 2007).

<sup>71</sup> West and Woessmann (Summer 2003).

<sup>72</sup> Yecke (2003). *The War Against Excellence*.

<sup>73</sup> McKinsey (September 2007). “How the World’s Best-Performing School Systems Come Out on Top,” p. 21.

<sup>74</sup> *Ibid.*

<sup>75</sup> *Ibid.*

the smaller classes outperformed the others, and their higher achievement was statistically significant. Another key finding was that the achievement of minority students increased at a higher rate than other students, resulting in a narrowing of the achievement gap. Furthermore, the higher performance achieved by students in the smaller classes was sustained over time, and was still discernable when the students were in the middle school grades.<sup>76</sup>

The Education Commission of the States estimates that, nationwide, \$2.3 billion was spent on reducing class size during the 1999–00 school year alone.<sup>77</sup> As indicated above, Florida’s constitutional amendment has resulted in state spending of more than \$10 billion over during the past 5 years to reduce class size.

### **AFFECT OF THE IMPLEMENTATION OF CLASS SIZE REDUCTION ON THE QUALITY OF FLORIDA’S TEACHING WORKFORCE**

Florida’s need for teachers is expressed in both quantity and quality. To help address quantity, the Office of Evaluation and Reporting annually issues a *Teacher Projections* report<sup>78</sup>, which provides the best estimates of the quantity of classroom teachers, including both the number of instructional staff the state is expected to need overall and the number needed to fill positions that will be vacant in the coming school year and several years out. These projections are used as the foundation for other reports and calculations, such as the determination of the statewide critical teacher shortage areas, and for use in assisting the Department in planning for the types of recruitment, development, and retention activities to undertake. Key factors that affect the calculation of projected vacancies include production of teachers by Florida colleges of education, rates of termination of existing teachers (including terminations for voluntary reasons such as retirement and involuntary reasons such as dismissal), growth in student population, and affects of the implementation of the class size amendment.

The chart below excerpted from the February 2007 report shows the actual number of classroom teachers in the state of Florida through the 2006-07 school year (168,181) and the projected numbers of teachers the state will need beginning with the 2007-08 school year.<sup>79</sup>

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<sup>76</sup> Word, Johnston, Fulton, Zaharias, Achilles Lintz, Folger and Breda (1990). *The State of Tennessee’s Student/Teacher Achievement Ratio (STAR) Project: Final Summary Report 1985-1990*.

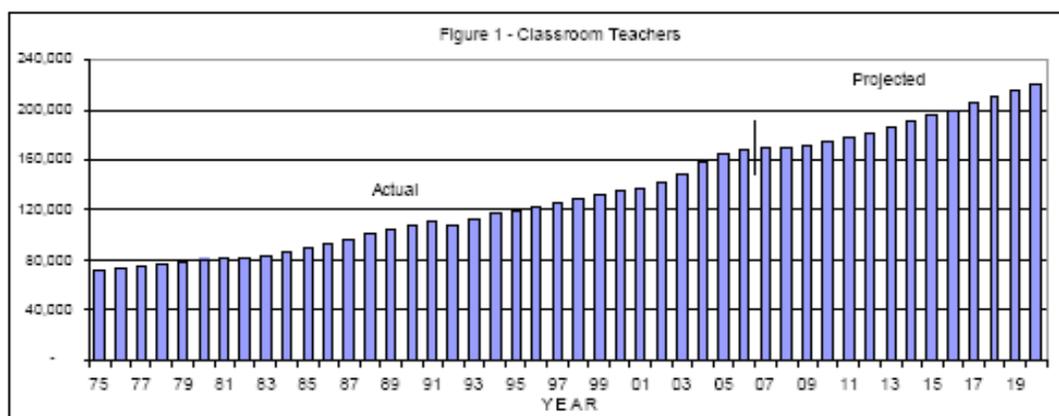
<sup>77</sup> West and Woessmann (Summer 2003).

<sup>78</sup> Data Source: Office of Evaluation and Reporting, *Projected Number of Teachers Needed, Florida Public Schools*, February 2007.

<sup>79</sup> *Ibid*, page 4.

Table 1  
Trends in the Number of Classroom Teachers - Florida Public Schools

Fall	Actual			Fall	Actual			Fall	Projected		
	Number	Diff	% Diff		Number	Diff	% Diff		Number	Diff	% Diff
75	72,736			91	109,939	5,812	5.6	07	169,012	631	0.5
76	73,509	773	1.1	92	107,590	(2,349)	-2.1	08	169,997	985	0.6
77	74,908	1,399	1.9	93	112,130	4,540	4.2	09	171,860	1,863	1.1
78	76,277	1,369	1.8	94	116,785	4,655	4.2	10	174,555	2,695	1.6
79	77,321	1,044	1.4	95	119,388	2,603	2.2	11	177,342	2,787	1.6
80	80,285	2,964	3.8	96	122,392	3,004	2.5	12	181,636	4,294	2.4
81	81,291	1,006	1.3	97	126,397	4,005	3.3	13	185,922	4,286	2.4
82	82,008	717	0.9	98	129,731	3,334	2.6	14	190,560	4,638	2.5
83	82,928	920	1.1	99	132,521	2,790	2.2	15	195,274	4,714	2.5
84	86,264	3,336	4.0	00	134,508	1,987	1.5	16	200,176	4,902	2.5
85	86,973	2,709	3.1	01	136,886	2,378	1.8	17	205,209	5,033	2.5
86	91,969	2,996	3.4	02	141,003	4,117	3.0	18	210,261	5,072	2.5
87	95,857	3,888	4.2	03	147,955	6,952	4.9	19	215,418	5,137	2.4
88	100,370	4,513	4.7	04	158,624	10,669	7.2	20	220,478	5,060	2.3
89	104,127	3,757	3.7	05	164,665	6,041	3.8				
90	108,068	3,951	3.8	06	168,181	3,516	2.1				



This figure includes 70,923 elementary teachers (defined in the report as teachers in Prekindergarten, K-5 or 6) and 63,641 secondary teachers (defined as teachers in grades 6-12) and 25,888 exceptional student education teachers.<sup>80</sup>

In the *February 2007 Projections* report, it is anticipated that, for 2007-08, school districts in the state would need to fill about 16,878 positions with new classroom teachers. Within this overall number, the following certification areas drew the highest figures:

Elementary Education	5,794	*Science	1,014
*Exceptional Student Ed.	2,301	Social Studies	910
*Math	1,193	*Reading	903
English/Language Arts	1,081	*ESOL	257

The certification areas marked with an asterisk (\*) are included on the state critical shortage list, illustrating the complexity in defining “high need” subject areas. It should be noted that while elementary education represents the largest portion of graduates of initial teacher preparation programs, the number of elementary education teachers needed to fill vacancies has increased since the initiation of the class size amendment.

<sup>80</sup> Bureau of Education Information and Accountability Services, *Staff in Florida’s Public Schools Fall 2006*, January 2007, page 4.

The projected need for 2007-08 was significantly lower than for 2006-07, the first year that the class size amendment was implemented at the school level. This drop in need (although 17,000 is still a large number of effective teachers to find) was due to a large and unforeseen drop in population increase and, in some part, due to districts doing a better job than even they anticipated in meeting class size reduction requirements. The Department instituted a number of significant recruitment efforts both in the state and around the nation, many of which were targeted at critical shortage areas, and all of which were based on input from school district recruiters. Many of these were continued leading up to 2007-08. Coupled with improved local efforts at recruiting qualified candidates, vacancy numbers have dropped from the first day of school each year in 2005-06 (2,101), 2006-07 (1,946), and 2007-08 (1,158).<sup>81</sup>

When looking at production of teachers in a state like Florida, where we have experienced a need for thousands of new teachers each year, it is important to understand that Florida's system is based on two key principles: maintaining high standards and recognizing options. Those principles drive both our certification structure (how individuals become certified) and our approval of teacher education programs (how individuals learn to teach). Florida has a two-tiered certification system, which provides for an individual to begin teaching under a non-renewable Temporary Certificate by demonstrating subject matter knowledge, during which time professional education and examinations are completed for the Professional Certificate. (Note: The Temporary Certificate fully meets NCLB requirements for state certification under the definition of highly qualified teacher.) For a brief description of all of Florida's pathways to certification, please see the attached document.

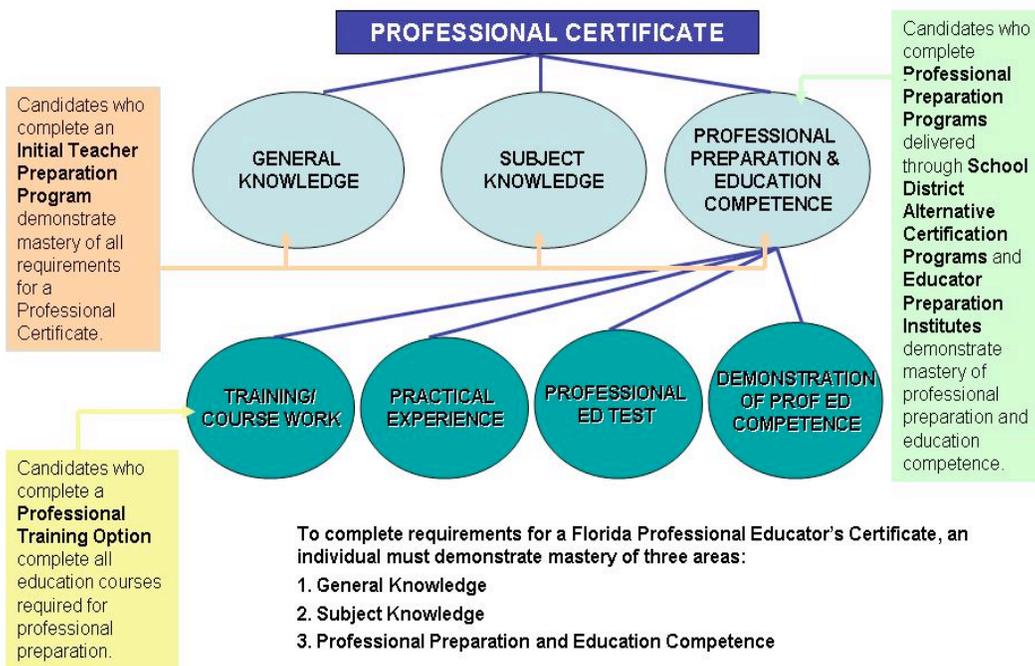
Again, under the same guiding principles, The Florida Legislature and State Board of Education have provided for multiple types of programs designed to prepare teachers for Florida classrooms. These include:

- Initial Teacher Preparation Programs (s. 1004.04, F.S.)
- Professional Preparation Programs offered through
  - Educator Preparation Institutes (s. 1004.85, F.S.)
  - District Alternative Certification Programs (s. 1012.56, F.S.)
- The Professional Training Option (Rule 6A-5.066, F.A.C.).

These programs are all approved by the Department of Education based on the regulations cited above and are designed to provide candidates from different backgrounds with routes through which they can meet the preparation requirements for issuance of a Florida Professional Educator's Certificate in the area they wish to teach. The diagram below illustrates the relationship between the types of approved teacher preparation programs and the certification process.

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<sup>81</sup> Data Source: Bureau of Educator Recruitment, Development and Retention's annual district recruiter survey.



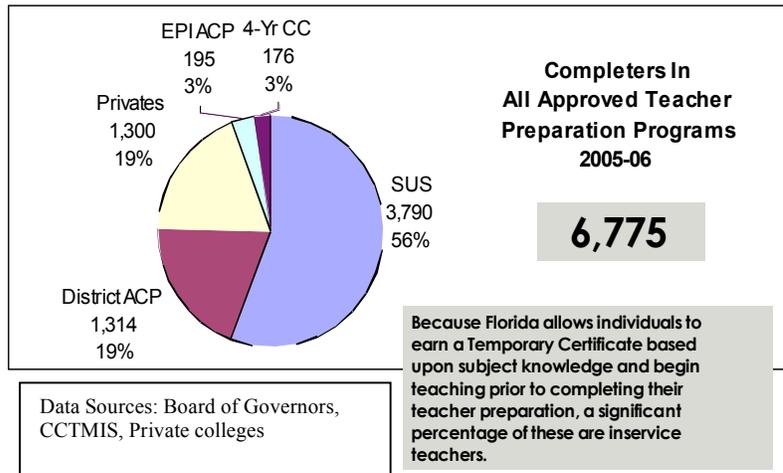
*Sections 1004.04, 1004.85, and 1012.56, Florida Statutes*

Initial Teacher Preparation Programs are those that typically terminate in a bachelor's or master's degree in education. However, what distinguishes these program completers is that they have completed a program that is fully approved by the state in their subject area(s) and will qualify for a Professional Certification upon program completion. There are over 400 Initial Teacher Preparation Programs offered by 38 Florida state universities, independent colleges, and community colleges (those authorized to offer bachelor's degrees). Institutions who offer an Initial Teacher Preparation Program are also authorized to offer the Professional Training option (many times offered as a minor in education) to degree seekers outside of the college of education or as a post-baccalaureate program of study.

To enroll in a Professional Preparation Program, an individual must already hold a bachelor's degree. These programs were conceived to help primarily with critical shortage areas in secondary education where a content major in the areas of arts and sciences could be paired with intense competency-based training to move teachers into the classroom more quickly with the tools they need to become effective. These programs are referred to as "alternative certification" programs and are provided through approved Educator Preparation Institutes at 26 community colleges and 4 state universities and delivered by all of Florida's school districts.

Only teachers employed by the school district and who hold a Temporary Certificate may enroll in the district’s professional preparation programs. Over half of the participants in Educator Preparation Institutes are currently employed teachers and a large number of

## Comparison of All Programs



individuals enrolled in initial teacher preparation programs are not first year teachers at the time of completion. Therefore, Florida colleges of education and Educator Preparation Institutes not only contribute potential new teachers to fill vacancies in Florida, but they also respond to the needs of early career teachers by providing them the means to complete their teacher preparation and

retain them in the classroom while they work toward earning a Florida Professional Certificate.

In each of the last four years for which data have been collected<sup>82</sup>, nearly 30 percent of the 20,000+ first-time certificates issued to Florida teachers were to those who used a standard certificate or teacher preparation program from another state to meet certification requirements in Florida, and about 20 presented credentials from a Florida initial teacher preparation program. It is important to note that professional preparation programs offered by school districts were only authorized statewide in 2002 and the first Educator Preparation Institutes were approved in 2005. Each year, however, the number of program participants and completers of these new programs increases.<sup>83</sup> Time will determine whether more flexible regulations passed in 2006 for Initial Teacher Preparation Programs, the first of which were officially approved in Florida in the 1960s, will foster innovation and result in a positive trend line for completers of these programs.

Teacher retention is another key factor in responding to our need for teachers, and begins to point toward our need to have effective teachers. While there is growing evidence that the “qualifications” for becoming a teacher are not the best predictors for teacher effectiveness (effectiveness meaning the ability to improve achievement for all students), they are the gate keepers we have at the moment. Who we retain and how we develop teachers, once they are employed, is the next necessary step in effectively staffing our schools.

<sup>82</sup> Data Source: Bureau of Educator Certification Database, Florida Department of Education

<sup>83</sup> For a summary of statistics for each program type, see the PowerPoint presentation from the Florida State Board of Education’s Workshop on Teacher Supply and Demand, October 17, 2006, online at [http://www.fldoe.org/meetings/2006\\_10\\_17/TeacherStudy\\_Pres.pdf](http://www.fldoe.org/meetings/2006_10_17/TeacherStudy_Pres.pdf)

Florida has a nationally recognized system for Professional Development of teachers because of its focus on student needs and school improvement plans, and receives positive ratings from national associations for requiring an annual evaluation, the primary factor of which is the achievement of that teacher's students. We have also instituted a system for development of school leaders, a key factor in teacher retention in the William Cecil Golden Program that is being widely used around the state. Each of these accomplishments is significant, yet there is always more to do. Since the effectiveness of the teacher is the most important factor in student achievement, the study of teacher effectiveness is the most important work being done in education at the moment. We can learn more about the characteristics, the training, and the motivations of these teachers; because by unlocking this information meaningful educational decisions and public policy can be made in these areas that will drastically improve the learning of all of the students in our public schools.

Experts agree that a highly qualified teacher in every classroom is critical to providing our children with the best education possible. But in Florida, it's becoming increasingly difficult to recruit and retain quality teachers. Several studies on attracting and retaining high quality teachers have been conducted. The Brookings Institution's Hamilton Project Report is one of the most frequently referenced.

Over the last two decades, policymakers have fretted over the quality of elementary and secondary education in the United States. Worried that the public education system has become a constraint on future productivity growth and a root cause of income inequality, leaders have championed a succession of reforms—from test-based accountability to smaller class sizes. But, ultimately, the success of U.S. public education depends upon the skills of the 3.1 million teachers managing classrooms in elementary and secondary schools around the country.

Everything else—educational standards, testing, class size, greater accountability—is background, intended to support the crucial interactions between teachers and their students. Without the right people standing in front of the classroom, school reform is a futile exercise.

Traditionally, policymakers have attempted to raise the quality of the teaching force by raising the hurdles for those seeking to enter the profession. For instance, the federal No Child Left Behind Act requires all teachers of the core academic subjects to be “highly qualified”—with a minimum of a bachelor's degree, full state licensure and certification (generally requiring that teachers graduate from a teacher education program), and demonstrated subject-area competence (through completing academic coursework or passing a standardized test).

Once teachers are hired, however, school districts typically do very little additional screening. Tenure is awarded as a matter of course after two or three years of teaching. Very few teachers are involuntarily discharged from a school or school district. The very best teachers receive no financial incentives to go where they are needed most.

The current credential-centered regime is built upon two premises. The first premise is that the paper qualifications required for certification (passage of a standardized test and completion of a specified set of courses) are strongly related to a teacher's effectiveness. The second premise is that school districts learn nothing more about teachers' effectiveness after the initial hire.

A growing body of research, however, suggests that neither of these premises is valid. According to recent evidence, certification of teachers bears little relationship to teacher effectiveness (measured by impacts on student achievement). There are effective certified teachers and there are ineffective certified teachers; similarly, there are effective uncertified teachers and ineffective uncertified teachers. The differences between the stronger teachers and the weaker teachers only become clear once teachers have been in the classroom for a couple of years.

In response to this evidence, the Brookings Institute's proposal aims to improve average teacher effectiveness by increasing the inflow of new teachers and requiring minimum demonstrated competency on the job (rather than relying solely on screens at the point of hiring). It also aims to alter the *distribution* of high-performing teachers by encouraging more of the most effective teachers to work in high-poverty schools.

Moreover, by removing barriers to entering the teaching profession, the institute's proposal would enable many people interested in pursuing teaching as a second career (or as one of several careers) to become teachers. This is particularly important at a time when our nation faces a looming teacher shortage because a large number of our nation's teachers are nearing retirement.

These policies require consistent and reliable measurement of teacher performance. States and districts will need funding and technical support to build the requisite data infrastructure if these policies are to succeed. This infrastructure will not only make decisions about tenure and pay easier, but will also help identify which teachers need help, which teachers are succeeding and should serve as mentors to others, and which teaching approaches are proving most effective.

The Brookings Institution made the following five specific recommendations in their 2006 Hamilton Report:

*Recommendation 1: Reduce the barriers to entry into teaching for those without traditional teacher certification.*

*Recommendation 2: Make it harder to promote the least effective teachers to tenured positions.*

*Recommendation 3: Provide bonuses to highly effective teachers willing to teach in schools with a high proportion of low-income students.*

*Recommendation 4: Evaluate individual teachers using various measures of teacher performance on the job.*

*Recommendation 5: Provide federal grants to help states that link student performance with the effectiveness of individual teachers over time.*

The Brookings Institution's Hamilton Report makes proposals for tenure and pay representing significant departures from traditional practices. The report recommends that the federal government should initially fund implementation of these more controversial measures in up to ten states. Those efforts should be carefully evaluated and adjusted based on their record. If the concepts prove sound, then with adjustments based on experience, these proposals should be implemented nationally. CEPRI report, *Impact of the Class Size Amendment on the Quality of Education in Florida*, November 2005. [www.brookings.edu/views/papers/200604hamilton\\_1.pdf](http://www.brookings.edu/views/papers/200604hamilton_1.pdf).

The Teaching Commission's Final Report, "Teaching at Risk: Progress and Potholes" discusses the teacher profession and makes recommendations for improvement. While the United States makes positive strides in education through the No Child Left Behind law; it is evident that its students still lag behind other nations.

In order to change this trend the Teaching Commission recommends the following: 1) transforming how teachers are paid; 2) revamping teacher education programs; 3) improving or overhauling licensing and certification requirements; and 4) giving school leaders more authority and holding them more responsible for the development of their staff.<sup>84</sup>

**Transforming How Teachers Are Paid.** Compensating teachers based years of experience does not attract and retain the best and brightest to the classroom. Therefore, the Teacher Commission recommends flexible, responsive systems that recognize and reward excellence through compensation. This should be accomplished through the following requirements:

- use both objective and subjective measures to evaluate performance;
- utilize valid and objective measures of student learning gains;
- contain an evaluation by supervisors and/or peers;
- include teachers in development of plan structure;
- have reliable funding sources; generate a system in which teachers can gain status and responsibility; and,
- incorporate differentiated pay, which includes rewards for teachers to serve in difficult to staff positions.

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<sup>84</sup> *Teaching at Risk: Progress and Potholes*, The Teaching Commission, Spring, 2006. [http://www.nctq.org/nctq/images/ttc\\_teachingatrisk.pdf](http://www.nctq.org/nctq/images/ttc_teachingatrisk.pdf)

**Reinventing Teacher Preparation.** The Teaching Commission states that teachers are not prepared with enough knowledge and skills to teach students and help them reach the levels necessary. The Teaching Commission recommends that states track the effectiveness of the graduates of the preparation programs. In addition, it suggests that teacher preparation programs recruit outstanding arts and science students to enter the teaching profession.

**Overhauling Licensing and Certification.** The Teaching Commission believes that certification and licensing should be less cumbersome and confusing while allowing individuals to become licensed who are not qualified by demonstrating subject-area knowledge. The recommendation of the Commission is to relax the bureaucratic requirements while raising standards for teachers. The Commission commends Teach For America, The New Teacher Project, Troops to Teachers and Transition to Teaching programs for their efforts to bring experts into the teaching profession. Virginia and Florida are given kudos for their reduction in the number of needless requirements for those entering the profession.

**Strengthening Leadership and Support.** In order to have the highest quality teachers in the nation's classrooms the school principal must have the freedom to hire and fire as well as provide the much-needed mentoring support. The Commission suggests that the teachers' unions often weaken prudent personnel decisions and that often low-performing teachers are transferred from school to school instead of being terminated.

The Teaching Commission recommends that the federal government, states, local districts, universities, teachers, businesses, parents, and journalists join forces with reformers such as National Council on Teacher Quality, the Broad Foundation, the Joyce Foundation, the Education Trust, the New Teacher Project, the Consortium for Policy Research in Education, and the Business Roundtable in reforming the teaching force in order to continue improvements in the profession.

## **PERFORMANCE PAY IN FLORIDA**

In 1998 the Florida legislature passed a statute requiring that districts base a portion of each teacher's salary on his/her performance appraisal, s.1012.22, F.S. Then in 2002 the legislature added the requirement that districts provide a 5% supplement to those individuals found to be outstanding based on their annual performance appraisal. This was to be part of the district's adopted salary schedule and there must be funds set aside for this purpose.

In a follow up study requested by the State Board of Education it was found that over time districts were providing fewer and fewer dollars as bonuses for outstanding performance.

2002-2003		2003-2004		2004-2004	
Instructional Personnel	Administrators	Instructional Personnel	Administrators	Instructional Personnel	Administrators
\$13,117,611	\$2,319,262	\$10,975,491	\$1,564,494	\$2,966,180	\$770,550

As a result of these findings the State Board of Education requested that the Department of Education develop a plan to ensure faithful implementation of statute. In reviewing other states' performance plan the Florida Department of Education began development of E-Comp (Effectiveness Compensation). The underlying principle of E-Comp was that performance pay is to teacher compensation as school accountability is to school recognition and ratings. It is necessary to move from an input-driven system which only considers years experience and training to an outcome driven system. This places the emphasis on what is valued – student learning. The implementation was intended to be incremental and would challenge the status quo. It was required that all districts would participate and the reward was to be based 50% on improved student learning and 50% on the individual's performance appraisal. The reward would be given to the top 10% of individuals in the school district and would include teachers of subjects assessed by the statewide assessment in the first year of implementation and all others included the following year.

In the 2006 legislative session, proviso language was included in the \$147.5 appropriation for Special Teachers are Rewarded (STAR) as a method for districts to receiving funding to implement s.1012.22, F.S. Districts were required to have a performance pay plan and must comply with proviso in order to access the appropriation. The plan must reward the top 25% of instructional personnel based in part by the improved student achievement and in equal part by the individual's performance appraisal.

In the following legislative session STAR was repealed and Merit Award Program took its place. Performance pay is no longer a requirement for school districts but must be implemented in order to receive funding of performance pay. The appropriation stated the same as the previous year and is to be provided to top-performing instructional personnel and school-based administrators. The determination is based in part (at least 60%) on student learning (proficiency, gains in learning, or both) and in part (40%) on a professional practices component outlined in the statute. Only twenty-seven districts (40% of the districts) submitted performance pay plans by the October 1 deadline.

### **NEW YORK CITY'S SCHOOLWIDE PERFORMANCE BONUS PROGRAM**

It is worth comparing the efforts at performance pay programs in Florida with some of the other attempts nationally in order to learn from their experiences and improve our efforts.

Recently, on October 17, 2007, New York City Mayor Michael Bloomberg, Education Chancellor Joel Klein, and UFT President Randi Weingarten announced a schoolwide

bonus plan to reward teachers at schools that raise student achievement.<sup>85</sup> Approximately 15 percent, or roughly 200, of the highest-need schools in New York City will be eligible to participate in the program, expanding to at least 30 percent, or roughly 400 schools, next year contingent on funding availability. While the 200 schools that serve the highest-needs populations will be invited to participate in the program, 55 percent of the UFT-represented staff at a school and the principal must vote to accept the offer in order to qualify for bonuses.

The schools participating in the program will be eligible to receive bonuses based on DOE Progress Report measures of student performance and progress. The criteria for awarding funds to schools will be determined by the DOE in consultation with the UFT and announced to schools at the start of the program. Criteria will be aligned with the two key Progress Report factors, student performance and progress. Entire schools – not just individual classrooms – must excel to be eligible for bonuses.

Each participating school will have a four member “compensation committee,” which will decide how to distribute the funds. Each school will receive enough money to give each full-time UFT educator \$3,000. While compensation committees could distribute the funds evenly to all UFT members, they could also differentiate those bonuses based on individual contributions. The compensation committee at each school will include the principal, a designee of the principal, and two UFT members chosen by the UFT members of the school. The committees’ work will reinforce the teamwork concept that is built into this program. Members of the committee must reach agreement on how to distribute the funds before any funds are sent to the school.

In its first year, participating educators will be eligible to receive about \$20 million in bonuses. These dollars are being raised privately and, so far, commitments have been made by The Eli and Edythe Broad Foundation, the Robertson Foundation, and the Partnership for New York City. The total amount distributed will be contingent on schools' results. In future years, this program will be publicly funded.

Although the New York City program has limited utility as a comparable, as it is limited in its scope by the total number of schools covered, the amount and source of funding, and it has just been announced, the New York City program is worth following in that it has one attribute that appears to have been lacking in the Florida programs – potential for teaching profession buy-in. It will be interesting to observe the support from the teaching profession, particularly the teachers’ union, as the New York City performance pay program seeks to progress and grow in the future.

## **TEACHER SALARIES**

The average salary paid to a Florida public school teacher in the 2006-07 school year was \$45,296. This represents an increase of \$2,594 (6.07 percent) over the average salary of \$42,702 for the 2005-06 school year. The figure below reflects the increases in average teacher salaries in Florida public schools over the past six years. There has been a gain of

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<sup>85</sup> Mayor Bloomberg Press Release (October 17, 2007) – [www.nyc.gov](http://www.nyc.gov).

\$7,066 since 2000-01, which represents an 18.48 percent increase over the seven-year period.

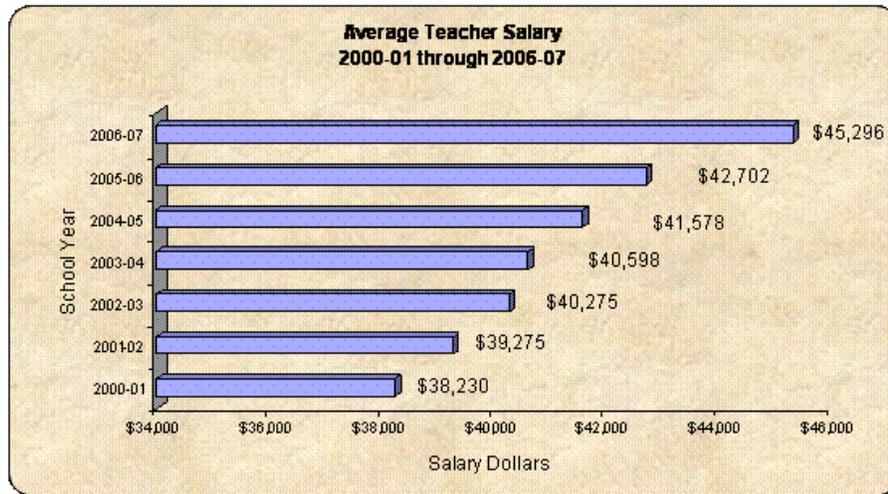


Table 1 shows the variation that exists in average teacher salaries for the 67 school districts. When considering all degrees, average salaries range from a low of \$33,732 for bachelor’s degrees in Union County to a high of \$71,845 for specialist degrees in Sarasota County, a difference of \$38,113.

**Table 1**  
**Lowest and Highest**  
**District Average Teacher\* Salary by Degree, 2006-07**

Degree Level	Lowest		Highest		Difference	
	Salary	District	Salary	District	Dollars	Percent
Bachelor's	33,732	Union	47,687	Monroe	13,955	41.37
Master's	38,757	Gadsden	56,731	Sarasota	17,974	46.38
Specialist	35,904	Lafayette	71,845	Sarasota	35,941	100.10
Doctorate	33,732	Gadsden	65,845	Okaloosa	32,113	95.20
All Degrees	35,489	Union	52,348	Sarasota	16,859	47.50

Table 2 shows a summary of the average teacher salary by degree level for a three-year period. In 2006-07, teachers with bachelor’s degrees had a 6.32 percent average increase in salary, teachers with master’s degrees received an average increase of 5.88 percent, teachers with specialist degrees received an average increase of 4.45 percent, and teachers with doctorate degrees received an average increase of 4.66 percent. The statewide average for all degrees rose 6.07 percent (\$2,594). Beginning with the 2001-02 school year, average teacher salaries for university laboratory schools are included if reported.

**Table 2\*\***

**Changes in Statewide Average Teacher\* Salary, 2004-05 through 2006-07**

				Difference in Statewide Average Salary			
Statewide Average Salary				2004-05 to 2005-06		2005-06 to 2006-07	
Level	2004-05	2005-06	2006-07	Dollars	Percent	Dollars	Percent
<b>Bachelor's</b>	\$38,516	\$39,492	\$41,989	\$976	2.53	\$2,497	6.32
<b>Master's</b>	\$45,678	\$47,006	\$49,771	\$1,328	2.91	\$2,765	5.88
<b>Specialist</b>	\$53,695	\$55,238	\$57,694	\$1,543	2.87	\$2,456	4.45
<b>Doctorate</b>	\$52,047	\$53,142	\$55,617	\$1,095	2.10	\$2,475	4.66
<b>All Degrees</b>	\$41,578	\$42,702	\$45,296	\$1,124	2.70	\$2,594	6.07

Valid and reliable comparisons of states' teacher salaries continue to elude statisticians and researchers across the country. Many factors contribute to the difficulties of a fair comparison of teacher pay among states and even within some states. The most common barriers include:

- Lack of national consensus on precise definitions that affect *average teacher salary*.
- Limitations of databases and reporting procedures for school districts.
- Variations in data compilation methods and reporting criteria used by current national publications that rank states' average teacher salaries.
- Lack of an accepted accounting for cost-of-living factors and tax assessments in the comparison of a teacher's market value.

Based on results obtained via the Florida Department of Education's 15-state review, several key inequities are evident in calculating comparisons of average teacher salary across the nation:

- States vary in their classification of educational personnel used to determine average teacher salary. Florida includes all instructional staff (classroom teachers, guidance counselors, social workers, career specialists, school psychologists, librarians/media specialists, and others). By comparison, Georgia and North Carolina include only classroom teachers when calculating average teacher salary.
- Of the states surveyed, 11 count teachers using the ratio of the actual hours worked to the hours expected in a full-time position. This ratio is usually called "full-time equivalent" or FTE.
- Of the states surveyed, 4 (Connecticut, Georgia, Kentucky, and Tennessee) include supplemental pay in their calculation of average teacher salary.

- Of the states surveyed, 7 (Georgia, Kentucky, Massachusetts, New York, North Carolina, South Carolina, and Tennessee) include bonuses in average teacher salary calculation.
- Of the states surveyed, 2 (Texas and Florida) do not have a state income tax. Tennessee has a limited state income tax.
- States differ in the age and other eligibility requirements for full retirement benefits. Florida and California are the only states that do not require teachers to contribute to retirement. By comparison, most states require teachers to contribute anywhere from 3 to 11 percent of their salaries towards retirement.
- Some states have a high percentage of teachers with master's degrees, which increases the state's average teacher salary.
- States with high student enrollment growth have a greater percentage of beginning teachers; beginning teacher salaries are well below a state's average teacher salary.

The most commonly known and used national publications that rank and compare state's average teacher salaries depend on data that are neither sufficient nor reliable to fairly compare average teacher salaries across states. Numerous issues surround the national rankings, the most problematic being the inconsistency in states' reporting methods. States submit different information, including base salary—which may or may not include bonuses, may or may not include supplements, and may or may not include fringe benefits—making it impossible to accurately discern how states truly compare.

Additionally, states differ in their definition of *teacher*. Some states include all instructional personnel, while other states include only classroom teachers. Furthermore, states use a wide variety of formulas to calculate their average teacher salary. Some states use a headcount of teachers while other states use an FTE. Some states include only full-time personnel, while others include part-time personnel as well. Some states include substitutes and itinerant teachers and others do not. Some states include only 10-month contracted personnel while other states include 12-month contracted personnel as well. Some states include summer school pay while others do not.

The following chart illustrates a variety of factors that states utilize in calculating average teacher salary.

Factors in Average Teacher Salary Calculations															
	FL	AL	AZ	CA	CO	CT	GA	KY	MA	NY*	NC	OR	SC	TN	TX
Teacher defined same as in FL	✓														
Average teacher salary calculated same as in FL	✓														
Average teacher salary based on 10 months		✓		✓		✓	✓	✓		✓	✓		✓	✓	✓
Average teacher salary based on headcount	✓							✓		✓			✓		
Supplemental pay included as part of average teacher salary						✓	✓	✓						✓	
Bonuses included as part of average teacher salary							✓	✓	✓	✓	✓		✓	✓	
Retirement Programs															
	FL	AL	AZ	CA	CO	CT	GA	KY	MA	NY	NC	OR	SC	TN	TX
Teachers contribute to retirement		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Special retirement programs	✓	✓	✓			✓		✓	✓				✓		✓

\* New York reports a median teacher salary and does not report an average teacher salary.

The National Education Association (NEA) and the American Federation of Teachers (AFT) use different methods to calculate average teacher salary. Variations between the two studies are shown below.

National Average Teacher Salary Rankings, 2003-04 [a] National Education Association Ranking vs. American Federation of Teachers Ranking						
State	NEA [b]		AFT [c]		Difference in Salary	Difference in Rank
	Salary	Rank	Salary	Rank		
Florida	\$40,604	31	\$40,598	29	\$6	2
Alabama	\$38,325	43	\$38,282	43	\$43	0
Arizona	[d] \$41,843	28	[e] \$42,324	26	\$481	2
California	\$56,444	3	[f] \$56,444	2	\$0	1
Colorado	\$43,319	22	\$43,318	21	\$1	1
Connecticut	\$57,337	1	\$56,516	1	\$821	0
Georgia	\$45,988	16	\$45,848	15	\$140	1
Kentucky	\$40,240	34	\$39,831	34	\$409	0
Massachusetts	\$53,181	8	\$53,274	8	\$93	0
New York	\$55,181	5	[g] \$55,181	3	\$0	2
North Carolina	\$43,211	23	[f] \$43,211	23	\$0	0
Oregon	[d] \$49,169	14	\$47,829	13	\$1340	1
South Carolina	\$41,162	29	\$41,162	28	\$0	1
Tennessee	\$40,318	33	[f] \$40,318	31	\$0	2
Texas	\$40,476	32	\$40,476	30	\$0	2

[a] Comparison made based on the 2003-04 reports, which are the most recently published data available from AFT at the time of this review.

[b] Source: NEA, *Rankings and Estimates, Ranking of the States 2004 and Estimates of School Statistics 2005*, Table C-11, "Average Salaries of Public School Teachers, 2003-04," p. 19.

[c] Source: AFT, *Survey and Analysis of Teacher Salary Trends 2004*, Table II-1, "Average Teacher Salary in 2003-04, State Rankings," p. 24.

[d] Computed from NEA Research, Estimates databank.

[e] AFT estimate.

[f] Includes extra-duty pay.

[g] Median.

Clearly, the only conclusion that can be drawn is that there is a need for uniformity, if states are to be compared nationally based on average teacher salary. National definitions of key terms related to determining a state's average teacher salary need to be determined, so that states apply the same method of calculating average teacher salary. Finally, it is time to move past the one-room-school-house application of a single term to communicate wages paid to teachers. Discussion and consideration need to be given to establishing an average teacher compensation and an average teacher market value that are consistent and can be used to accurately compare states.

It is imperative that three thresholds—average teacher salary, average teacher compensation, and average teacher market value—are established for national comparison of teachers' wages. Historically, wages earned by teachers across the nation have been compared using average teacher salaries. As presented in the Florida

Department of Education's (FLDOE) report, *Teacher Pay Review*, most commonly reported data on average teacher salary have numerous flaws and yield an inaccurate, unreliable, and unfair landscape of the wages paid by states to their teachers. It is time to take a twenty-first century approach when making comparisons within and among the states. Wages earned by teachers should be compared using three thresholds rather than the traditional one measure, assuming that all three thresholds are standardized across the nation, and that all states consistently collect and report the data required for each of the following:

The *average teacher salary* is the most basic and the most commonly used comparison today. It should be defined as *the sum of all salaries paid by a state to classroom teachers, excluding other instructional staff, divided by the total number of full-time classroom teachers.*

The *average teacher compensation* captures a teacher's salary, supplements for additional duties, and bonuses. Average supplements and bonuses were derived by dividing the total number of teachers by the total supplements and bonuses paid during 2004-05.

The *average teacher market value* includes the average teacher compensation and real-life employment variables such as retirement and health insurance contributions made by the employer, and the impact of a state's income tax and cost-of-living adjustments.

The Department of Education's Teacher Pay Review report may be accessed at [http://www.fldoe.org/ARM/Teacher\\_Pay\\_Review.asp](http://www.fldoe.org/ARM/Teacher_Pay_Review.asp).

## **COMMUNITY COLLEGE FINDINGS**

### **INTRODUCTION**

Florida has a strong community college system comprised of twenty eight colleges offering an array of degree and certification programs. Students may complete two-year and four-year programs, as well as certification programs for various skilled labor and professional accreditations such as law enforcement, nursing, and emergency management at 61 campuses across the state. In addition to on-site course offerings, community colleges offer extensive opportunities for distance learning to accommodate the "working student."

The "Total Annual Unduplicated Headcount" of students for the 2005- 2006 school year was 793,517. Thirty seven percent were full time students while 63 percent were part-time students. Sixty one percent of the student population was female and 40 percent of the population was classified as minority enrollment.<sup>86</sup> In 2005-2006, the Division of Community Colleges issued 66,431 degrees including: 398 Bachelor's degrees; 33,398

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<sup>86</sup> [www.fldoe.org/cc/facts\\_glance](http://www.fldoe.org/cc/facts_glance)

Associate of Arts (AA) degrees; 11,596 Associate of Sciences (AS) degrees; and 21,039 Vocational and College Credit Certificates.<sup>87</sup>

Florida's community colleges are the primary access point to postsecondary education for the state of Florida and its residents. Over the years, the mission of the community college system has expanded as the state has grown and its employment needs have become more diverse and complex. Even though the colleges have increased their productivity through performance funding, the state's willingness to fund increased enrollments in community colleges is a critical issue for the future of our state.

Florida's 28 community colleges were established to serve the citizens of the State of Florida by offering the first two years of a baccalaureate degree, vocational education, and adult continuing education. Of the 177 sites, there are 163 official Public Education Capital Outlay (PECO) sites in the Florida Community College System. Furthermore, in order to bring instruction closer to students, more than 2,000 other locations, such as churches, public schools, and community centers are also used.<sup>88</sup>

To further ensure the efficient and effective operation of Florida's Community College System, the Florida Legislature established the State Community College Coordinating Board in 1979, and in 1983 replaced that board with the State Board of Community Colleges. The State Board of Community Colleges earned the respect of the community colleges by preserving local control, represented by local Boards of Trustees, while simultaneously establishing system wide policies and coordination. The Florida Community College System has received national recognition because of this unusual balance between local control, state coordination and funding. In 2001, the statute that established the State Board of Community Colleges was repealed and the Florida Community College System was placed under the jurisdiction of the Florida Board of Education.<sup>89</sup>

During the expansion and modification of Florida's Community College System, the postsecondary educational needs in Florida were changing. The identifiable changes included an increase in the average age of students; changes in enrollment patterns, population growth, and population patterns; increased emphasis on vocational education and economic development; and the entry of women into the work force in unprecedented numbers. The Postsecondary Education Planning Commission (PEPC) was established in 1981 to provide overall guidance and direction for the improvement of postsecondary education in Florida. A new community college master plan was developed. The Master Plan for the Florida Community College System was first published in September 1983. This Master Plan addressed several concerns, including emphasis on the improvement of quality, the trend toward increased part-time enrollments, minority needs, women's needs, and student financial aid needs. The 1988 Master Plan updated the 1983 plan and identified challenges (from which strategic plans

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<sup>87</sup> Ibid.

<sup>88</sup> <http://www.fl DOE.org/arm/cctcmis/pubs/factbook/fb2007/fb2007.pdf>.

<sup>89</sup> Ibid.

would evolve) addressing areas such as quality education, economic development, and the quality of life.<sup>90</sup>

<b>Florida's 28 Community Colleges*</b>	
<u>College</u>	<u>Year the College was established</u>
Palm Beach Community College	1933
St. Petersburg College	1947**
Chipola College	1948***
Pensacola Junior College	1947
Gulf Coast Community College	1957
Central Florida Community College	1957
Daytona Beach Community College	1958
Manatee Community College	1958
North Florida Community College	1958
St. Johns River Community College	1958
Brevard Community College	1960
Broward Community College	1960
Indian River Community College	1960
Miami Dade College	1960****
Edison College	1962****
Lake City Community College	1962
Lake-Sumter Community College	1962
Okaloosa-Walton College	1964****
Polk Community College	1965
Florida Keys Community College	1966
Florida Community College at Jacksonville	1966
Santa Fe Community College	1966
Seminole Community College	1966
South Florida Community College	1966
Tallahassee Community College	1967
Valencia Community College	1967
Hillsborough Community College	1968
Pasco-Hernando Community College	1972

\* Please refer to inside back cover for addresses and page 3 for the history of the black junior/community colleges.  
 \*\* St. Petersburg Junior College was established in 1927 as a private institution and became part of Florida's public system in 1947. The name was changed to St. Petersburg College in 2001.  
 \*\*\* Chipola Junior College was established in 1947 as a private institution and became part of Florida's public system in 1948. The name was changed to Chipola College in 2003.  
 \*\*\*\* Miami-Dade Community College changed its name to Miami Dade College in 2003. Okaloosa-Walton Community College changed its name to Okaloosa-Walton College in 2004. Edison Community College changed its name to Edison College in 2004.

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## CURRENT COMMUNITY COLLEGE MISSION

- Florida Statutes require that the state's community colleges offer academic and career education, the former of which frequently leads to transfer to a state university. The mandate that community colleges are Florida's primary portal to career development is emphasized by statutory

<sup>90</sup> Ibid.

<sup>91</sup> <http://www.fldoe.org/arm/cctcmis/pubs/factbook/fb2007/fb2007.pdf>

provisions requiring that they prepare students for vocations and also that they are to promote economic development for the state.

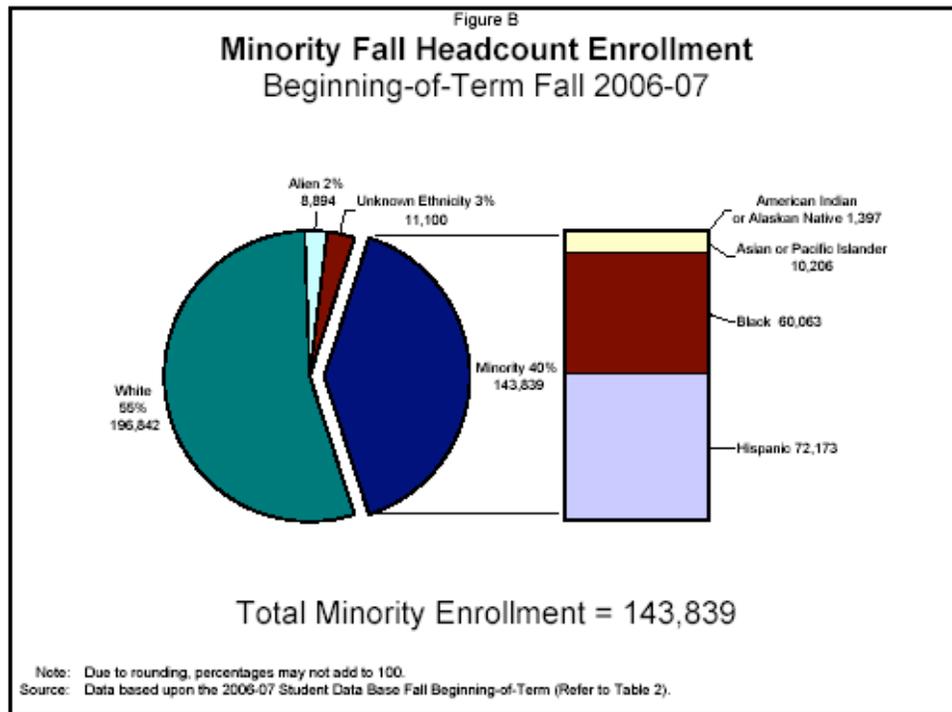
- Florida Statutes stress that community colleges are to emphasize “the achievement of social and economic equity so that all can be prepared for full participation in society.” Substance is given to this social policy by provisions that community colleges offer several forms of adult education, high school equivalency, and developmental services to assist both prepared and under-prepared students.
- OPPAGA (Office of Program and Policy Analysis and Government Accountability), Florida’s governmental efficiency arm, reinforces the intent of Florida Statutes by stating that community colleges are to provide programs for university transfer, college prep, adult-basic education, workforce education, and career instruction.
- The open-door policy enables community colleges to accept students who were denied admission to state universities.
- The state has directed community colleges to enter public-private partnerships that enhance economic development so all citizens may enter the workforce.
- The reach of community colleges is extended with private, state, and federal grant programs that serve veterans, citizens for whom English is a second language, displaced homemakers, and the economically or educationally disadvantaged.
- Florida Statutes now provide that community colleges may offer baccalaureate degrees in program areas of high employment need in the state. The approval process for such approval has been established and there are currently 41 programs approved, with 22 more going through the approval process.

In the next 20 years, the community colleges will need to be able to grow and adapt to the needs of the state. New technology will drive much of this change just as it has in the last twenty years. Our community colleges must be prepared to shoulder an even larger role in production of a quality workforce at the certificate, associate degree, and baccalaureate degree levels.

## **ENROLLMENT**

The Pappas Report concluded that the demand for additional access to higher education in Florida has not yet been fully documented. In the absence of a widely accepted set of projections, it is necessary to look at past trends as well as available information about





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Most growth in Florida's higher education is occurring and will occur in its community colleges. The demographics of the state and the "open-door" policy guarantee that this growth will continue, as demonstrated by the Florida Department of Education's figures that more than 50,000 new students (based on data about FTE, or full-time equivalent) entered the state's community colleges in fall 2007. The state benefits from steering students to community colleges because it costs less to educate students there than in the universities.

- The Florida public high school graduation rate increased by over 10 percentage points during the last decade while the postsecondary continuation rate of Florida's public high school graduates increased at an average annual rate of over two percent between 1998 and 2003.
- Large numbers of the new students will be ethnic minorities, place bound to a certain location, the first in their family to attend college, working while in college, and be outside the traditional 18-23 year old age range.
- Universities are raising admission standards and limiting or capping freshman enrollment, which directs students to community colleges.

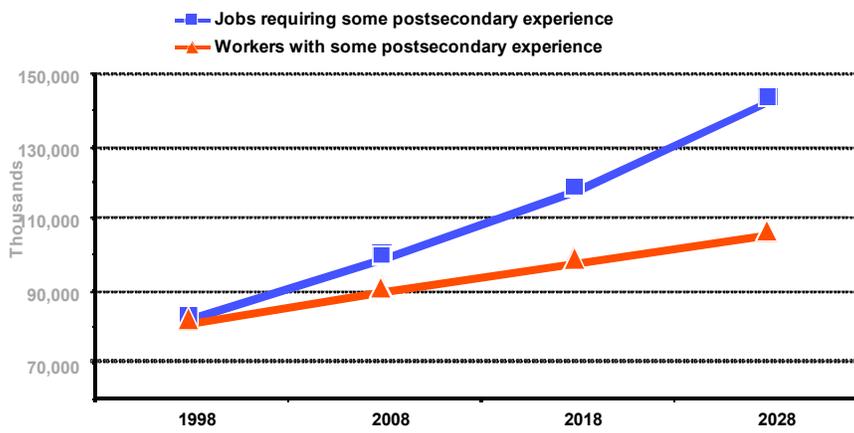
<sup>93</sup> <http://www.fl DOE.org/arm/cetcmis/pubs/factbook/fb2007/fb2007.pdf>

## CRITICAL EMPLOYMENT AREAS

While comprehensive employment projections are difficult to make, below are some glimpses of Florida's workforce needs.

- 60 percent of the job growth in Florida through 2010 will require postsecondary education at less than a bachelor's degree. Twenty-five percent of the jobs will require a bachelor's degree or more.
- 79 percent of community college completers in workforce programs are in high-wage, high-skill programs that align with Workforce Florida's Targeted Occupations List.
- 49 percent of all teachers started at a Florida community college.
- 67 percent of nursing degrees in Florida are produced in community colleges.
- Nearly 78 percent of first responders (police, fire, emergency medical technicians, etc.) graduate from community college programs.
- Approximately 20,000 new teachers are needed annually.
- Approximately 41,500 nurses will be needed by 2011.

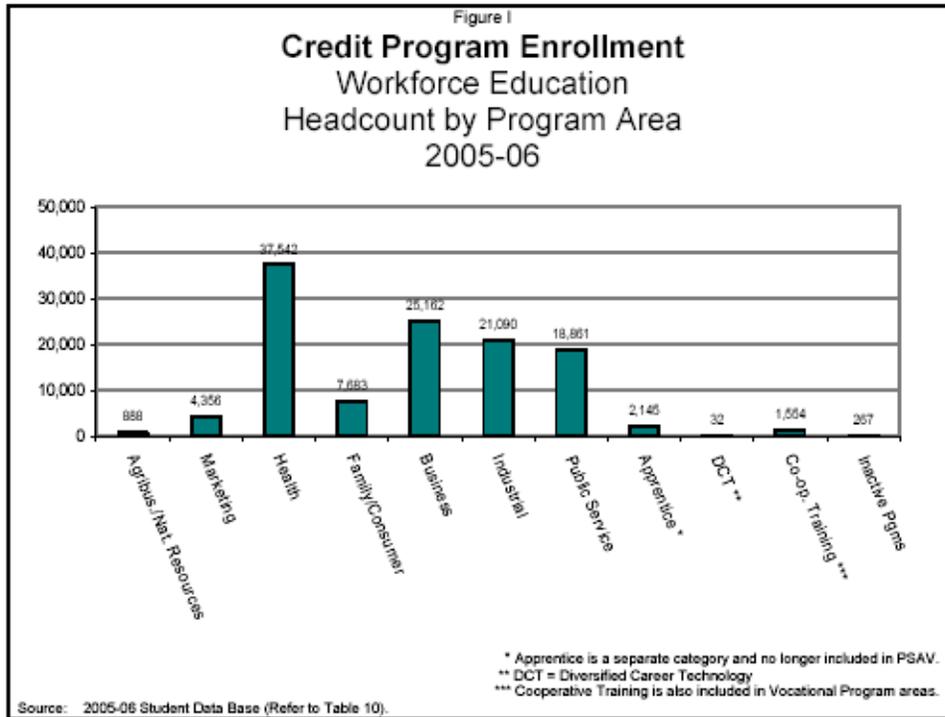
### Projected Growth in Supply and Demand of Workers – The Gap Widens



Source: National Association of Manufacturers

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<sup>94</sup> <http://www.floridatbrc.org/ppt/8-1-07Mojock.ppt#271,5>, Projected Growth in Supply and Demand of Workers – The Gap Widens



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## FLORIDA'S COMMUNITY COLLEGES LEAD THE REGION IN PRODUCTIVITY

Among the Southern Regional Education Board states, Florida's community colleges produce more graduates per enrollment than any other state. In addition, Florida leads the region in first year retention of students, which is a key indicator of student progression toward program completion. While improvements in productivity will continue to be made, our community colleges have a track record of translating student potential into student performance.

## RETURN ON INVESTMENT IN COMMUNITY COLLEGES

Florida's return on investment in its community colleges is indisputable. Community colleges educate the large majority of workers for existing and emerging fields of employment.

- Solely because of community colleges, the gross state product will increase \$13 billion through 2043.

<sup>95</sup> <http://www.fl DOE.org/arm/cctcmis/pubs/factbook/fb2007/fb2007.pdf>

- There is a direct return of \$1.40 for every \$1 invested in Florida's community colleges. That figure rises to \$2.2 to \$1 when the multiplier effect is considered.
- Florida TAXWATCH states that "Every dollar of public support for a community college graduate with an AA or AS degree will generate \$13.37 in state output" and that a community college AS degree increases personal lifetime earnings by \$480,000 when compared to those whose formal education ended at high school graduation.

In addition, business locate where they can find skilled employees. Fortune Magazine plainly states that "The most important draw in corporate relocation is plentiful, high-quality, low-cost labor." The link between business growth and skilled employees is why the Tampa Bay partnership lists as central advantages for corporate location "our ability to attract qualified, skilled employees...and the quantity of programs adding to the skills of our workforce." Half of companies surveyed states that the No. 1 external factor for their relocation was a lack of qualified applicants in their local markets. The demand for relevant job training is a significant factor in the growing demand for seats in Florida's community colleges statewide, with the largest numbers in the growing urban areas in Southeast and Central parts of the state.

### **TARGETED BACHELOR'S DEGREES**

The state Legislature responded to the need for more bachelor's degree programs where students could access them by authorizing community colleges to offer such programs on a limited basis. A 2001 state law authorized Florida's community colleges to offer site-based workforce-oriented baccalaureate degree programs. The law was clarified in 2007 by authorizing community colleges to meet unmet needs in the areas of teaching, nursing, and applied science.

- Currently, eight community colleges offer baccalaureate degrees in 41 different degree fields. Two additional community colleges are seeking Florida State Board of Education approval to also offer programs by the Fall of 2008.
- Within the next year, more than 5,000 individuals will enroll in a Community College Baccalaureate Degree program and an estimated 1,625 degrees are anticipated to be awarded.
- State funding of \$3,872 per full-time equivalent (FTE) represents 62% of the state university system's cost per FTE in 2006-07, resulting in cost savings to students and the state.

## ARTICULATION IN FLORIDA

“Florida has developed a seamless articulation (“2 + 2”) system to facilitate efficient and effective progression and transfer of students between and among public postsecondary institutions. Presently, Florida’s public postsecondary education system is comprised of 11 state universities, 29 community colleges, and 40 career education centers.”<sup>96</sup>

Community college transfer students account for approximately half of the baccalaureate degree recipients within the state university system. Established in 1971 and currently codified in Section 1007.12, Florida Statutes and Chapter 6A-10.024, Florida Administrative Code, (F.A.C)/Board of Governors (BOG) Articulation Regulation, Florida’s Statewide Articulation Agreement is the most comprehensive agreement in the nation. Critical components of the statewide articulation agreement include:

- Defining the Associate of Arts Degree as the transfer degree;
- Guaranteeing transfer of the general education block of credit;
- Establishing a common college transcript;
- Providing for articulation research studies;
- Calling for common academic calendar;
- Creating the Articulation Coordinating Committee;
- Establishing a common course numbering system.<sup>97</sup>

Students who graduate from a Florida community college with an Associate of Arts degree are guaranteed the following rights under the Statewide Articulation Agreement (Chapter 6A-10.024, F.A.C/BOG Articulation Regulation):

- Admission to one of the 11 state universities, (except to limited access programs);
- Acceptance of at least 60 semester hours by the state universities;
- Transfer of equivalent courses under the Statewide Course Numbering system;
- Adherence to the university requirements and policies, based on the catalog in effect at the time the student first enters the community college, provided the student maintains continuous enrollment;
- Acceptance by the state universities of credits earned in accelerated programs;
- No additional general education core requirements;
- Advance knowledge of selection criteria for limited access programs; and
- Equal opportunity with native university students to enter limited access programs.<sup>98</sup>

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<sup>96</sup> [www.fl DOE.org/articulation/pdf](http://www.fl DOE.org/articulation/pdf)

<sup>97</sup> Ibid.

<sup>98</sup> Ibid.

## POSTSECONDARY REMEDIATION IN FLORIDA'S COMMUNITY COLLEGES<sup>99</sup>

- Approximately 47% of students age 18 and under are college-ready when entering Florida's community colleges.
- Approximately 65% fail at least one entry level test (ELT) in reading, writing or math.
- Out of 40,201 total first time in college degree-seeking students taking an entry level test, the greatest number of students failed the math ELT (55%);
- 40% of this group failed the reading ELT;
- 31% failed the writing ELT;
- For students enrolling in required college prep courses following testing, the lowest academic success rate is in math, with 53.10% passing the highest level of math within two years of taking an ELT;
- In writing, 67.85% passed the highest level and 73.02% passed the highest level for reading.
- An analysis by ethnicity for "passed highest level" within two years of taking an ELT shows that the lowest pass rate overall for all ethnic groups is in the college prep math course.<sup>100</sup>

For the students who progress in developmental education and subsequently take higher level English or math courses within two years, the percentages for success show *much improvement*. In both the first college level math course and college level English course taken by former developmental education students (those taking required prep courses), over the two years studied, almost 50% earned a grade of A or B. An F was received by only 15% of the former developmental students taking the first college level math course and 11% taking the first college level English course.<sup>101</sup>

- 55% of all students entering Florida's public postsecondary institutions require remediation in math, reading and/or writing;
- 94% of students who need remediation attend community colleges;
- Approximately 52% of students complete their college preparatory programs taking an average of two years to do so.
- Students who do successfully complete college preparatory (developmental education) programs perform almost as well as other students in college credit foundation courses in the areas in which they received remediation.
- In addition, students completing college preparatory programs (developmental education) earn associates degrees at similar rates to other students.<sup>102</sup>

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<sup>99</sup> [http://www.fldoe.org/cc/Vision/PDFs/PR2005\\_05.pdf](http://www.fldoe.org/cc/Vision/PDFs/PR2005_05.pdf)

<sup>100</sup> Developmental Education In Florida's Community Colleges, p. 1;  
[http://www.fldoe.org/cc/Vision/PDFs/PR2005\\_05.pdf](http://www.fldoe.org/cc/Vision/PDFs/PR2005_05.pdf)

<sup>101</sup> Developmental Education In Florida's Community Colleges, p. 12;  
[http://www.fldoe.org/cc/Vision/PDFs/PR2005\\_05.pdf](http://www.fldoe.org/cc/Vision/PDFs/PR2005_05.pdf)

<sup>102</sup> OPPAGA Report No. 07-31, May 2007.

## THE IMPACT OF FLORIDA'S COMMUNITY COLLEGES ON STUDENT'S PROSPERITY AND THE STATE'S ECONOMY: A SOLID RETURN ON INVESTMENT<sup>103</sup>

- In Florida, a significant majority (approx. 60%) of high school graduates who advanced to higher education attended community colleges, thus generating an ongoing increase in student enrollment. The community college full-time student population increased by 25% from 1999-2004.
- A community college Associate in Science Degree translated to a lifetime personal income *increase* of \$480,000 when compared with those whose formal education ended at high school graduation.
- A community college Associate in Arts Degree translated to a lifetime personal income *increase* of \$220,000 when compared to those whose formal education ended at high school graduation.
- The projected economic effects of increased personal income associated with a community college degree were found to be dramatic. Over a forty-year career span, the 38,968 students who graduated from community colleges in 2003 will increase state output by \$13.6 billion, and generate wages for others in the amount of \$5.5 billion. Additionally, they will create 102,768 jobs, which reflects 2.6 jobs for Florida's economy for each community college graduate.
- Every dollar of public support for a community college graduate with an Associate in Science or an Associate in Arts Degree will generate \$13.37 in state output.<sup>104</sup>

“Florida community colleges generate a large number of benefits to both students and the state. Students benefit from higher personal earnings, and the state benefits by having higher employment, enhanced tax revenues, and an increased gross state product. There are additional advantages to the state in the form of social savings through avoided costs of crime, welfare, and unemployment benefits. These elements entice new businesses and industries to come to Florida which further supports a growing, vigorous economy.”<sup>105</sup>

“A recent Council for Education Policy Research and Improvement (CEPRI) report stated that “over 60% of the projected job growth in Florida through 2010 will be in occupations requiring postsecondary education and training but not a bachelor's degree. (CEPRI, 2004). Among projected new jobs, 300,000 will require an associate's degree and 500,000 will require a postsecondary certificate.”<sup>106</sup>

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<sup>103</sup> From Florida TaxWatch Center for Educational Performance & Accountability Research Report: *Putting Minds to Work Pays Big Dividends: The Impact of Florida Community Colleges on Student's Prosperity and the State's Economy: A Solid Return on Investment*, February 2006.

<sup>104</sup> Ibid.

<sup>105</sup> Ibid.

<sup>106</sup> Ibid.

“Florida Agency for Workforce Innovation 2004-2012 employment projections indicate that 56% of the fastest growing jobs in Florida will be in occupations requiring postsecondary education, but less than a bachelor’s degree.<sup>107</sup>

“State output between 2003 and 2043 is projected to increase by \$13.6 billion from 2003 community college graduates’ higher lifetime earnings.<sup>108</sup>

Over 102,000 Florida jobs will be created over the 40 years of analysis from community college graduates’ spending alone. In turn, this employment increase will generate higher wage and salary earnings. Direct and indirect personal or disposable incomes over this period will increase by \$5.5 billion.<sup>109</sup>

### **STATE UNIVERSITY SYSTEM FINDINGS**

The mission of the State University System is enshrined in Article IX, Section 7 of the Florida Constitution: “to achieve excellence through teaching students, advancing research and providing public service for the benefit of Florida’s citizens, their communities and economies.”

With ten universities and one liberal arts college offering a comprehensive array of graduate and undergraduate programs, the system awards two thirds of all bachelor degrees and half of the graduate degrees in the state.

The University System for the State of Florida is comprised of: Florida Agricultural and Mechanical University, Florida Atlantic University, Florida Gulf Coast University, Florida International University, Florida State University, New College of Florida, University of Central Florida, University of Florida, University of North Florida, University of South Florida, and University of West Florida.

The university system provides the foundation for the state’s high technology and innovation economies, with over \$1 billion annually in externally funded research and more than 100 patented inventions each year. Dozens of start-up companies emerge from technologies generated by the university system, and businesses seeking to relocate or expand in Florida often look first to the quality of the state’s advanced research and education programs.

The key challenge confronting the system over the next 20 years will be to provide quality access to undergraduate and graduate education in an environment of increasingly limited revenues. To be competitive with the ten most economically productive states, Florida would need to have 1.5 million more bachelor-educated working-age citizens in

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<sup>107</sup> From Florida TaxWatch Center for Educational Performance & Accountability Research Report: *Putting Minds to Work Pays Big Dividends: The Impact of Florida Community Colleges on Student’s Prosperity and the State’s Economy: A Solid Return on Investment*, February 2006.

<sup>108</sup> Ibid.

<sup>109</sup> Ibid.

2027 than it has today—not to mention replacing the large numbers who will retire over the same time. Even with a larger role for community colleges and private institutions, the bulk of the responsibility for creating that competitive workforce will fall to the SUS.

## How Much Education Do We Expect for Today's Newborns?

	2027 SUS Bachelor Degrees	2027 SUS Enroll- ment	2027 SUS Core Budget (Billions)	Increase
<i>2007 Baseline</i>	46,000	294,000	\$ 3.0	-
Status Quo: No change in student achievement	56,000	369,000	\$ 3.8	26%
1/3 of children complete college	63,000	413,000	\$ 4.2	41%
<b>1/2 of children complete college</b>	<b>95,000</b>	<b>627,000</b>	<b>\$ 6.4</b>	<b>113%</b>

*Does not include future inflation. Based on current funding/student. Add 12% to reach national average level of funding.*



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The core budget of the university system—excluding about \$5 billion in flow-through funds such as federal student aid, hospital fees, and auxiliary enterprises such as dormitories—was \$3.1 billion in 2007-08. Of this amount, 71% came from state appropriations of general revenue and lottery funds. The other 29% comes from student tuition.

Total tuition and appropriations per full-time equivalent student were \$11,900 in 2007-08. While the nominal budget of the system has tripled since 1989-90, when it was about \$1 billion, funding per student that year was \$15,200 in today's dollars. In other words, enrollment growth and inflation have resulted in a 28% decline in per student constant dollar funding. Funding per student is now \$2,000 less than the national average—a \$500 million shortfall. The gap relative to a high performing state such as North Carolina is over \$4,000 per student, or \$1 billion for the system.

One consequence is that the state now has the worst ratio of students to tenured and tenure-track faculty in the nation and has had to increase class sizes and rely increasingly on temporary adjunct faculty and graduate students for undergraduate instruction.

Recently, the Board of Governors has taken action to prevent further dilution of quality: it has frozen freshman enrollment at current levels; it has requested legal clarification of

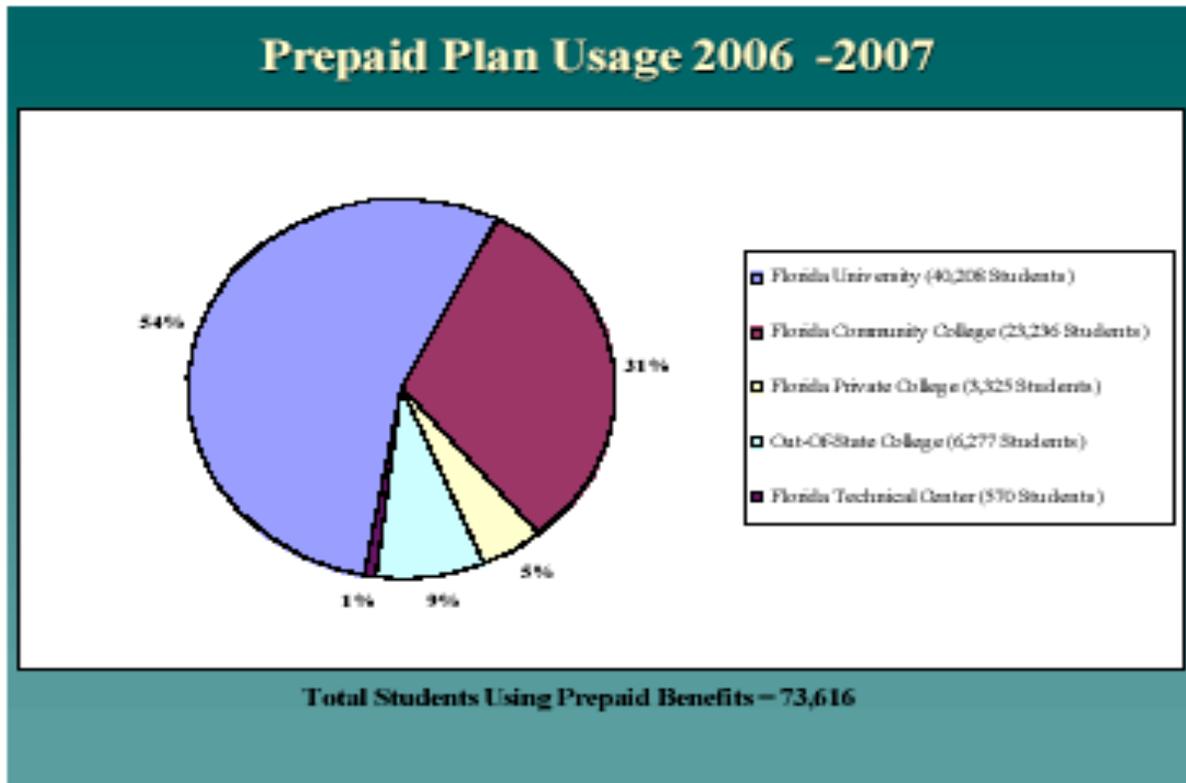
<sup>110</sup> <http://www.floridatbrc.org/ppt/8-1-07Rosenberg.ppt>

its constitutional authority in a variety of areas including tuition; and it has raised tuition for spring 2008. Further tuition increases may be enacted to protect the quality of the education available in the system and to be able to continue providing adequate access to Florida students. Even with substantial tuition increases, however, the system will depend on the state to at least maintain its current level of inflation-adjusted funding per student while continuing to support enrollment growth consistent with student and business demand.

## FLORIDA PREPAID COLLEGE PROGRAM

The Florida Prepaid College Program is a state-backed investment option for Florida families. It has helped hundreds of thousands of Floridians save for college. Yet, as the Chair of the Prepaid College Board, Mr. Ted Hoepner, noted in his remarks to the committee on November 1, 2007, the Prepaid program must approach its dealings with state universities regarding existing contracts as well as sales of new contracts differently now that the Board of Governors seeks much larger than historical increases in university resources.

The Prepaid program allows Florida residents to pre-purchase tuition, fees, and dormitory residence at rates similar to current levels. The program helps make a college education affordable and accessible to future generations of students.



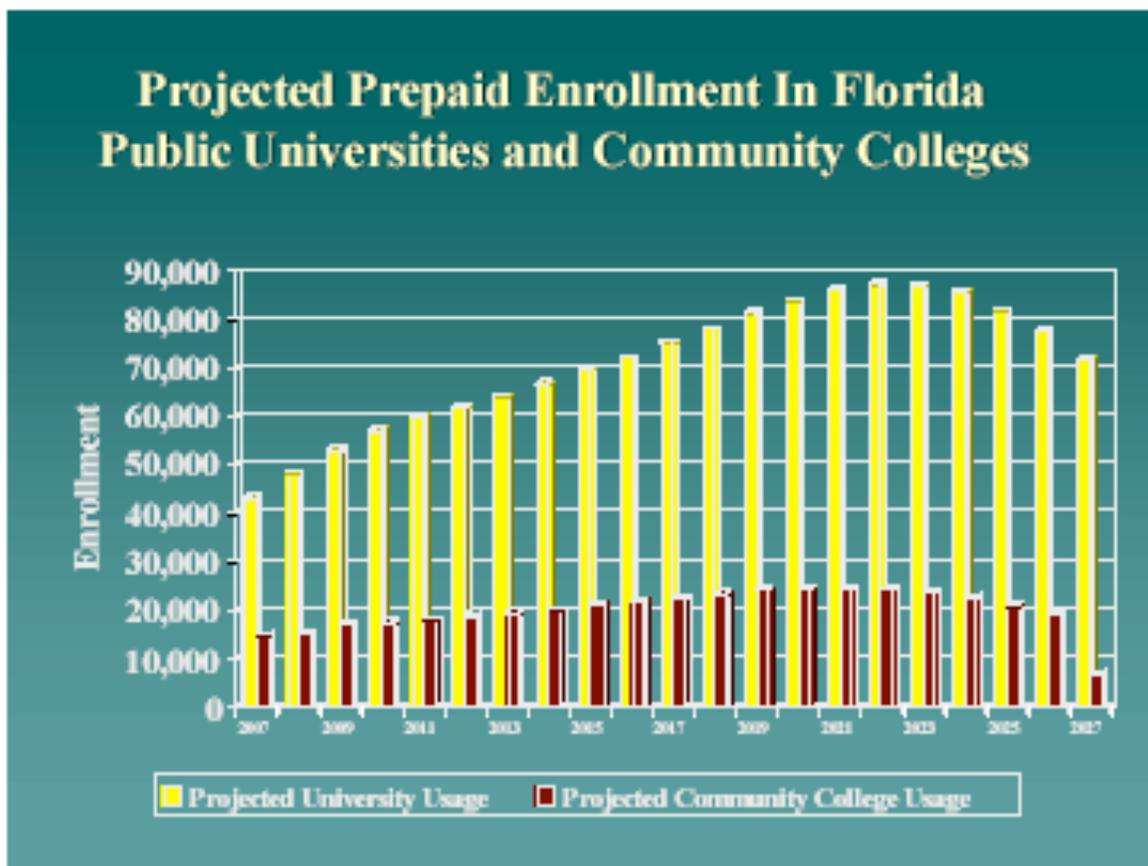
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<sup>111</sup> [http://www.floridatbrc.org/pdf/11\\_1\\_07HoepnerPresentation.pdf](http://www.floridatbrc.org/pdf/11_1_07HoepnerPresentation.pdf)

The Prepaid College Board is responsible for pricing contracts and investing the proceeds so that there are sufficient funds to pay for those tuition and fees. The Prepaid program is the largest program of its kind in the country and one of the few that is actuarially sound. Its state backing means that, should it become “financially infeasible,” the state guarantees the full benefit to all contract beneficiaries within five years of their expected college entry date and a return of the initial investment plus interest for the remainder. The present value of the Prepaid program as of June 30, 2007 is \$7.4 billion. The expected value of the assets exceeds the expected value of liabilities for all contracts purchased through 2007 by \$847 million, a 13 percent surplus. The two key economic assumptions which determine the financial viability of the program are the rate of return on investments and the rate of tuition increases.

Increases in tuition above the Prepaid program’s assumption (currently 6.5 percent, set annually by the Prepaid Board) will reduce the actuarial reserve. Mr. Hoepner noted that the program’s actuarial consultant, Ernst & Young, estimates that the Prepaid program could withstand up to 8.6 percent annual tuition increases indefinitely without going into deficit, but Mr. Hoepner believes that rate of tuition growth is too risky. The Board tries to keep the surplus at no less than 5 percent. Mr. Hoepner noted his desire to protect outstanding prepaid contracts while not otherwise impeding university tuition increases.

In his presentation, Mr. Hoepner indicated that there have been approximately 1.2 million prepaid college plans purchased since the program’s inception in 1988-1989 and that more than 73,000 students are currently using the prepaid benefits.



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The cost for a newborn purchasing a 4-year university program is \$13,516. The tuition differential plan costs another \$4,614. With a “fully loaded” plan (tuition plan, local fee plan, tuition differential plan, and dormitory plan), the cost is approximately \$31,000. It is estimated that the cost for that student as she walks into college will be about double that amount, so the purchaser of the contract is in that case assuming a 100% return on his/her investment over an 18-year period.<sup>113</sup>

### **BRIGHT FUTURE’S SCHOLARSHIP**

The Florida Bright Futures Scholarship Program reached \$398 million in the 2007-2008 Appropriations Act.<sup>114</sup> Now approximately 60 percent of Florida’s appropriations for financial aid programs, Bright Futures continues to far outpace lottery revenue growth. Even at moderate university tuition increases, Bright Futures is likely to cost as much as \$1 billion in within a decade. That cost increase will supplant most or all of the other uses of lottery dollars, other than bond payments, and would require general revenue as well as lottery revenue to continue the program in its current form.

<sup>112</sup> [http://www.floridatbrc.org/pdf/11\\_1\\_07HoepnerPresentation.pdf](http://www.floridatbrc.org/pdf/11_1_07HoepnerPresentation.pdf)

<sup>113</sup> Presentation by Ted Hoepner, Chair, Florida Prepaid College Board, to TBRC Governmental Services Committee, November 1, 2007.

<sup>114</sup> Board of Governors presentation to Governmental Services Committee on November 1, 2007.

## What Are the Two Major Bright Futures Programs?

	"Medallion"	"Academic"
<b>\$ in 2006 -07 (Millions)</b>	\$233	\$111
<b>% of Bright Futures \$</b>	67%	32%
<b>Amount</b>	75% Tuition	100% Tuition + \$600
<b>GPA</b>	3.0	3.5
<b>SAT</b>	970	1270



Source: Department of Education, Office of Student Financial Assistance

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Can the policy goals of Bright Futures be achieved more efficiently? In his presentation before the Governmental Services Committee on November 1, 2007, Dr. Nate Johnson, Board of Governors Executive Director for Planning and Analysis, raised a number of questions to this point.

- *Motivating students in high school* – Could a less expensive program achieve the same result?
- *Helping families and students afford college* – How many Bright Futures recipients could afford a college education without the scholarship? Is \$400 million in no-need aid a best practice?
- *Keeping students in state* – Are there more efficient ways to do it? Could improved universities keep students in-state as well?

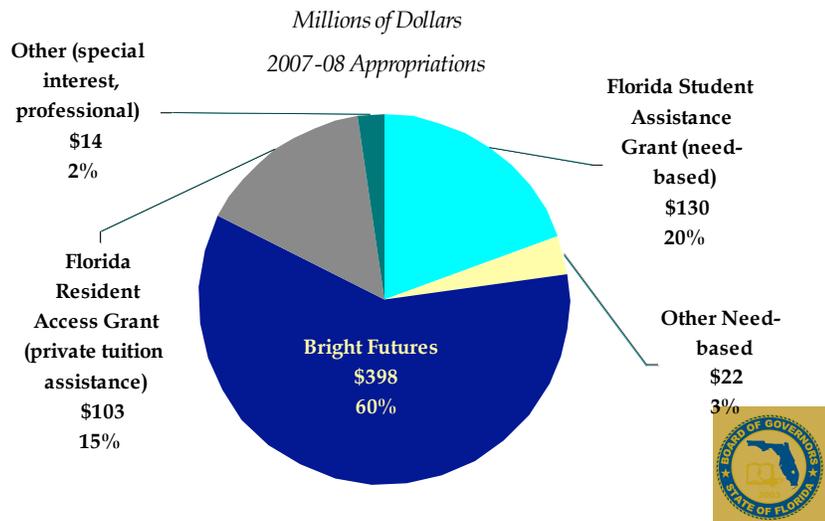
***Motivating students more efficiently.*** Bright Futures appears to motivate students to pursue a college education. The Legislature’s Office of Program Policy Analysis and Government Accountability (OPPAGA) reported on more ambitious course-taking and test-taking in response to the program. A higher percentage of high school graduates (more than a third) qualify for the scholarship today than in its early years. At its inception in 1997, the program served approximately 42,000 Florida students. Today, approximately 149,000 students are participating and the estimate for 2017 is 186,000 students.<sup>116</sup>

<sup>115</sup> <http://www.floridatbrc.org/ppt/8-1-07Rosenberg.ppt>

<sup>116</sup> Ibid.

According to the Office of Student Financial Assistance, Office of Economic and Demographic Research, and Board of Governors staff analyses, the Bright Futures program is projected to grow from around \$398 million in 2007-2008 to approximately \$867 million in 2017-2018 based on projected growth patterns in the 18-24 age group and assuming a moderate (6.5 percent) average annual tuition increase.

## How Does Florida Allocate Its Financial Aid?



Source: Department of Education, Office of Student Financial Assistance

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***In pursuit of college affordability.*** State University System Chancellor Mark Rosenberg’s presentation to the Commission in September 2007 pointed out the need for more need-based financial aid in Florida. Dr. Johnson’s November 1 presentation showed that less than one-quarter of all state financial aid programs are need-based. Although nineteen percent of students receiving Bright Futures scholarships also qualify for need-based federal Pell grants, a high proportion of Bright Futures recipients are also from relatively high-income families. For example, an estimated one-third are from families with incomes exceeding \$100,000.

Dr. Johnson also noted that 15 percent of undergraduates have prepaid tuition plans. Since two-thirds of the state’s prepaid users also have Bright Futures scholarships, the result is that 10 percent of undergraduates actually get money back when tuition increases.

***Keeping students in state.*** Bright Futures poses a funding challenge for the university system. Because Bright Futures is linked directly to tuition – the program pays all recipients 75% or 100% of tuition and fees – Dr. Johnson pointed out that the \$6 million raised from a one dollar per credit tuition increase is offset by a \$2.7 million increase in

<sup>117</sup> <http://www.floridatbrc.org/ppt/8-1-07Rosenberg.ppt>

cost to the lottery trust fund. Those lottery dollars fund university and community college direct appropriations in addition to subsidizing students' tuition and fees. Therefore, Bright Futures increases directly and negatively affect higher education appropriations.

## **NEED-BASED FINANCIAL ASSISTANCE**

A relatively small proportion of total state financial aid is need-based, and lack of need-based aid is an impediment to higher education participation and completion for low-income students, Chancellor Rosenberg and Dr. Johnson's comments to the Commission indicated a need to increase state need-based aid.

Most state need-based aid comes through the Florida Student Assistance Grant (FSAG), a \$130 million program that accounts for 20 percent of all financial aid offered by the state and 86% of all state need-based programs. An additional \$22 million was appropriated in 2007-2008 to other need-based aid programs, accounting for an additional 3 percent of state financial aid programs.<sup>118</sup>

There are various types of FSAG grants offered, including those for public, private, and postsecondary career education opportunities. All FSAG awards are need-based and students must complete the Free Application for Federal Student Aid (FAFSA), be full-time undergraduates, and meet residency and other requirements to be eligible.<sup>119</sup>

## **PRIVATE COLLEGE TUITION ASSISTANCE**

All Florida residents attending non-profit private colleges in Florida, regardless of need or academic performance, are eligible for the William L. Boyd, IV, Florida Resident Access Grant (FRAG) tuition assistance program. The \$103 million in 2007-2008 appropriations to FRAG accounts for 15 percent of all state financial aid programs.<sup>120</sup>

## **LOTTERY AS EDUCATION FUNDING SOURCE**

In 1986, voters approved an amendment to the state constitution to authorize the creation of the Florida Lottery. Implementing legislation was enacted in 1987 and the Department of Lottery was established.<sup>121</sup> The first Florida Lottery ticket went on sale on January 12, 1988. Sales in the first week of operation exceeded \$95 million.

The purpose of the Florida Lottery is to maximize revenues for the Educational Enhancement Trust Fund (EETF) in a manner consonant with the dignity of the state and

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<sup>118</sup> <http://www.floridatbrc.org/ppt/8-1-07Rosenberg.ppt>.

<sup>119</sup> [www.studentfinancialaid.org/SSFAD/factsheets/FSAG.htm](http://www.studentfinancialaid.org/SSFAD/factsheets/FSAG.htm)

<sup>120</sup> Board of Governors presentation to Governmental Services Committee by Nate Johnson, Executive Director of Planning and Analysis, November 1, 2007.

<sup>121</sup> Department of Lottery presentation to Governmental Services Committee by Secretary Leo DiBenigno, November 1, 2007.

the welfare of its citizens.<sup>122</sup> The lottery has provided over \$17 billion in education funding over its nearly 20 years of operation.<sup>123</sup>

In fiscal year 2006-2007, the lottery transferred \$1.26 billion to the EETF. Of those funds, over \$346 million was appropriated for Bright Futures scholarships, over \$268 million was used for public school construction bonds, \$331 million was used for public school (K-12) program enhancements, \$175 million was spent for Community College programs, \$297 million was appropriated to the State University System, and \$21 million for state financial aid programs.<sup>124</sup>

Long-term projections from the Legislature's Office of Economic and Demographic Research show the EETF growth flattening out to about one percent annually over the coming decades, slower than the general inflation rate. Recent reviews of the Florida Lottery by OPPAGA also suggest such a slow-down in revenue growth. Therefore, competition among programs receiving EETF dollars is likely to increase.

The Bright Futures scholarship is fully funded by the Florida Lottery contribution to the EETF. The program was initiated in 1997 and the lottery has generated more than \$1.6 billion to send more than 300,000 Florida students to higher education institutions.<sup>125</sup>

Lottery dollars have helped complete over 600 public schools construction projects over the past twenty years. The Classrooms First and Classrooms to Kids programs support new school construction and additions to existing schools. Lottery funds are used to assist local school districts with meeting the requirements of the state's constitutional class size reductions, as well.<sup>126</sup> Lottery funds are also used to support mentoring programs such as Just Read, Florida!, Family Literacy, and other educational enhancement programs at all levels of education in the state.

The lottery is ranked third in the nation for total sales. Sales have increased from \$2.25 billion in 1999 to \$4.12 billion in 2006-2007. The increase is considered to be good for education, but Secretary DiBegnino points out that the growth rate has naturally slowed over time as the industry has matured and that a future goal of the agency is to continue to find ways to infuse consumer enthusiasm and increase ticket sales through new innovations and strategies. The goal of the department is to continue to increase sales while keeping operating costs to a minimum in order to maximize dollars available for education enhancement programs.

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<sup>122</sup> Section 24.104, Florida Statutes.

<sup>123</sup> [www.flalottery.com/inet/educationDollartoEducation.doc](http://www.flalottery.com/inet/educationDollartoEducation.doc)

<sup>124</sup> Ibid.

<sup>125</sup> [www.flalottery.com/inet/educationBrightFuture.doc](http://www.flalottery.com/inet/educationBrightFuture.doc)

<sup>126</sup> [www.flalottery.com/inet/educationSchoolConstruction.doc](http://www.flalottery.com/inet/educationSchoolConstruction.doc)

*TABLE 1. UNIVERSITY AND COMMUNITY COLLEGE ENROLLMENT AND DEGREES AWARDED*

	Community Colleges	State System	University
Fall 2006 Headcount Enrollment (max # of students enrolled at one time)	360,675	294,016	
Annual (2005-06) Full-Time Equivalent (based on 30 undergraduate or 24 graduate credits)	287,714	245,021	
Annual (2005-06) Unduplicated Headcount (students enrolled at some point during the year)	793,517	340,644	
<b>2005-06 DEGREES</b>			
Vocational/College Credit Certificates	21,039	0	
Associate in Arts (transfer degree)	33,398	2,306	
Associate in Science (workforce degree)	11,596	0	
Bachelor	398	45,015	
Master's	0	12,908	
Doctorate	0	1,618	
JD	0	806	
MD	0	244	
PharmD	0	464	
Dental (DDS)	0	78	
Veterinary (DVM)	0	82	

### **The Independent Higher Education Sector**

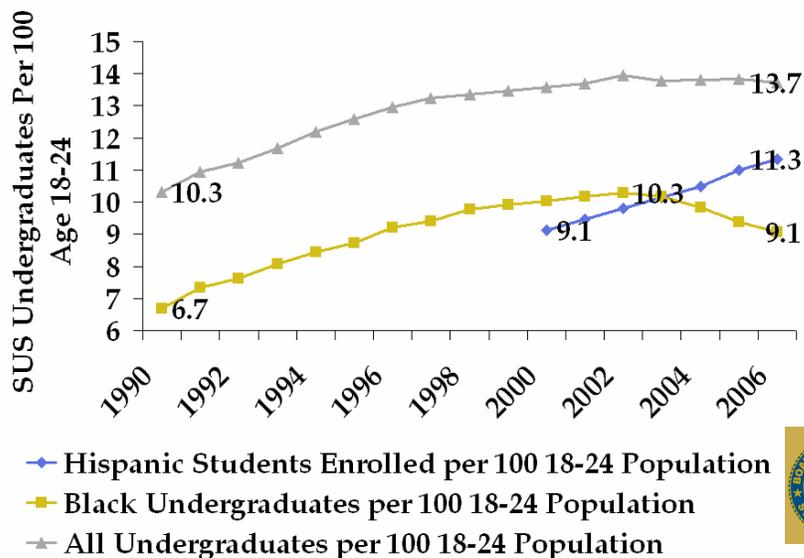
Florida has many post-secondary education providers: state universities; state community colleges; independent colleges and universities; for-profit proprietary schools; and school district technical centers. The 28 independent colleges and universities most closely resemble the state's public universities in scope of services offered, diversity of programs and variety of degrees. They are private, not-for-profit institutions with nearly 170,000

non-duplicated students. All are based in Florida and (like the state universities) are accredited by the Southern Association of Colleges & Schools (SACS); so graduates of community colleges can, with equal ease, advance to a state university or independent institution to complete their bachelors degrees. ICUF schools have both a statewide articulation agreement with the community college system and scores of individual agreements at the local levels

The Independent Colleges and Universities (ICUF) complement the state subsidized public university system, providing higher education options, diversity and access throughout Florida with more than 180 educational sites (more than either the community college or state university systems). Many independent institutions are located in metropolitan centers such as the University of Miami in Coral Gables, Barry University in Miami Shores, Palm Beach Atlantic University in West Palm Beach, Eckerd College in St. Petersburg, the University of Tampa in Hillsborough County, Rollins College in Orange County and Jacksonville University in Duval County. Others are located in smaller and more rural communities, such as Stetson University in DeLand, Florida Southern College in Lakeland, Warner Southern College in Lake Wales, Hodges University in Naples and Saint Leo University in Pasco County. Some are very large like Nova Southeastern University in Ft. Lauderdale with more than 25,000 students; while others are smaller like Beacon College in Leesburg with 114 students or Florida College in Temple Terrace with 513 students. Nearly all (twenty-one) are preparing teachers with more than 17,000 students enrolled in undergraduate and graduate education studies. Eleven institutions are preparing nearly 4,000 nurses. Several are more specialized such as: Embry-Riddle Aeronautical University and Florida Institute of Technology that are leading aviation, aerospace and engineering universities; Florida Hospital College of Health Sciences that prepares nurses and allied health professionals for 17 hospitals in Florida; Webber International University that prepares business and management majors; and Ringling College of Arts and Design that is a world class fine arts and computer animation institution.

At seven of these institutions, minority undergraduate students are a majority of all the undergraduate students: Barry University; Bethune-Cookman University; Edward Waters College; Florida Memorial University; Nova Southeastern University; Saint Thomas University; and the University of Miami. System-wide, nearly 44% of the4 ICUF students are minorities, compared to only 35% of the students at state universities. At the ICUF colleges and universities, one student in three receives a federal Pell Grant for students from low-income families. Eighteen of the twenty-one Florida colleges and universities that have the highest percentages of students from families with incomes under \$60,000 are independent colleges and universities.

## Minority Participation Rates Will Shape the Future



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For more than 25 years, the State of Florida has appropriated funds to support Florida students attending these independent institutions, including a tuition equalization grant, (the Florida Resident Access Grant - FRAG), need-based financial assistance grants (the Private Student Assistance Grant - PSAG) and merit-based scholarships (Bright Futures). Currently, more than 33,000 students receive the FRAG, more than 10,000 receive PSAG and more than 14,000 receive Bright Futures Scholarships. It has been shown, by the enrollment responses at the ICUF institutions, that increases in grant levels has increased Florida resident enrollment in this sector. These grants enable tens of thousands of Florida students to afford these private institutions that have higher tuitions than state subsidized, community colleges and state universities. These public grants, provided to Florida residents, have helped hundreds of thousands of Florida residents get a college education without increasing demand at already crowded, state community colleges and universities. These 28 institutions receive less than 5 percent of the state's higher education budget but award nearly one-third of Florida's bachelors and advanced degrees. They award 27 percent of the bachelor's degrees, 38 percent of the state's master's degrees, 40 percent of the doctorates and 55 percent of the first professional degrees. A *Council of 100* study found that for each million dollar appropriated to these institutions for undergraduate education, Florida gets 155 bachelor degree graduates ... each million dollars appropriated to state universities produces 19 graduates.

Currently, several private institutions partner with 18 community colleges to offer bachelor degree programs in underserved communities. They have focused on meeting critical state needs such as the teacher and nursing shortages; expanding programs and

<sup>127</sup> <http://www.floridatbrc.org/ppt/8-1-07Rosenberg.ppt>

capacity to help meet these workforce needs. They sponsor research, local economic development services and volunteer community programs, as well.

The recent Pappas Report to the Board of Governors recommended expanded collaboration and elimination of “turf battles.” with the independent higher education sector to expand access and lower state costs.

## **RECOMMENDATIONS**

The Governmental Services Committee had several proposals regarding public education referred to it for its consideration. The committee also sponsored a number of proposals relating to education. These public education proposals are as follows:

**CP0028** – Constitutional Proposal relating to Gambling Funds for Education, Sponsored by Commissioner Sandy D’Alemberte (Tabled by the Governmental Services Committee).

**CP0030** – Constitutional Proposal relating to the Modification of the Class Size Amendment, Sponsored by the Governmental Services Committee (Reported favorably out of the Governmental Services Committee and the Planning & Budgetary Processes Committee; Failed at the Taxation & Budget Reform Commission).

**CP0035** – Constitutional Proposal relating to Local Option Taxes for Community College Funding, Sponsored by the Governmental Services Committee (Reported favorably out of the Governmental Services Committee and the Finance & Taxation Committee; Favorable by the Taxation & Budget Reform Commission, Transmitted to the Secretary of State on April 28, 2008).

**CP0044** – Constitutional Proposal relating to Innovative Education Alternatives, Sponsored by Commissioner Roberto Martinez (Unfavorable by the Governmental Services Committee).



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# Governmental Services Committee Report Health and Aging

## SUMMARY

Florida continues to be one of the fastest growing states in the nation and is on track to break the 20 million mark, becoming the third most populous state in the nation shortly after 2010. On October 30, 2007, the Florida Demographic Estimating Conference projected that the state's population will be 25,465,500 at the end of fiscal year 2026 - 2027.<sup>1</sup> The state's population growth has stayed between 2.0 and 2.6 percent since the mid 1990s, but is projected to slow, averaging approximately 1.0 to 1.1 percent between 2025 and 2030.<sup>2</sup> In fact, the latest numbers from the University of Florida indicate that there has been some slowing in the last year, from an average increase of more than 400,000 a year from 2003 through 2006, to 331,000 from 2006 through 2007.<sup>3</sup>

While there may be some slowdown in overall population growth in the state, economists continue to predict that Florida will be the destination of choice

for millions of retirees over the next two to three decades. As "baby boomers" retire in massive numbers, all indications are that Florida's economy will be well maintained and continue to grow. In a presentation before the Taxation and Budget Reform Commission on November 1, 2007, Dr. David Denslow, representing the Leroy Collins Institute, gave testimony that the aging population will continue to grow as affluent baby boomers choose Florida as their retirement destination. He noted that the new population will be made up of wealthy retirees who prefer the temperate climate and proximity to beaches.<sup>4</sup>

Growth in the aging population brings new wealth to the state, as older citizens tend to use roads less and have minimal need for the public education system. However, they bring with them increasing pressures on the state's health care systems, particularly as the retiree reaches the last years of life.

Florida has a good system of health care programs in place to handle the growing population of advanced elderly, including public health care assistance and private providers. The State Department of Elder Affairs and the Agency for Health Care Administration

<sup>1</sup> Florida Demographic Estimating Conference, Tallahassee, Florida, October 30, 2007.

<sup>2</sup> Presentation to the Taxation and Budget Reform Commission by Amy Baker, Director of the Legislative Office of Economic and Demographic Research, at its May 18, 2007 meeting.

<sup>3</sup> "Florida's population growth slows a bit," Associated Press, November 8, 2007.

<sup>4</sup> Remarks by Dr. David Denslow in his presentation to the November 1, 2007 TBRC meeting.

encourage programs to assist clients in remaining in the care of family for as long as possible before moving to assisted living, long-term care, or nursing facilities.<sup>5</sup>

## **BACKGROUND**

Florida is projected to have approximately 6.1 million persons at or above retirement age residing in the state by 2030. Of those, approximately 1 million persons will be 85 years old or older.<sup>6</sup> At that time, the retirement age population will constitute 25 percent of the state's population.

While Florida's population continues to age, trends indicate that the older population is relatively healthier over time than they have been in the past. The disability rates in the state have been declining approximately 1 percent per year since the mid-1980s and the trend is expected to continue. Florida's older population is 45 percent less likely to require long-term nursing care than elders from other states.<sup>7</sup>

Even though the older population in Florida is generally healthier, and has a stable support system for community and family-based care, there are continued needs for long-term nursing care for the advanced aged and indigent elderly. The per diem cost for nursing

home care continues to climb even as the overall need for that care declines.<sup>8</sup>

Many of the costs of long-term care for the state's aging population are paid by the federal Medicaid program. The program is formula based, and as a result of Florida's relative wealth, the state does not receive a large per capita share of the federal funds.<sup>9</sup>

### **Florida Medicaid Program**

One of the largest cost-drivers for the State of Florida on an annual basis is the Medicaid program. The program was created in 1965 as part of an amendment to the federal Social Security Act and provides that the federal government will share costs with state governments.

States administer their programs under federally approved state plans.<sup>10</sup> The federal Medicaid program requires the state to provide coverage to mandatory eligibility groups and to provide a specific set of services at a statewide level, in the same amount, duration, and scope.<sup>11</sup>

In Florida, Medicaid covers 60 percent of all nursing home bed days. 903,000 adults, including aged and disabled persons, receive Medicaid assistance. Florida is projected to spend approximately \$7,736 per eligible client in 2007-2008. There are projected to be two million eligible clients in Florida in fiscal year 2007-2008. Eligible clients

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<sup>5</sup> Presentations by Dr. Horacio Soberon-Ferrer, Department of Elder Affairs, and Beth Kidder, AHCA, at the August 17, 2007 Governmental Services Committee Meeting.

<sup>6</sup> Presentation by Dr. Horacio Soberon-Ferrer, Chief Economist, Department of Elder Affairs, to the Governmental Services Committee, August 17, 2007.

<sup>7</sup> Ibid.

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<sup>8</sup> Ibid.

<sup>9</sup> Presentation by Dyke Snipes, Assistant Deputy Secretary for Medicaid Finance, Agency for Health Care Administration, to the Governmental Services Committee, August 17, 2007.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

include elders, disabled, families, pregnant women, and children in families below poverty levels. Florida is the fourth largest Medicaid population in the nation and has the fifth highest expenditures for Medicaid in the United States.<sup>12</sup>

Medicaid expenditures in Florida are expected to be \$16 billion in fiscal year 2007-2008. This amount represents 25 percent of the state's expenditures for the period. The current match rate for federal and state share of Medicaid costs is 56.83 percent federal and 43.17 percent state.

Forty five percent of Medicaid expenditures in Florida cover hospitals, nursing homes, intermediate care facilities for the developmentally disabled, low income pool, and disproportionate share payments. Ten percent of all Medicaid expenditures cover the costs of drugs. Other provider participants may include Rural Health Clinics (RHC), County Health Departments (CHD), Federally Qualified Health Centers (FQHC), physicians, home health services, dental services, emergency and non-emergency transportation providers, dialysis, nurse practitioners, and laboratory services.<sup>13</sup>

Interestingly, while the caseload intake has decreased over the last two years, the costs for the program have increased as a result of an increase in the required state share and increases in the cost for higher end services such as nursing home bed days. The over-65 age enrollees in Medicaid make up only 14.94 percent of the eligible participants, but due to the higher costs of the services needed in the

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<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

older population, the group accounts for 27.47 percent of Medicaid expenditures.<sup>14</sup>

### **Florida Medicaid Coverage of Long-Term Care**

Florida provides Medicaid long-term care for eligible persons. In a recent American Association for Retired Persons survey, 74 percent of Floridians underestimated or did not know how much nursing home facilities cost on a monthly basis. Fifty four percent incorrectly believed that Medicare would pay for long-term nursing facility services.<sup>15</sup>

In Florida, Medicaid Long-Term Care consists of either nursing facility care or home and community based services waiver programs. Waivers are required to "opt out" of the nursing home care requirement of the federal program. Florida has been successful in making the case for cost savings and increased quality of care through home and community based waiver programs. The state now has six approved waiver programs that focus on elderly assistance.<sup>16</sup>

## **METHODOLOGY**

The Governmental Services Committee heard presentations from Mr. Carlton (Dyke) Snipes, Assistant Deputy Secretary for Medicaid Finance of the Agency for Health Care Administration

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<sup>14</sup> Ibid.

<sup>15</sup> AARP: the Costs of Long-Term Care: Public Perceptions Versus Reality in 2006, December 2006.

<sup>16</sup> Presentation by Beth Kidder, Bureau Chief for Medicaid Services, AHCA, to the Governmental Services Committee, August 17, 2007.

(AHCA); Ms. Beth Kidder, Bureau Chief for Medicaid Services, AHCA; and Dr. Horacio Soberon-Ferrer, Chief Economist for the Department of Elder Affairs at its August 17, 2007 committee meeting. In addition, the full Taxation and Budget Reform Commission (TBRC) heard a presentation from Ms. Amy Baker, Director of the Legislative Office of Economic and Demographic Research, at its May 18, 2007 meeting, and from Dr. David Denslow, representing the Leroy Collins Institute, at the November 1, 2007 TBRC meeting.

Additionally, staff has reviewed Ms. Baker's presentation to the Planning and Budgetary Processes Committee on September 6, 2007.

Meeting minutes, audio recordings, presentations, and documents presented to the committee are available on the web at [www.floridatbrc.org](http://www.floridatbrc.org).

## **FINDINGS**

The "Baby Boom" cohort, those born between 1946 and 1964, will begin to reach normal retirement age in 2011. The last of the cohort will reach retirement age in 2029. The economic effect of the baby boom cohort will last through at least 2050.<sup>17</sup> This effect will be more pronounced in Florida due to the large number of retirees already residing in the state and the projected

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<sup>17</sup> Presentation to the Taxation and Budget Reform Commission by Amy Baker, Director of the Legislative Office of Economic and Demographic Research, at its May 18, 2007 meeting.

desire of newly retired persons to live in a warm and inviting climate.<sup>18</sup>

In a presentation to the Governmental Services Committee, Dr. Horacio Soberon-Ferrer, Chief Economist for the Florida Department of Elder Affairs, made some interesting and counter-intuitive observations. Dr. Soberon-Ferrer noted that while Florida's aging population will continue to grow, the favorable long-term trend for the reduction in utilization of nursing home facilities will continue for another 25 years. Because of improved health and lower disability rates, lower rates of widowhood, more and better Assisted Living Facility (ALF) and Continuing Care Retirement Community (CCRC) programs, and a well developed network of home care providers, proportionally less of the state's population will need nursing home care.<sup>19</sup>

Conversely, nursing home reimbursement rates are continuing to grow at 5 percent above inflation rates, and there is an unabated shortage of health care professionals and paraprofessionals to work at nursing care facilities. These factors continue to drive the per diem rates for nursing care beds up at an alarming rate.<sup>20</sup>

Nationally, chronic disability rates for persons 65 years of age and older have leveled off at approximately 7 million, a drastic reduction from the projected 9.8

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<sup>18</sup> Remarks by Dr. David Denslow in his presentation to the November 1, 2007 TBRC meeting.

<sup>19</sup> Presentation by Dr. Horacio Soberon-Ferrer, Chief Economist, Department of Elder Affairs, to the Governmental Services Committee, August 17, 2007.

<sup>20</sup> Ibid.

million.<sup>21</sup> This relative decrease in the number of persons requiring long-term nursing care has resulted in a shift away from nursing care facilities and towards assisted living facilities and community care programs. Both types of care are less expensive than nursing care.

In addition, Dr. Soberon-Ferrer pointed out that stable marriage rates and the decline in disability rates may imply that growth in the elderly population can actually lower demand for nursing home care because an increase in the elderly male population indicates that spousal home care remains an option for elderly females (and males) for a longer period as the supply of healthy caregivers rises.

To understand the dynamics of the healthy aging process, Dr. Soberon-Ferrer showed a comparison of annual cost per customer of programs serving Florida's elders. As the level of frailty of the customer went up, the costs escalated.

For example, the annual cost per person for participation in the Older Americans Act program (Meals On Wheels and light assistance, as needed) was \$1,891 in fiscal year 2005-2006. Home Care for the Elderly program cost was \$2,329, while Medicaid Assisted Living for the Elderly Waiver care cost \$8,740, Medicaid Nursing Home Diversion Program (home health waiver) care cost \$21,063, and the federally mandated nursing home care cost \$44,836.<sup>22</sup>

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<sup>21</sup> AARP Public Policy Institute based on 1994 Long Term Care Survey and U.S. Census Bureau population projection middle series (slide provided as part of Dr. Soberon's presentation).

<sup>22</sup> Presentation by Dr. Horacio Soberon-Ferrer, Chief Economist, Department of Elder Affairs, to the Governmental Services Committee, August 17, 2007.

From these findings, it is clear that it is in the state's and the customer's best interest to actively pursue programs that keep older citizens healthy, and that reduce the state's Medicaid costs to care for older citizens.

Long-term care in Florida is largely funded by non-public sources. The publicly funded share of long-term care costs in Florida is about 14.5 percent while the remaining 85.5 percent is picked up through private sources, including some long-term care insurance and out-of-pocket by users.<sup>23</sup> There is some confusion among consumers about the difference between Medicaid and Medicare programs. Medicaid eligibility is determined by income need and includes entitlements such as nursing home care, while Medicare is available for all persons over a certain age, but does not pay for most long-term care needs.<sup>24</sup>

Florida's long-term care costs are actually lower than those in other states and across the United States due to the terms of the state's Medicaid program agreements with the federal government. Annual nursing home expenditures for Florida's 65 year old or older population are estimated to be approximately \$693 per capita. In comparison, Oregon's costs for that same population are estimated to be \$1,242, and the national average is \$1,500.<sup>25</sup> The percentage of the state's overall population of residents age 65 or older in nursing homes is impressive, with only 2.5 percent of the state's 65 year old or older population requiring nursing home care, while the

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<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

national rate is 4.2 percent. Florida's per capita costs are lower because we have a proportionally higher number of residents in the age group and a proportionally healthier cohort.<sup>26</sup>

The cost driver for the state's Medicaid program is the steady increase in the per diem cost of nursing home care. The cost per bed has grown steadily at approximately 6.7 percent per year. A nursing home bed per diem rate of \$95.18 in 1997 had grown to \$150.10 just seven years later in 2004.<sup>27</sup> Today, the average Medicaid daily rate for nursing facility care is \$178.77.<sup>28</sup> These reimbursement rates are mandatory, but are set by the state based on cost and census data provided by nursing care facilities across the state on a semi-annual basis.

As Florida's healthier older population stays out of nursing home care for longer periods of their lives, the customers in those nursing homes are increasingly much older and frailer. Extended life expectancies and better medical care have created a new type of nursing home customer that requires a high level of care.

At the same time, the labor pool of medical and paramedical professionals to work with these frail elderly in nursing home care is shrinking. The combination of these factors appears to be the leading factor in driving nursing home costs steadily higher over the next fifteen to twenty years. Assuming that

nursing home per-bed-day costs in Florida continue to grow at the current rate of 5 percent over inflation, and calculating costs in constant 2003 dollars, the cost of that service will have grown from approximately \$2.1 billion in 2003 to \$5.5 billion in 2020.<sup>29</sup>

As noted earlier, much of the cost of long-term care for the elderly is paid by private sources. In order to qualify for public assistance through the Florida Medicaid program, a customer must meet the need for nursing facility levels of care, have income and assets within the Medicaid limits, and reside in a nursing facility that participates in the Medicaid program or be enrolled in a Medicaid home and community based services waiver program.

Persons participating through a waiver program must meet additional criteria such as having a diagnosis of Alzheimer's disease or needing assistance with bathing or dressing.<sup>30</sup> The Agency for Health Care Administration continues to encourage Florida residents to participate in private long-term care insurance programs in an effort to offset the public cost of such care.<sup>31</sup>

While studies consistently find that people of all ages prefer to receive services in their own homes rather than nursing facilities, the federal government continues to take the position that Medicaid care should be administered in

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<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> Presentation by Beth Kidder, Bureau Chief for Medicaid Services, AHCA, to the Governmental Services Committee, August 17, 2007.

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<sup>29</sup> Presentation by Dr. Horacio Soberon-Ferrer, Chief Economist, Department of Elder Affairs, to the Governmental Services Committee, August 17, 2007.

<sup>30</sup> Presentation by Beth Kidder, Bureau Chief for Medicaid Services, AHCA, to the Governmental Services Committee, August 17, 2007.

<sup>31</sup> Ibid.

a nursing care facility. Under the Medicaid rules, nursing home care is an entitlement and the state is required to pay for anyone who meets the medical and financial criteria. Home and community based waiver programs are much less expensive, but are only available through legislative appropriations.

Once the state funds to pay for these less expensive programs are exhausted, users must default back to the federal entitlement program.<sup>32</sup> This institutional bias causes the public cost of long-term care to remain very high. The result of this federal policy is that in fiscal year 2005-2006, the Florida Waivers program was able to serve only 29,983 customers, while the Florida Nursing Home Care program served 81,502. The cost to serve the Nursing Home customers was \$2,581,363,986, while the cost to serve the Waivers customers was only \$268,208,937.<sup>33</sup> It is clear that the federal entitlement program regulations cost Florida hundreds of millions of dollars a year by failing to assist in higher usage of waiver programs.

According to Dr. Soberon-Ferrer, there are ways that state policymakers in Florida can have an impact on the high costs of Medicaid long-term care. The state can continue to support and encourage family and personal responsibility through education programs, support for development of affordable long-term care options, and creation of Aging Resource Centers as local contact liaisons for education, information, and referral on the subject. The state can continue to actively support programs that encourage good

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<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

health at all ages, social interaction, and physical and mental wellness.<sup>34</sup>

In addition, state policies can support a long-term care system that favors community based care, promotes de-institutionalization, removes institutional bias, is customer centric, and is flexible enough to allow funding to follow the consumer across various care settings over time. Service dollars could be used to supplement, rather than supplant, personal and family resources and more preventive care services could be offered.

The public long-term care system should prioritize and target services based on risk, and maximize return on investment by integrating types of care, finding administrative efficiencies, finding ways to share risk with participating partners, and maximizing federal funding streams to keep the population healthy and self-sufficient.<sup>35</sup> Dr. Soberon-Ferrer noted in his remarks that for every dollar that the state spends in alternative care programs, it saves \$53 in nursing care facility costs. He indicated that a strong focus on “well elders” in Florida could save as much as \$600 million in costs over time due to a reduced need for long-term health care services.

While Florida’s Medicaid Program managers have done a good job in finding ways to encourage a reduction in nursing home bed usage and negotiating waiver programs with the federal government, the inflexibility of the federal program continues to drive

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<sup>34</sup> Presentation by Dr. Horacio Soberon-Ferrer, Chief Economist, Department of Elder Affairs, to the Governmental Services Committee, August 17, 2007.

<sup>35</sup> Ibid.

extremely high costs for a small segment of the state's public health constituency. Florida law requires an annual review of all statutorily set options in the Florida Medicaid program. In addition, the state has begun pilot programs in Duval and Broward counties to try to lower Medicaid costs. Data from those programs are still in the internal review process.

There is some indication, through measures included in the currently pending federal Deficit Reduction Act, that the federal government is recognizing the need for more flexibility at the state level for more proactive use of home and community based care programs. On the downside, the Deficit Reduction Act has some formulaic funding language that would be detrimental for Florida's programs. State government analysts continue to watch the federal legislation and to work with federal partners to improve the final version of the pending legislation.<sup>36</sup>

## **CONCLUSION**

The impact to Florida's health care system, as a result of the projected growth in the aging population, is very difficult to ascertain with any degree of reliability due to the numerous variables effecting such calculations.

While Florida's aging population is projected to grow at exceptionally high rates through at least 2030, as a consequence of the baby boom cohort retirement, the ability to project the impact of that growth on the health care

system depends on what segment of the cohort moves to Florida, what health problems that segment may have, whether "at home" or "aging in place" options will be made more available by the federal government for the most expensive portion of the cohort, whether people continue to live beyond current expectations, whether the cost per bed day for nursing care facilities can be reduced, whether enough nursing care staff can be made available, and whether the state adopts more wellness programs to keep the older population self-sufficient for a longer time.

In short, it is impossible to make static predictions about a completely dynamic situation much beyond the short-term numbers offered in the report.

## **RECOMMENDATIONS**

None

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<sup>36</sup> Presentation by Beth Kidder, Bureau Chief for Medicaid Services, AHCA, to the Governmental Services Committee, August 17, 2007.



## TAXATION AND BUDGET REFORM COMMISSION

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# Governmental Services Committee Report Public Safety and Corrections

## SUMMARY

Ensuring public safety for all residents and visitors is one of the highest priorities for the State of Florida. There are many elements involved in safeguarding Florida from threats to public safety.

Law enforcement agencies such as the Florida Department of Law Enforcement (FDLE), Florida Highway Patrol, county Sheriffs' Departments, and local Police Departments are usually the most visible and recognizable components of public safety, but there are many other law enforcement agencies and components involved in protecting Florida's public. The Florida Department of Corrections (DOC) and the Florida Department of Juvenile Justice play integral roles in promoting and maintaining public safety in the state.

Other state agencies have law enforcement divisions, as well. The Department of Agriculture and Consumer Services, Department of Environmental Protection, Department of Business and Professional Regulation, and the Florida Fish and Wildlife Conservation Commission are just a few of the other agencies with active law enforcement components.

Non-law enforcement agencies, such as the Department of Community Affairs,

Division of Emergency Management, Department of Health, and Agency for Health Care Administration play active roles in the state's domestic security operations. These agencies work in cooperation with federal, state, and local law enforcement agencies to protect the public against domestic threats.<sup>1</sup>

## BACKGROUND

Law enforcement in Florida begins at the local and regional level. County Sheriffs' Departments and local Police Departments are often counted on to be the first line of defense against threats to public safety. Each Sheriff's Department and Police Department operates independently and enjoys a high level of autonomy, giving each department a higher level of budget and operating flexibility than with a centralized system. However, this autonomy can lead to structural problems when there is a lack of effective free-flowing communication and cooperation between departments.

State law enforcement agencies work with local and federal agencies to assist in coordination of mission assignments and to better the communications between departments. This renewed effort to provide better coordination is a

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<sup>1</sup> [www.fdle.state.fl.us/Domestic\\_Security](http://www.fdle.state.fl.us/Domestic_Security), Florida's Domestic Security Strategy.

result of the implementation of the state's strategic plan for domestic security which requires agencies to work together across regions and across the state.

### **State Law Enforcement Agencies**

FDLE is the agency charged with managing the broad task of law enforcement and domestic security across the state in cooperation with other local, state, and federal agencies.<sup>2</sup> FDLE's stated mission is: *"To promote public safety and strengthen domestic security by providing services in partnership with local, state, and federal criminal justice agencies to prevent, investigate, and solve crimes while protecting Florida's citizens and visitors."*<sup>3</sup>

In addition to its investigatory responsibilities, FDLE is responsible for the training and oversight of over 90,000 sworn law enforcement officers in the state.<sup>4</sup> There are 15 state agencies or departments that employ sworn law enforcement officers.<sup>5</sup> Each of these departments has their own specific uses for their officers, but they all are dedicated to the preservation and protection of Florida's public safety. Since the implementation of the state's Strategic Plan for Domestic Security,<sup>6</sup> state and local agencies have been required to work more closely together

in order to be eligible for federal homeland security grant funding.

Among the 15 departments with sworn officers, some are not very well known for having law enforcement officers. Some agencies like the Department of Business and Professional Regulation, the Department of Agriculture and Consumer Services, the Department of Transportation, and the Department of Environmental Protection have specialized officers who serve the public by protecting Florida's citizens and visitors from commerce, environmental, and other more obscure crimes. These officers are protecting us, for the most part, without many of us ever knowing they are there.

All state law enforcement officers, in conjunction with local and federal law enforcement officers, work together to implement the State Strategy on Domestic Security under the direction of FDLE and the Department of Community Affairs (DCA). FDLE serves as the liaison for the federal Department of Homeland Security (DHS), while DCA serves as the State Administering Agency for all grant funds distributed to Florida by DHS.<sup>7</sup>

### **County Sheriff's Departments**

There are 67 county Sheriff's Departments in the State of Florida. Each department is headed by a Sheriff, who is elected to 4-year terms (except the Miami-Dade Sheriff, whose title is Director of the Miami-Dade Police Department and who is appointed by the

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<sup>2</sup> Chapter 943, Florida Statutes.

<sup>3</sup> [http://www.fdle.state.fl.us/about\\_fdle/general.asp](http://www.fdle.state.fl.us/about_fdle/general.asp)

<sup>4</sup> Presentation by Mark Zadra, FDLE Assistant Commissioner, August 21, 2007.

<sup>5</sup> [www.fdle.state.fl.us/CJST/CJAP/2006/Demographics](http://www.fdle.state.fl.us/CJST/CJAP/2006/Demographics)

<sup>6</sup> Presentation by Mark Zadra, FDLE Assistant Commissioner, August 21, 2007.

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<sup>7</sup> 2006 Annual Report on Domestic Security available at [www.fdle.state.fl.us/Domestic\\_Security](http://www.fdle.state.fl.us/Domestic_Security).

Mayor)<sup>8</sup>, and have county-wide jurisdiction that includes both incorporated and unincorporated areas.

The Sheriff's office is responsible for law enforcement, corrections, and court services within the county. Sheriff's deputies provide law enforcement services within county lines, detention deputies work within the county jail, bailiffs work with local courts to provide security, and court service deputies handle the civil process of serving papers.

The counties of Dade and Duval have both undergone consolidation, so that today the incorporated areas of Miami and Jacksonville are policed by the Miami-Dade Police Department and the Jacksonville-Duval Sheriffs' Department, respectively. Historically, Sheriffs across the state have worked together on law enforcement issues. The Florida Sheriffs Association, founded in 1893, has been a conduit for information sharing and program development for Florida Sheriffs.<sup>9</sup>

### **Local Police Departments**

According to the Florida Police Chiefs' Association, there are approximately 308 local police departments in the state.<sup>10</sup> Not all cities or towns have independent police departments. In fact, in several counties, law enforcement responsibilities are consolidated at the county level.<sup>11</sup>

Local police agencies have the same law enforcement responsibilities as state and county agencies within the boundaries of their city limits. In addition to municipal police forces, several school districts, community colleges, and universities have sworn police forces to protect the students in their respective school systems.

### **Department of Corrections**

The DOC is the state agency responsible for Florida's state prisons and correctional facilities. As the agency in charge of corrections, the DOC plays a vital role in promoting public safety by influencing and educating inmates about how to re-enter society as law abiding citizens. Its mission is to protect the public safety, to ensure the safety of Department personnel, and to provide proper care and supervision of all offenders under DOC's jurisdiction while assisting, as appropriate, their reentry into society.<sup>12</sup>

The DOC maintains 137 facilities statewide, including 60 prisons, 41 work/forestry camps, one treatment center, 30 work release centers and five road prisons.<sup>13</sup> Of DOC's more than 27,000 employees, approximately three quarters are either certified correctional officers or probation officers.<sup>14</sup>

### **Community Corrections**

One of the more recent developments in the field of corrections is the expanded administration and use of community corrections. According to a 1997 report by the Center of Community

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<sup>8</sup><http://www.flsheriffs.org/index.cfm/referer/content.contentList/ID/320/>.

<sup>9</sup>[www.flsheriffs.org](http://www.flsheriffs.org).

<sup>10</sup>[www.fpca.org](http://www.fpca.org) Information provided via phone call on November 7, 2007.

<sup>11</sup>[www.flsheriffs.org](http://www.flsheriffs.org).

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<sup>12</sup><http://www.dc.state.fl.us/about.html>.

<sup>13</sup><http://www.dc.state.fl.us/facilities/index.html>.

<sup>14</sup><http://www.dc.state.fl.us/about.html>.

Corrections, community corrections consist of a variety of local, state, or Federal government activities involving the punishment and management of juvenile and adult offenders in controlled environments within the jurisdictions where they live.<sup>15</sup>

Community corrections activities engage communities, victims, offenders, and volunteers in local efforts to avert future crime, provide effective correctional treatment, observe offender compliance, punish appropriately, and pay for the harm that has occurred.<sup>16</sup> Community corrections programs rely on a wide range of economic, treatment, restorative, and punishment sanctions. Community correctional partnerships separate the violent from the nonviolent and save limited beds for violent offenders.<sup>17</sup>

### **Faith and Character Based Institutions**

The Faith and Character Based Correctional Initiative (FCBI), begun in late 2003, is a bold and innovative effort to reduce recidivism and disciplinary infractions in correctional institutions by offering character-based programming in a positive environment to inmates committed to inner transformation. Without regard to religion, this initiative offers inmates a variety of activities and classes (both religious and secular) focused on personal growth and character development.

Without additional cost to the state, this initiative employs residential clustering

to concentrate program offerings among like-minded inmates, utilizes mentors and provides an open public forum for community volunteers interested in making a difference in inmates' lives. Volunteer programming is rich with positive reinforcement designed to help inmates take well-defined steps toward mature and responsible living. The exciting news is that this young initiative shows promising signs of working as evidenced by substantially lower disciplinary rates.

### **Department of Juvenile Justice**

The Department of Juvenile Justice (DJJ) is the agency responsible for juvenile delinquency issues including: prevention, intervention, probation, commitment, and aftercare. DJJ is not a long-term youth corrections department. Rather, juvenile detention in Florida is a short-term temporary program. Juvenile offenders who require long-term sanctions and rehabilitation are placed into non-residential or residential treatment programs, or (for more serious offenses) may be tried in the courts as adults and interned in an adult facility.

The Community Corrections model is employed by DJJ for a large part of its operations. According to the department's approved manual, supervising and counseling youths in their home communities through diversion and conditional release programs, the probation and community corrections branch is the most community-based program in the agency.<sup>18</sup> The principle programming for this branch includes diversion, court ordered supervision, conditional release,

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<sup>15</sup><http://www.communitycorrectionsworks.org/site/ourresources/publications/punishments.pdf>.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

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<sup>18</sup><http://www.djj.state.fl.us/manuals/approvedmanuals/probation/rev9-06/Introduction.pdf>.

intensive delinquency diversion, and other probation services.

Probation is an individualized court-ordered program in which the youth is restricted to home or another designated placement in lieu of commitment to the department. Juvenile probation officers supervise youths to ensure compliance with court ordered sanctions, such as restitution, community service, or curfew. They also focus on developing more pro-social behaviors through service interventions with the youth's family, school, and community agencies.<sup>19</sup> Some of these service interventions concentrate on the needs of youth with mental health, substance abuse, sex offender, and developmental disability factors.

Conditional Release includes day treatment and community supervision programs for youth released from residential commitment programs.<sup>20</sup>

### **Domestic Security**

The State of Florida has led the nation in domestic security planning and response since the days following the attacks on America in 2001. In October 2001, the state adopted a strategic plan which incorporated the actions of federal, state, and local law enforcement and first responders in a regional preparedness and response capacity.<sup>21</sup>

Under the direction of the Governor, FDLE is charged with domestic security

operations for the state.<sup>22</sup> FDLE coordinates domestic security planning and operational strategy across all federal, state, and local jurisdictions, and across all disciplines, for the State of Florida. The department works very closely with multiple state and local agencies to assure that a smooth operational plan is reviewed and updated every year.

The Florida domestic security strategy is based on a regional structure that supports all levels in preparation and response. Local and regional teams are trained and equipped using standardized courses, technology, terminology, and equipment so that teams from across the regions and the state can respond across boundaries, if needed.

The state is divided into seven Regional Domestic Security Task Force regions, each of which are fully staffed and equipped to mitigate against, prepare against, and respond to a myriad of terrorist or other domestic security scenarios. There are trained analysts and fusion centers throughout the state that share information on a continuous basis to protect against domestic threats. The state has a very active seaport security program to guard against attacks at its twelve active public seaports, and many trained specialty teams to respond to all types of attack profiles.<sup>23</sup>

Florida utilizes an "all-hazards" approach to preparedness and response, so that local and state agencies are trained to follow protocols based on scenarios, but can respond to any type of

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<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Strengthening Domestic Security in Florida: Strategic Plan and Funding Strategy, October 2001. Available at [www.fdle.state.fl.us](http://www.fdle.state.fl.us).

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<sup>22</sup> s. 943.0311, Florida Statutes.

<sup>23</sup> 2006 Annual Report on Domestic Security, [www.fdle.state.fl.us/Domestic\\_Security](http://www.fdle.state.fl.us/Domestic_Security).

emergency using that training.<sup>24</sup> The “all-hazards” approach is used in conformance with the National Response Plan of the Department of Homeland Security.<sup>25</sup>

The state’s domestic security training efforts paid off in 2004 and 2005 when agencies from across the state were called on to assist in hurricane response activities. Florida was actually put in charge of the six most devastated counties in lower Mississippi after Hurricane Katrina due to the demonstrated capability to work in impossible conditions after the storm season of 2004.

The agreement between Mississippi Governor Haley Barbour and Florida Governor Jeb Bush represented a fine example of the operation of the Emergency Management Assistance Compact (EMAC) that exists between states.<sup>26</sup> The mechanism allows states to assist one another without direction from the federal government. Florida’s first responders restored order and provided much needed relief and guidance to the people of Mississippi.

As of 2006, the State of Florida had received \$1,062,252,828 in federal and state funding from specialized grants for domestic security. The funds are available to either local or state governments for specific programs and purposes. Funds are tightly monitored by both the federal and state agencies overseeing the grant programs. Grant

funds have been used in Florida to build protection, preparedness, and response capabilities across the seven domestic security regions.<sup>27</sup>

The federal funds are awarded annually by various federal agencies based on appropriations by the U.S. Congress. Funds must be used within a certain period for specific, pre-approved purposes, and are not recurring. Funds awarded to Florida have declined each year from a peak allocation in 2002. Funds are now based on risk and need, and Florida’s good work in the past will probably cause the state to continue to receive flat or declining amounts of funding for this effort.

One example of the strategic use of the funds is the creation of an inter-operable communications system that is used in all 67 counties to allow local and state law enforcement and first response agencies to talk across differing technologies. This very important response tool was designed by workgroups within the state domestic security structure and over \$40 million in federal grant funds have been allocated for the completion and maintenance of the system. The system is now used on a daily basis across the state to allow agencies to communicate without having to purchase expensive new radio equipment.<sup>28</sup>

By purchasing equipment and training opportunities in large volumes and allowing law enforcement and response personnel from across the state to use and train on the same equipment, using the same protocols, the state has created

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<sup>24</sup> Florida’s Domestic Security Strategy, Appendix One of 2006 Annual Report on Domestic Security.

<sup>25</sup> <http://www.dhs.gov/xlibrary/assets/NPRbaseplan.pdf>.

<sup>26</sup> Chapter 252, Part III, Florida Statutes.

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<sup>27</sup> 2006 Annual Report on Domestic Security, [www.fdle.state.fl.us/Domestic\\_Security](http://www.fdle.state.fl.us/Domestic_Security).

<sup>28</sup> Ibid.

a circumstance that allows for officers from one part of the state to stand ready to assist their fellow officers anywhere in the state. The state has adopted this methodology across all disciplines, including hospitals and paramedics in the standardization process. This practice has allowed the state to maximize its grant allocations from the federal government and to provide additional support to local agencies through better purchasing arrangements.

## **METHODOLOGY**

A public meeting held by the Governmental Services Committee of the Taxation and Budget Reform Commission on August 21, 2007 was the primary source of data collection used in creating this committee report.

The committee heard presentations from a panel of speakers including: the Assistant Commissioner of the Florida Department of Law Enforcement, Mark Zadra; Duval County Sheriff, John Rutherford; President of the Florida Sheriffs Association and Sheriff of Baker County, Joey Dobson; First Vice-President of the Florida Police Chiefs Association and Port Orange Police Chief, Gerald Monaghan; Third Vice-President and Gulf Breeze Chief of Police, Peter Paulding; Orlando Police Chief, Mike McCoy; Port Saint Lucie Police Chief, John Skinner; Deputy Chief Financial Officer for the City of Orlando, Ray Elwell; Secretary of the Department of Corrections, James McDonough; and Director of Law Enforcement Relations from the Attorney General's Office, Emery Gainey.

Other sources of information used in the project were: Florida Department of Law Enforcement; Florida Division of Emergency Management; Florida Office of Program Policy Analysis and Government Accountability Reports; Florida Government Accountability Reports; Urban Institute Justice Policy Center's 2007 report on Faith and Character Based Institutions; U.S. Department of Health and Human Services Report – "Rediscovering Compassion: An Evaluation of Kairos Horizon Communities in Prison;" U.S. Department of Health and Human Services Report – "Navigating a New Horizon: Promising Pathways to Prisoner Reintegration;" Florida Department of Corrections Report – "Evidence-Based Practices: Programs That Work in the Florida Department of Corrections;" Department of Juvenile Justice's Approved Manual; and Center of Community Corrections 1997 Final Report.

Meeting minutes, audio recordings, presentations, and documents presented to the committee are available on the web at [www.floridatbrc.org](http://www.floridatbrc.org).

## **FINDINGS**

Law enforcement is defined as the government activity of keeping the public peace and causing laws to be obeyed.<sup>29</sup>

### **State Law Enforcement – Florida Department of Law Enforcement**

In a presentation to the Governmental Services Committee, FDLE Assistant Commissioner Mark Zadra identified the

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<sup>29</sup> <http://dictionary.cambridge.org/>.

following three factors that principally influence law enforcement: Customers, Climate, and the Criminal Element.<sup>30</sup>

The customers of FDLE are separated into two categories: criminal justice agencies and the public. Both groups of customers have demands which are expected to be met by FDLE. The criminal justice agencies necessitate specialized support and training, human resources, effective interagency communication, and adequate funding levels. The public demands protection and service, effective investigations, access to safety information, and the guarantee of their right to privacy and civil liberties.

The climate in which law enforcement operates is a fundamental concern. Changes in populations through growth, tourism, migration, and immigration are factors which can affect law enforcement. The economy, public policy and legislation, and current events in policing also may impact the climate of law enforcement. Critical infrastructure in ports, theme parks, rail lines, and schools are all points of interest for law enforcement officers.

The types of crimes committed, who is committing the crimes, and where the crimes are committed are components which make up the Criminal Element of law enforcement. The way in which the crimes are committed (technology, street crimes, organized crimes, etc.) also impacts how law enforcement measures the criminal element.

Mr. Zadra's presentation to the Governmental Services Committee

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<sup>30</sup> Presentation by FDLE Assistant Commissioner Mark Zadra, August 21, 2007.

included data on the standard index crime rate. The data was first collected in 1971 and continues today. The crimes which are indexed for data collection are the following felonies: murder, forcible sex offenses, robbery, aggravated assault, burglary, larceny, and motor vehicle theft. The crime rate is based on the number of indexed crimes divided by the population of the sample. By this method of calculation, the State of Florida is experiencing the lowest crime rate in 36 years.<sup>31</sup>

FDLE is in charge of a wide range of law enforcement activities. The department's long-range program plan (2008-2013) identifies their primary responsibility as preventing, investigating, and solving crimes while protecting Florida's citizens. FDLE offers a range of diverse services to Florida's law enforcement community, criminal justice partners, and citizens. Performance goals and customer surveys have been established and are used to monitor the performance, delivery, and quality of FDLE's services.<sup>32</sup>

The department's role in law enforcement is both primary and back-up for other agencies. In addition to its forensic and investigative responsibilities, FDLE acts as a record keeping and administrative agency and as back-up for other federal, state, and local law enforcement agencies. Departments such as the Fish and Wildlife Conservation Commission, the Department of Transportation, the Department of Agriculture and Consumer Services, the Department of

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<sup>31</sup> Ibid.

<sup>32</sup> Florida Department of Law Enforcement – Long Range Program Plan FY 2008-2009 through 2012-2013.

Environmental Protection, and several others all rely upon FDLE for assistance.

Advancements in technology are helping to make law enforcement officers more efficient and drastically improving effective communication. Examples of technological improvements include digital fingerprint scanning, dashboard cameras in cruisers, body armor, less-than-lethal weapons (tasers, rubber bullets, pepper spray, etc.), and laptop computers mounted in vehicles. These trends toward technological advancements are expected to continue to increase efficiencies for officers in the future.

### **Domestic Security**

Florida's five Domestic Security focuses include: Preparation, Prevention, Mitigation, Response, and Recovery.<sup>33</sup> The FDLE long-range program plan outlines the expansion of the domestic security activities implemented in order to protect Florida from potential attacks.

Since the 2001 terrorist attacks, the Legislature has expanded FDLE's scope of services to include domestic security. In Fiscal Year 2002-2003, the Legislature appropriated \$2.3 million and 35 positions to the agency for these additional responsibilities.<sup>34</sup> Since 2001, federal and state funding for domestic security programs has exceeded \$1 billion.<sup>35</sup> These responsibilities are consistent with the agency's mission of detecting, preventing, and solving crime

in partnership with other criminal justice agencies.

Under its expanded mission, the department has worked with local, state, and federal agencies to develop:

- Strategies and plans to deal with potential or actual terrorist acts affecting the state;
- A statewide domestic security information system to collect, analyze, and share intelligence information among federal, state, and local agencies;
- Training and exercises for ensuring that first responders react uniformly to terrorist attacks; and
- Security plans and compliance procedures for securing Florida's critical infrastructure, such as water supply, power grids, phone system, ports, and borders.

Consistent with FDLE's role of protecting against terrorist threats, the 2002 Legislature transferred command of the Capitol Police from the Department of Management Services to FDLE. The role of the Capitol Police has expanded to include officer training in FBI-certified bomb deactivation, explosives disposal, and the use of dogs to detect explosives.<sup>36</sup>

Domestic security spending has not eroded other law enforcement costs and is now considered part of FDLE's core mission. Forty two percent of FDLE's sworn officers are investigators, some of whom are involved in anti-terror

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<sup>33</sup> Presentation by FDLE Assistant Commissioner Mark Zadra, August 21, 2007.

<sup>34</sup> House Bill 27-E, 2002 General Appropriations Act.

<sup>35</sup> 2006 Annual Report on Domestic Security, FDLE, found at [www.fdle.state.fl.us](http://www.fdle.state.fl.us).

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<sup>36</sup> Florida Department of Law Enforcement – Long Range Program Plan FY 2008-2009 through 2012-2013.

investigations while others are involved in traditional criminal investigations.

### **Sheriffs Departments**

In his presentation to the Governmental Services Committee on August 21, 2007, Duval County Sheriff John Rutherford expressed the need for improvements in infrastructure despite budget reductions. Sheriff Rutherford indicated that these increasing needs are due in part to rapid population growth increases.

Some of the needs Sheriff Rutherford identified are: a new courthouse, new jails, new juvenile assessment centers, and improved technology. He indicated that the inmate population in correctional institutions is growing at higher than expected rates.

The aging of the inmate population is also creating increased medical costs. In 1995, medical costs for inmates were \$2 million. In 2007, medical costs will be \$10 million. Sheriff Rutherford explained that rising energy and fuel costs are also causing an increase in spending. Last year, the Duval County Sheriffs office spent \$1.8 million more than was projected on gasoline and diesel.<sup>37</sup>

In contrast to FDLE's position, Sheriff Rutherford indicated that after September 11, 2001, Duval County's local law enforcement shifted its focus to anti-terrorism which *does* increase their operational costs. Moreover, Mr. Rutherford suggested that the lack of DNA processing capacity in the State of Florida has reached near-crisis levels.

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<sup>37</sup> Presentation by Duval County Sheriff John Rutherford to the Governmental Services Committee, August 21, 2001.

He suggested that FDLE should increase forensics spending immediately. There are currently 140 inmates in Jacksonville awaiting trial for murder who are in line for DNA testing.<sup>38</sup>

In order to compensate for budget shortfalls, Jacksonville is looking into implementing a system of user fees in the county jails. Services like telephone calls, which are currently paid for by the City of Jacksonville, may soon be available only after inmates pay a nominal fee.

Sheriff Rutherford identified the primary sources of funding for the Jacksonville-Duval Sheriff's Department as ad valorem taxes and general revenue sharing. However, because of the budget restraints, the Mayor is seeking a new tax on garbage collection and an electric surcharge fee to help the department sustain record population growth rates while budgets continue to shrink.

When asked if he would support a separate millage just for law enforcement, Sheriff Rutherford responded that a Sheriff's Department's needs go beyond law enforcement. "There is limited capacity for DNA processing, State Attorneys are swamped, courtroom space is limited, and the Department of Juvenile Justice lacks detention facilities. Creating a separate millage for law enforcement would put strain on a system that is overwrought as it is," said Rutherford.<sup>39</sup>

President of the Florida Sheriffs Association and Baker County Sheriff

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<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

Joey Dobson was another presenter at the August 21, 2007 meeting of the Governmental Services Committee. Sheriff Dobson discussed the issues faced by smaller departments in rural counties.

As Sheriff Dobson explained, “Baker County is one of the smaller departments in the state and faces some different challenges than the departments from counties with larger populations. Baker County has a population of 30,000 residents and a millage rate of 5.5 for the Sheriff’s budget. We have a consolidated law enforcement policy in Baker County. There is no police department; the sheriff’s deputies handle all calls in both incorporated and unincorporated areas of the county. Our funding comes from local taxes and turnover is high because officers leave for more money in larger departments.”<sup>40</sup>

### **Police Departments**

Port Orange Police Chief Gerald Monaghan, who is also the First Vice President of the Police Chiefs’ Association, addressed the committee on August 21, 2007. Chief Monaghan explained that Port Orange has a population of 50,000 and that more people equal more calls for service. He indicated that officer recruitment and planning without revenue will be very difficult.

Chief Monaghan explained that federal revenue streams are diminishing and that regional assistance will shrink as

resources are cut. He noted that while crime rates may be down, actual crime numbers are rising, and that cutting revenues will cause the problem to worsen.

Chief Monaghan emphasized that equipment needs are critical. He also made clear that it is hard to recruit and retain new officers, but that it is even harder for the smaller departments. When asked if his officers have enough protection in the field, Chief Monaghan replied that his force does, but not all agencies do. The Police Chiefs Association is working with FDLE to get grant money to those agencies. He explained that budget cuts may cause less protection for officers.<sup>41</sup>

Orlando Chief of Police Mike McCoy was another presenter at the August 21, 2007 meeting. Chief McCoy’s presentation began with a comment on the budget and the criminal justice system as a whole. He indicated that all departments will want more money and that there is never enough.

Chief McCoy suggested looking at the whole system, not just the budgets. He explained that the criminal justice system is overwhelmed, broken and needs to discourage repeat offenders in order to get under control. He added that monetary incentives are needed to keep repeat offenders out of the system.

Chief McCoy went on to suggest that in juvenile cases the system should try to help the children, not just defend them.

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<sup>40</sup> Presentation by President of the Florida Sheriffs Association and Baker County Sheriff, Joey Dobson, Governmental Services Committee meeting, August 21, 2007.

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<sup>41</sup> Presentation by Port Orange Police Chief Gerald Monaghan, Governmental Services Committee meeting, August 21, 2007.

He indicated that not enough is done to help them when they are young – we defend them until they are convicted instead of trying to change their wrong behavior as soon as they enter the system. He suggested that we must keep them out of the broken system.

Chief McCoy explained that this treatment amounts to the equivalent of “cruel and unusual punishment” – once someone is in the system, they lose all ability for a meaningful life. He suggested that juvenile offenders who drop out of school could possibly be diverted from criminal activity with job training, and added that too many children are not getting the vocational training that non-college bound students should receive.<sup>42</sup>

### **Privacy and Civil Liberties**

Assistant Commissioner Mark Zadra of FDLE indicated that privacy has little or no effect on the budgetary process, but from an operational prospective, it is necessary to maintain a balance between “need to know” and privacy. Most privacy and civil liberties issues deal with identity theft, information storage, the Patriot Act, etc. Mr. Zadra suggested that it is important to have privacy policies for public records laws.

Many citizens probably do not have any idea how law enforcement compiles and uses information. The problem is not only about identity theft and hacking, but with inappropriate use of government information. Accountability by government employees is vitally

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<sup>42</sup> Presentation by Orlando Chief of Police, Mike McCoy, Governmental Services Committee meeting, August 21, 2007

important and there are laws in place to protect the public from misuse.<sup>43</sup>

### **Law Enforcement Pensions and Retirement**

Ray Elwell, Deputy Chief Financial Officer for the City of Orlando, addressed the Governmental Services Committee on the subject of law enforcement officers’ pensions and retirement benefits. Mr. Elwell stated that the greatest challenge is trying to balance new requirements caused by ad valorem changes with an increased need for services.

He also indicated that the city bears all of the risk in its pension plan. If markets are down, the city must make up the difference. While normal law enforcement retirement is at 20 years of service, the city negotiates the terms and conditions of retirement policies with the union.<sup>44</sup>

Mr. Elwell explained that all of the officers are represented by the union negotiators whether or not they are paying union members. He indicated that while it may seem retirement after 20 years is quite generous, one has to take into account the type of service and the fact that law enforcement officers have a lower amount of usable years than most careers.

Despite their physically trying careers, retirees must pay their own health

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<sup>43</sup> Presentation by Mark Zadra, Assistant Commissioner of FDLE, Governmental Services Committee meeting, August 21, 2007.

<sup>44</sup> Presentation by Ray Elwell, Deputy Chief Financial Officer for the City of Orlando, Governmental Services Committee meeting, August 21, 2007.

benefits unless they have completed the “20 and out” program. Mr. Elwell stated that all law enforcement officers are in a competitive market and suggested that if the city did not offer “20 and out” then they would be out of the competitive market.<sup>45</sup>

Emery Gainey, Director of Law Enforcement Relations from the Attorney General’s Office, addressed the group on the issue of retirement costs for law enforcement personnel. He indicated that while the City of Orlando presentation on costs may be reflective of some city systems, it is important to note that county governments in Florida fall under the state retirement system, and that while sworn officers may retire under the “Special Risk” category at 25 years of service, all non-sworn personnel work for a full 30 years, and once an officer has retired as Special Risk, that officer is not eligible to return as a Special Risk employee. The officer may return to work, but at the regular retirement accrual rate.<sup>46</sup>

## Corrections

According to Department of Corrections Secretary James McDonough, the department’s budget is currently \$2.2 billion, with most of the funds directed toward corrections and probation, and \$365 million for health care being absorbed by the prison system.<sup>47</sup> Secretary McDonough stated that one to

two new prisons are needed each year (under current projections) at a cost of approximately \$100 million per prison. If no changes are made, these costs may rise to \$114.5 million per prison by 2013. He also pointed out that he has no faith in the estimation that operating costs will rise by \$1 million through 2013. He believes these costs will rise at a much higher rate.<sup>48</sup>

The DOC is the largest provider of mental health care in the State of Florida. Secretary McDonough informed the committee that the largest growth sector in prison populations is women, and that approximately 50 percent of incarcerated women are in need of mental health care. When asked why women are the fastest growing cohort, Secretary McDonough replied that changes in culture where women compete in all things may be weakening families’ protections against exposure to more aggressive elements of society.

According to the Secretary, there are two things that feed the growth in prison populations: original entries and recidivism. He indicated that 32 percent of all released inmates return to incarceration within three years. Nearly 36,000 prisoners are released each year, and with a 32 percent recidivism rate, that means 12,000 inmates return to the system within three years (enough to fill two prisons).<sup>49</sup>

Secretary McDonough explained that cost effective investments reducing the return rates of inmates are needed and stated that DOC is working to bring the re-entry rate down to 20 percent through better parole supervision and improved

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<sup>45</sup> Ibid.

<sup>46</sup> Presentation by Emery Gainey, Director of Law Enforcement Relations from the Attorney General’s Office, Governmental Services Committee meeting, August 21, 2007.

<sup>47</sup> Presentation by Secretary James McDonough, Secretary of Department of Corrections, to the Governmental Services Committee, August 21, 2007.

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<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

inmate training. He pointed out that the keys to getting out of the recidivism cycle are: education, substance abuse treatment, vocational education, and the development of life skills and accoutrements.

Secretary McDonough and his staff at DOC have developed four proposals to help lower costs for the department, which are outlined below. The Secretary conceded that he considers the fourth proposal risky and believes it would violate the 85 percent rule.<sup>50</sup>

Proposal 1. Re-Entry Supervision Work Release – This proposal expands existing work release authority to permit temporary housing of inmates at approved residences in the community. It requires these inmates to report weekly to DOC and includes employment verification and drug testing. It also provides additional supervision of inmates at home and in the workplace with the help of probation officers, and may allow overnight furloughs. The savings expected in fiscal year 2007-2008 are \$22 million in operating costs and \$100 million in construction costs. The savings expected in fiscal year 2008-2009 are \$31 million in operating costs and \$4 million in construction costs.<sup>51</sup>

Proposal 2. Supervised Re-Entry “Year and a Day” Diversion – This proposal provides DOC with the authority to divert offenders, with an initial state commitment of less than one year, to

temporary housing at approved residences in the community. It requires these inmates to report weekly to DOC and includes employment verification and drug testing. It also provides additional supervision of inmates at home and in the workplace with the help of probation officers. The savings expected in fiscal year 2007-2008 are \$26 million in operating costs and \$164 million in construction costs. The savings expected in fiscal year 2008-2009 are \$141 million in operating costs and \$190 million in construction costs.<sup>52</sup>

Proposal 3. Periodic Gain Time – This proposal permits DOC to grant up to three separate 90-day gain time awards to inmates. It provides inmates with up to two awards in 2007-2008 and one award in 2008-2009. It also provides adequate community supervision through correlating an increase in probation officers, and can be given and taken away administratively. (57 probationers were convicted of committing murder this year.) The savings expected in fiscal year 2007-2008 are \$39 million in operating costs and \$100 million in construction costs. The savings expected in fiscal year 2008-2009 are \$69 million in operating costs.<sup>53</sup>

Proposal 4. Control Release – This proposal lowers the control release trigger to 96 percent of capacity. It places control release under DOC control. It also constitutes a back-up plan; not a primary mechanism. (This proposal is not supported by Secretary McDonough because it allows for crowding and automatic release.)<sup>54</sup>

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<sup>50</sup> Section 944.275 (4)(b)3., Florida Statutes.

<sup>51</sup> Presentation by Secretary James McDonough, Secretary of Department of Corrections, to the Governmental Services Committee, August 21, 2007.

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<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

<sup>54</sup> Ibid.

Secretary McDonough indicated that health care costs include third party and private groups, and noted that he uses private health care providers in extreme emergencies. The Secretary added that at times, people are compelled to dial 911 for emergency services and when they do, DOC loses control of the cost situation. Secretary McDonough indicated that he anticipates a 10 percent growth in medical costs and feels that he is wasting tens of millions of dollars on health systems.<sup>55</sup>

Secretary McDonough explained that he is not a “soft sell,” but does believe the State of Florida has gone to the extreme on hard laws and hard time. The reality is that 90 percent of the inmate population will return to the street. Inmates who are able to smoothly transition back into society are much less likely to return to jail or prison. He believes it is better to give them the tools to make their return to society easier, and that by so doing the crime rate can be reduced as it will reduce the rate of recidivism. He suggested this can be done by investing in education, substance abuse treatment, vocational rehabilitation, developing life skills, and expanding alternative ideas such as faith and character based initiatives.

Secretary McDonough indicated that Allison DeFoor, State Coordinator of EarthBalance, has been working on faith and character based initiatives in Florida’s prisons and would be a valuable source of information on the subject.<sup>56</sup>

## **Faith and Character Based Initiatives**

As noted earlier in this report, the Faith and Character Based Correctional Initiative (FCBI) is a bold and innovative effort to reduce recidivism and disciplinary infractions in correctional institutions by offering character-based programming in a positive environment to inmates. This initiative offers inmates an opportunity to focus on personal growth and character development without additional cost to the state.

Listed below are examples of programs (courses of studies) that focus specifically on strengthening Florida’s families and are provided by secular and religious organizations as well as individual volunteers.<sup>57</sup>

- Life Skills
- Personal Faith
- Family Relationship
- Parenting
- Substance Abuse
- Financial Concepts
- Anger Management
- Interview & Job Skills
- Goal Setting
- Computer Literacy
- Small Business Concepts
- Fatherhood Curriculum
- Family Days
- Reading Family Ties
- Marriage Enrichment
- Women’s Empowerment

Currently, there are three Faith and Character Based Institutions and seven

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<sup>55</sup> Ibid.

<sup>56</sup> Presentation by James McDonough, Secretary of the Florida Department of Corrections,

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Governmental Services Committee meeting, August 21, 2007.

<sup>57</sup> <http://www.dc.state.fl.us/oth/faith/index.html>.

facilities with Faith-Based/Self-Improvement Dorms located in various state Correctional Institutions (CI). Combined, these two programs total 3,564 beds from the following facilities.<sup>58</sup>

- Faith and Character Based Institutions:
  - Lawtey CI
  - Hillsborough CI
  - Wakulla CI
  
- Faith-Based/Self-Improvement Dorms:
  - Everglades CI
  - Gulf CI
  - Lancaster CI
  - Lowell CI
  - Polk CI
  - Tomoka CI
  - Union CI

Overall recidivism rates in DOC are in the 35 percent range. As return rates are usually reported for a 36-month period after release, recidivism figures for faith and character based programs are still preliminary. However, the DOC monthly reports appear to show positive results. Since March 1, 2006, a total of 493 inmates have been released from Wakulla CI and 30 persons have been returned to incarceration within the department. This is a return rate of 6 percent for 16 months. The current recidivism rate for Lawtey CI is 8 percent, measured from December 24, 2003 to May 31, 2007.<sup>59</sup>

Released in November 2006, the final report of Governor Jeb Bush's Ex-Offender Task Force recommended that faith and character based prisons be

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<sup>58</sup> Ibid.

<sup>59</sup> <http://horizoncommunities.org/FLORIDA.html>.

expanded to help create a more positive prison culture.<sup>60</sup> A front page New York Times article from December 2006 named Florida as the one state in the country that “got it right” with faith-based prison programs and First Amendment church and state issues.<sup>61</sup>

The Horizon Communities in Prison-sponsored Faith and Character Based Initiative is clearly endorsed by the executives and administrators of DOC, but perhaps a more revealing fact is that the corrections officers who guard the facilities are very supportive of the program. They often find that the inmates who participate in the FCBI program are easier to deal with and much less likely to cause problems.

DOC offered strong support for program establishment. Prison administrators were interested in the program's promise for increasing prison safety and reducing recidivism, particularly at minimal cost. Prison officials saw the advantage of segregating a relatively low-risk, self-accountable population, thereby freeing up correctional officer time and labor to focus on higher-risk segments of the prison population. While some correctional officers were initially skeptical of allowing inmates to have roles of authority over others, and questioned if inmates were potentially taking advantage of the program to get an “easier time,” most officers have witnessed positive program outcomes and have confidence in the program.<sup>62</sup>

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<sup>60</sup> Final Report of Governor's Ex-Offender Task Force, November 2006.

<sup>61</sup> <http://horizoncommunities.org/FLORIDA.html>.

<sup>62</sup> <http://horizoncommunities.org/images/Horizon3%20-compassion%20.pdf>.

Correctional officers reported that the FCBI dorm at Tomoka CI did not have the same problems that other dorms experienced such as fighting, substance abuse, sexual behavior, and a general disrespect for prison staff. Staff found that the FCBI dorm was easier to work because the inmates police themselves as peers. This self-management resulted in less paperwork and less need for correctional officer involvement in the dorm. In the words of one correctional officer, “having seen the difference compared to the other dorm, this dorm is the smoothest I’ve seen since I’ve been in corrections.”<sup>63</sup>

The personal transformation and rehabilitation possible at an FCBI was perceived by respondents to lead to many positive outcomes after an inmate’s release. Several staff and volunteers view the spiritual and character development central to the FCBI model as a complement to more concrete educational and vocational skills, and as a necessary foundation for re-entry success. The faith-based programs complement secular life skills programs in that they instill in inmates the desire and the tools to make life choices that prevent them from returning to prison.<sup>64</sup>

The chaplain and other staff members report that they have witnessed the success of the FCBI model in reducing recidivism. While the FCBIs do not employ formal methods for tracking inmates once they are released back into their communities (aside from reentry into the DOC system), the chaplains and some officers keep in contact with

former inmates and many believe that inmates exiting FCBIs have a smoother transition back into the community than those from other facilities.

Indeed, respondents report that at least some share of former inmates keep in contact with the prison, sharing information on how they are doing at home and expressing that what they learned while at the FCBI facility has helped keep them out of prison. Other correctional officers and staff, however, were of the opinion that many of the former inmates who do not recidivate are individuals who were likely to succeed regardless of their FCBI experience.<sup>65</sup>

## **RECOMMENDATIONS**

The Governmental Services Committee, based on information received in public meetings, sponsored three proposals regarding Florida’s Criminal Justice System.

**SR0037** – Statutory Recommendation related to Supervised Re-Entry Programs (Tabled by the Governmental Services Committee).

**SR0038** – Statutory Recommendation related to Alternative Corrections Programs for Offenders serving less than 1 Year with the Florida Department of Corrections (Tabled by the Planning & Budgetary Processes Committee).

**SR0039** – Statutory Recommendation related to Inmate Gain Time (Tabled by the Governmental Services Committee).

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<sup>63</sup> Ibid.

<sup>64</sup> [http://www.urban.org/UploadedPDF/411561\\_fcibi\\_evaluation.pdf](http://www.urban.org/UploadedPDF/411561_fcibi_evaluation.pdf).

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<sup>65</sup> Ibid.



# TAXATION AND BUDGET REFORM COMMISSION

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## Governmental Services Committee Report Florida Transportation System

### SUMMARY

Transportation is one of the most important governmental services provided by the State of Florida today. Without effective transportation, none of Florida's most successful industries would be able to function properly. "Florida has a transportation-based economy. Without transportation, there would be no way to support economic engines like: tourism, agriculture, and housing."<sup>1</sup>

The Florida Department of Transportation (FDOT) is responsible for the planning, design, construction, maintenance, and operation of all roads, bridges, and transportation systems within the state transportation network, as well as a substantial network of seaports, airports, railroads, and public transit. The FDOT is also accountable for local systems (such as bridges and public transit) and for interfacing with local government on growth management or local transportation system issues.<sup>2</sup>

The mission of the FDOT is to provide a safe transportation system that ensures the mobility of people and goods,

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<sup>1</sup> Presentation by Doug Callaway, Floridians for Better Transportation, Governmental Services Committee meeting, September 10, 2007.

<sup>2</sup> Organizational and Operational Review of FDOT, January 12, 2001.

enhances economic prosperity, and preserves the quality of our environment and communities.<sup>3</sup>

### BACKGROUND

Transportation in the State of Florida has a rich and distinguished history. Beginning with the endorsements of American business pioneers like Henry Flagler, Henry Plant, and John D. Rockefeller, Florida's transportation system was one of the premier attractions for those Americans who first moved to Florida.

Florida is a large state, both in terms of its physical size and its population base. Between 2006 and 2030, Florida's population is forecasted to grow by more than 8 million.<sup>4</sup> Florida is still on track to break the 20 million mark and become the third most populous state – surpassing New York – shortly after 2010.<sup>5</sup>

There are great variations in population density, from the state's major metropolitan areas to medium-sized emerging cities and rural communities.

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<sup>3</sup> Ibid.

<sup>4</sup> Florida Demographic In-Depth Analysis, Amy Baker Presentation, Planning and Budgetary Processes Committee meeting, September 6, 2007.

<sup>5</sup> Ibid.

From a transportation perspective, these conditions often raise issues about equity and getting a “fair share” of the state’s transportation resources. Collectively, these factors and conditions suggest that Florida’s mobility needs will continue to be staggering for the foreseeable future.<sup>6</sup>

### **Florida’s Transportation System**

Florida’s transportation system consists of 130 public aviation facilities (19 of which have scheduled commercial passenger service), 2,707 railway miles, 121,995 centerline miles<sup>7</sup> of public roads, 14 deepwater seaports, and 29 fixed-route transit systems.<sup>8</sup>

The State Highway System (SHS) consists of 12,067 centerline miles of road, 42,022 lane miles, and 6,381 bridges. The Strategic Intermodal System (SIS), composed of transportation corridors and facilities of statewide and inter-regional significance consists of 4,295 centerline miles of road.<sup>9</sup> The Florida Intrastate Highway System (FIHS), the statewide network of roads that provide for high-speed and high-volume traffic movements within

the state, is being redefined to become the highway component of the SIS.<sup>10</sup>

The condition of the transportation infrastructure is closely linked with how well a particular region, or the state as a whole, prospers economically.<sup>11</sup> The continued growth of the state has outpaced projections and has placed significant pressure on the existing transportation system. As a result, congestion in metropolitan areas has increased, combined with the growing challenge of getting people to and from work.

The FDOT recognizes that both the SHS and the FIHS play vital roles in sustaining and expanding Florida’s economy, and that a high quality, highly efficient transportation network is essential in order for Florida to remain competitive.<sup>12</sup>

### **Florida Department of Transportation**

The FDOT is headed by a Secretary, who is appointed by the Governor and supported by three Assistant Secretaries, eight District Secretaries, and 7,548 full-time employee positions.<sup>13</sup> The Florida Transportation Commission, composed of nine commissioners appointed by the Governor and confirmed by the Florida Senate for a four-year term, serves as a

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<sup>6</sup> Evaluation of Aggregate Materials in Florida’s Future – Final Report, Florida Department of Transportation/Lampl Herbert Consultants, March 12, 2007.

<sup>7</sup> Centerline Miles are calculated by measuring down the center of all lanes of traffic for each specified route.

<sup>8</sup> OPPAGA Florida Government Accountability Report, *Department of Transportation*, September 5, 2007.

<sup>9</sup> Evaluation of Aggregate Materials in Florida’s Future – Final Report, Florida Department of Transportation/Lampl Herbert Consultants, March 12, 2007.

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<sup>10</sup> OPPAGA Florida Government Accountability Report, *Department of Transportation*, September 5, 2007.

<sup>11</sup> Organizational and Operational Review of FDOT, January 12, 2001.

<sup>12</sup> Ibid.

<sup>13</sup> Presentation by Kevin Thibault, FDOT Assistant Secretary, Governmental Services Committee meeting, September 10, 2007.

citizen's oversight board for the FDOT.<sup>14</sup>

The FDOT is organized into the Central Office and eight District Offices. The Central Office in Tallahassee is responsible for policy, procedure, standards, training, and quality assurance functions, while FDOT's eight District Offices are responsible for planning, engineering, constructing, and maintaining the SHS with fundamental commitments to rail, aviation, seaports, and public transportation.<sup>15</sup>

The department operates with a strongly decentralized organizational structure – one that assigns significant responsibility and decision-making authority to its eight District Offices. Seventy percent of FDOT's total work force is assigned to one of its District Offices. Districts 1 through 7 are responsible for transportation planning, design, and operations for a particular geographic region of the state. District 8 – the Turnpike District – is responsible for similar functions associated with the Department's toll highway facilities.<sup>16</sup>

Each District Office is led by a District Secretary, who is supported by Directors in four key line-level offices – Administration, Planning, Production and Operations. Additionally, two staff-level offices, General Counsel and Public Information Officer, report to each District Secretary.

## Metropolitan Planning Organizations

Federal statutes require that urbanized areas throughout the United States establish Metropolitan Planning Organizations (MPOs) to assume responsibility for developing long and short-range plans for implementing transportation investments in the region. MPOs in Florida are represented by a board of between five and nineteen local elected officials from within a Metropolitan Planning Area, who jointly evaluate and select the area's surface transportation project priorities.<sup>17</sup>

Projects proposed by local government agency members of the MPO, as well as regional improvements endorsed and funded by FDOT, are reviewed for inclusion in the region's Transportation Improvement Program (TIP). Projects must be included in the MPO Long Range Plan and TIP to receive federal-aid funding.<sup>18</sup> Under authority delegated to the department by the Governor, FDOT evaluates each MPO's TIP (or periodic TIP amendment) to determine whether projects are:

- Compliant with air quality conformity standards (for air quality non-attainment or non-attainment maintenance regions);
- Conform to state or federal policy or funding eligibility requirements; and/or
- Fiscally-constrained with respect to available funding.<sup>19</sup>

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<sup>14</sup> Presentation by Kevin Thibault, FDOT Assistant Secretary, Governmental Services Committee meeting, September 10, 2007.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

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<sup>17</sup> Ibid.

<sup>18</sup> Manual for Using Public-Private Partnerships on Highway Projects – USDOT – Federal Highway Administrator 2005.

<sup>19</sup> Organizational and Operational Review of FDOT, January 12, 2001.

Once approved by FDOT, projects from each MPO's TIP are incorporated in Florida's State Transportation Improvement Program.

At times, FDOT may propose to fund transportation improvements that the local MPO opposes. For example, the department may wish to widen an existing highway to improve regional mobility for personal, business, or commercial travel, or to accommodate emergency evacuation. Like any project sponsor, FDOT is encouraged to work with an MPO or group of MPOs to convince local officials of the project's merits. However, the MPO has the ultimate discretion, as defined in federal regulation, to decide whether to include the project in its TIP – even if the improvement would be programmed entirely with DOT-attributable federal funds.<sup>20</sup>

The challenge to advance regionally-significant transportation projects in Florida may sometimes be complicated further by the sheer number of MPOs that FDOT must accommodate – particularly when numerous MPOs comprise a single metropolitan area.<sup>21</sup>

### **Local Governments**

FDOT works in cooperation with local governments in constructing and maintaining county roads and city streets through regional MPOs. Local governments make proposals through their regional MPOs, who then may submit the city or county proposals to their FDOT regional District Secretaries. Next, the local government's proposal may be advanced to the Central Office in

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<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

Tallahassee where it may be included in the 5-year work program.

Since transportation funding decisions are made largely at the state and metropolitan levels, and land development and infrastructure decisions are made almost exclusively at the local government level, coordination between FDOT, MPOs, and local government planning agencies is critical to effective transportation and land use planning.

### **Road Construction/Aggregate Supply**

The State of Florida is the third largest consumer of crushed rock products in the United States. The Florida road-building and construction industries are expected to consume 143 million short tons of crushed stone in 2007.<sup>22</sup>

Forty-two million tons of rock will go to construction of roads, bridges, runways, and other infrastructure, making FDOT the largest single contractor/user of crushed stone resources in the state. If projections hold, construction of new homes and buildings may require 86 million tons of crushed stone, with nearly half of those materials being used to meet the housing needs of a rapidly expanding population.<sup>23</sup>

Limestone and sand mined for aggregate materials are found in relatively small resource areas in deposits defined by geologic conditions. High quality deposits of limestone are “place based” in the sense that consumers cannot choose where these deposits are found,

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<sup>22</sup> Evaluation of Aggregate Materials in Florida's Future – Final Report, Florida Department of Transportation/Lampl Herbert Consultants, March 12, 2007.

<sup>23</sup> Ibid.

but to a large measure land use planners can choose where land development occurs. Due to increased development near natural resource deposits in Florida, the state's mining industry is increasingly constrained by surface development.<sup>24</sup>

Florida's construction industry consumes an estimated 143 million tons of aggregate materials each year.<sup>25</sup> Approximately, 120 million tons are produced from mines in the state, 8 million tons are imported from U.S. domestic sources, and 5 million tons are imported internationally.<sup>26</sup> Florida has been highly successful in recycling and is able to re-use ten million tons of materials each year.

The Miami Limestone Formation, found along the southeast coast in the Lake Belt Region of Miami-Dade County, is the hardest and most durable geologic formation available in the state. Approximately 55 million tons of rock from this area are processed into aggregate products each year and provide the main supply source for the entire construction industry.<sup>27</sup>

There are five "mega-mines" in the Lake Belt that provide the majority of this material. These mega-mines are among the top ten in production in the country, with the first and second ranked mines located in the Lake Belt.<sup>28</sup>

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<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> <http://www.dot.state.fl.us/statematerialsoffice/administration/resources/library/issues-trends/lakebelt.htm>.

However, there are problems on the horizon in the aggregate supply chain. Existing mining permits have been challenged in the Lake Belt.<sup>29</sup> The output from sources around the state continues, but the quality is declining for many engineering purposes, and Florida limestone formations outside the Lake Belt are generally not as high in quality.<sup>30</sup>

Both large and small land developments are over-running the lands where limestone and sand deposits are found. Local land use decisions fueled by homeowner and neighbor complaints have made planning and permitting for new mines extremely costly or even impossible. Expansion of existing mines is impossible in some areas because the reserve lands have been hemmed in by development. For example, the megamine complex in Lee County has seven years of remaining capacity, and when it closes, the aggregates that it supplies to all of southwest Florida will need to be trucked in from other locations at a much higher price.<sup>31</sup>

### **Strategic Intermodal System**

Florida's SIS was established in 2003 to enhance Florida's economic competitiveness by focusing limited state resources on those transportation facilities that are critical to Florida's economy and quality of life. The SIS Plan, which was adopted in January 2005, provides policy direction for implementing the SIS and serves as the

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<sup>29</sup> *Sierra Club v Flowers*, No. 03-23427-CIV, Ruling (S.D. Fla., July 13, 2007)

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

foundation for a new way of planning and managing Florida's transportation system.<sup>32</sup> The department developed the SIS Multi-Modal Unfunded Needs Plan in 2006 to identify the major transportation capacity improvement needs for the SIS through 2030.<sup>33</sup>

## **METHODOLOGY**

The Governmental Services Committee meeting held on September 10, 2007 served as a primary source of data collection used in creating this report.

The committee heard presentations from a panel of experts, including the Assistant Secretary of FDOT, Kevin Thibault; Director of Financial Management, Marcia Johnson; former Secretary of FDOT and current Director of Miami International Airport, Jose Abreu; Executive Director of the Florida Public Transportation Association, Wes Watson; President of the Florida Transportation Builders Association, Bob Burleson; Director of Floridians for Better Transportation, Doug Callaway; representative of the Center for Urban Transportation Research Institute at the University of South Florida, Joel Volinski; and Executive Director of the Sarasota/Manatee Metropolitan Planning Organization and representative of the MPO Advisory Council, Michael Howe.

Other reports and studies used in preparing committee report were: Organizational and Operational Review of FDOT, published January 12, 2001; Florida Demographic In-Depth Analysis, Amy Baker Presentation to the Planning and Budgetary Processes Committee

meeting on September 6, 2007; Evaluation of Aggregate Materials in Florida's Future – Final Report, Florida Department of Transportation by Lampl Herbert Consultants, March 12, 2007; OPPAGA Florida Government Accountability Report, *Department of Transportation*, published September 5, 2007; Manual for Using Public-Private Partnerships on Highway Projects – USDOT Federal Highway Administrator 2005; Macroeconomic Impacts of the Florida Department of Transportation Work Program – FDOT, published Feb. 2003; Florida Department of Transportation's Report on Strategic Intermodal Strategies; University of South Florida's Center for Urban Transportation Research (CUTR); and 2007 Florida Tax Handbook, Motor fuel taxes.

Meeting minutes, audio recordings, presentations, and documents presented to the committee are available on the web at [www.floridatbrc.org](http://www.floridatbrc.org).

## **FINDINGS**

### **Florida Department of Transportation**

During a presentation to the Governmental Services Committee on September 10, 2007, FDOT Assistant Secretary, Kevin Thibault gave a brief overview of the department's role and identified some of the customers and partners of the department, including: the traveling public, freight shippers, MPOs, local governments, the U.S. Department of Transportation, state/federal regulatory agencies, statewide modal partners (aviation,

<sup>32</sup>[http://www.dot.state.fl.us/planning/SIS/strategi\\_cplan/default.htm](http://www.dot.state.fl.us/planning/SIS/strategi_cplan/default.htm).

<sup>33</sup> Ibid.

seaports, rail, and transit), expressway authorities, and bridge authorities.<sup>34</sup>

FDOT has recently examined the macro-economic impacts of transportation investments in its 5-year work program.<sup>35</sup> Over the next 25 years, FDOT work program investments are expected to produce over \$147 billion in user and economic benefits for the State of Florida and its residents compared to the actual cost of \$26 billion.<sup>36</sup>

Every dollar invested in the 5-year work program generates approximately \$5.60 in benefits. Aviation spending generates even more profit, with every dollar invested by the State of Florida in aviation generating \$300 in user benefits. Most of the revenue is generated by the gas tax. There are approximately 18 cents per gallon in federal gas tax, 17 cents per gallon in state gas tax, and various local gas taxes that can be as much as 11 cents per gallon. Altogether, approximately 50 cents per gallon goes into gas taxes, making it the engine behind transportation funding.<sup>37</sup>

The State of Florida uses tolls, growth management funding, and aid from the federal government as funding sources for FDOT. Mr. Thibault identified safety as the top priority for all state investment programs. Other state priorities include meeting all system preservation and maintenance objectives

and management of the transportation system's capacity.<sup>38</sup>

Mr. Thibault listed both short and long-term financing options for the State of Florida in his presentation to the Governmental Services Committee. He described the short-term options as including: "market price" tolls to enhance turnpike and other state toll facilities, new toll expressways, leveraging existing funding sources, and creating public/private partnerships to build new tolled expressways and lease existing toll facilities. His explanation of the long-term options included: open road tolling, tolling new lanes added to expressways, tolling existing lanes on current non-tolled expressways (requires a need to eliminate existing prohibition in law), changing the revenue collection system (for example, using vehicle-miles-traveled based fees), and addressing a future federal role.<sup>39</sup>

In his presentation to the Governmental Services Committee, former FDOT Secretary and current Director of Miami International Airport, Jose Abreu indicated that he had worked extensively in Washington D.C. on the Federal Transportation bill with the current Secretary of FDOT, Stephanie Kopelousos and Doug Callaway to ensure the State of Florida was given necessary funding. One of the major issues is that Florida is a donor state, and yet only receives 86 cents on the dollar in Federal funding. Florida should receive at least 95 percent and the next window of opportunity to pass a Federal Bill is 3 to 4 years. Mr. Abreu

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<sup>34</sup> Presentation by Kevin Thibault, FDOT Assistant Secretary, Governmental Services Committee meeting, September 10, 2007.

<sup>35</sup> Macroeconomic Impacts of the Florida Department of Transportation Work Program – FDOT, Feb. 2003.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

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<sup>38</sup> Presentation by Kevin Thibault, FDOT Assistant Secretary, Governmental Services Committee meeting, September 10, 2007.

<sup>39</sup> Ibid.

recommended that Florida should begin working on these changes now.<sup>40</sup>

Mr. Abreu noted that 2006 marked the 50<sup>th</sup> anniversary of the United States Interstate system.<sup>41</sup> He indicated that nothing has affected the State of Florida's growth and development more than interstate roads. The Interstate Highway System, originally designed to connect major urbanized areas to other states, now acts more like a commuter road system. The 2000 census confirmed that one in five Floridians now commutes to work from one county to another. These statistics reveal the need for regional thinking in transportation.<sup>42</sup>

### **Strategic Intermodal System**

Assistant Secretary Thibault stated that the SIS is a statewide system of high-priority transportation hubs, corridors, and connectors which focus on moving people and freight around the State of Florida, other states, and nations. In 2030, the SIS multi-modal unfunded needs plan will amount to \$53.2 billion in 2006 dollars. Over \$45 billion dollars for highways, \$3.1 billion in aviation, and \$4.5 billion in public transit is needed to fund SIS in 2030.<sup>43</sup>

Former Secretary Abreu added that as far as cargo is concerned, Miami

International Airport (MIA) is the number one airport in the U.S. for international freight, and number three in the U.S. for total cargo. Ninety-five (95) percent of all cargo bound for Florida goes through MIA. That is why intermodalism needs to be a priority for Florida in the future.<sup>44</sup>

The State of Florida developed the SIS to focus on where best to expend its resources. Florida's SIS is a transportation system that accomplishes the following:

- Is made up of statewide and regionally significant facilities and services. (strategic)
- Contains all forms of transportation for moving both people and goods, including linkages that provide for smooth and efficient transfers between modes and major facilities. (intermodal)
- Integrates individual facilities, services, forms of transportation (modes), and linkages into a single, integrated transportation network. (system)<sup>45</sup>

Florida's SIS was established in 2003 to enhance Florida's economic competitiveness by focusing limited state resources on those transportation facilities that are critical to Florida's economy and quality of life.<sup>46</sup> According to Mr. Abreu, counties, cities, and MPOs need to move away from the idea of a "donor system" that fosters

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<sup>40</sup> Presentation by Jose Abreu, Director of Miami International Airport, Governmental Services Committee meeting, September 10, 2007.

<sup>41</sup><http://www.fhwa.dot.gov/interstate/homepage.cfm>.

<sup>42</sup> Presentation by Jose Abreu, Director of Miami International Airport, Governmental Services Committee meeting, September 10, 2007.

<sup>43</sup> Presentation by Kevin Thibault, FDOT Assistant Secretary, Governmental Services Committee meeting, September 10, 2007.

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<sup>44</sup> Presentation by Jose Abreu, Director of Miami International Airport, Governmental Services Committee meeting, September 10, 2007.

<sup>45</sup><http://www.dot.state.fl.us/planning/SIS/aboutsis.asp#background>.

<sup>46</sup> Ibid.

local fiefdoms in favor of a statewide system.<sup>47</sup>

## Public Transit

In a presentation before the Governmental Services Committee, Wes Watson, Executive Director of the Florida Public Transportation Association (FPTA) explained that he represents the 29 fixed route and para-transit agencies around the State of Florida.<sup>48</sup> He explained that the three main types of transit FPTA include: Bus, Rail, and Para-transit.

Transit costs are normally handled through local fees, but the Legislature passed a bill some years ago creating a fee for public transportation. However, Governor Bush vetoed the act. In addition to local user fees, FDOT is extremely helpful and supportive of transit groups. The University of South Florida's Center for Urban Transportation Research (CUTR) is also quite helpful and supportive of Public Transit and offers the FPTA a valuable resource.<sup>49</sup> The State of Florida's funding, in the form of block grants make up \$65 million for operating costs for public transit programs.<sup>50</sup>

According to Mr. Watson, Florida public transit programs need "capital match" and dedicated sources of funding. Last year, FPTA attempted to get dedicated

funding from a local retail sales tax, however, the measure was defeated by the Legislature.<sup>51</sup>

## Future Transportation Needs

According to Floridians for Better Transportation's Doug Callaway, over the next ten years, Florida will need an additional \$23 billion just to keep transportation the way it is today.<sup>52</sup> Florida's explosive population growth will create some difficult problems in the near future. According to Mr. Callaway, 1,100 new residents move to Florida every day.<sup>53</sup>

During his presentation at the Governmental Services Committee meeting, Mr. Callaway identified four strategies which Floridians for Better Transportation supports and recommends to the State of Florida:

1. Protect Existing Transportation Funding Sources
  - a. State Transportation Trust Fund (STTF) and the new monies from the 2005 Growth Management Plan - \$542 million annually.
  - b. When the economy is slowing, don't apply the brakes.
  - c. The first casualty of a revenue downturn should not be safety.
  - d. Don't pull the plug on smart growth management.
2. Provide more money for Transportation improvements

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<sup>47</sup> Presentation by Jose Abreu, Director of Miami International Airport, Governmental Services Committee meeting, September 10, 2007.

<sup>48</sup> Presentation by Wes Watson, Executive Director of FPTA, Governmental Services Committee meeting, September 10, 2007.

<sup>49</sup> <http://www.cutr.usf.edu/index2.htm>.

<sup>50</sup> Presentation by Wes Watson, Executive Director of FPTA, Governmental Services Committee meeting, September 10, 2007.

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<sup>51</sup> Ibid.

<sup>52</sup> Presentation by Doug Callaway, Floridians for Better Transportation, Governmental Services Committee meeting, September 10, 2007.

<sup>53</sup> Ibid.

- a. Use technology to move away from a gas tax and towards a distance-based user fee (Portland, Oregon Pilot Program).
  - b. P3s (Public, Press, and Politicians).
  - c. Electronic Tolling.
  - d. Managed Lanes (Rapid Bus Transit).
  - e. Truck Tollways.
3. Move ahead quickly on new transportation corridors
    - a. New corridors paid by tolls – not “robbing Peter to pay Paul.”
    - b. New corridors help provide congestion relief to existing routes.
  4. Empower Local Governments to do more for Transportation.
    - a. Local “option” rental car surcharge.
    - b. Index Local option gas tax.
    - c. Index Motor Vehicle fees.<sup>54</sup>

The President of the Florida Transportation Builders Association (FTBA), Bob Burleson delivered a presentation to the Governmental Services Committee on September 10, 2007, as well. He explained that the FTBA is the primary industry group representing Florida’s road and bridge contractors. Florida’s contracting industry has worked with FDOT to address cost increases and attempt to mitigate their impact on the work program.<sup>55</sup>

According to Mr. Burleson, in terms of overall price considerations, aside from

the rock issue, prices are now a little more stable in Florida. Of late, the volume of work in the private market is down, pushing some additional contractors to participate in competition for public transportation projects. Competition is greater now for local government work, and the labor market has been steadily improving.

Mr. Burleson listed several of FDOT’s responses to market conditions that the FTBA supports:

- They have significantly improved their project estimates, which is by far the best thing FDOT has done.
- Utilizing “bid options” for what they need versus what they want.
- Looking at reducing night work where possible.
- Extending night working hours where possible.
- Not always trying to see how large they can make an individual contract.
- Working with industry to develop long-term solutions to the aggregate issue.
- Trying to improve rail and port infrastructure to increase capacity.
- Assessing risk assumption.<sup>56</sup>

### **Road Construction Cost Increases and Aggregate Supply**

Recent transportation cost increases have affected all levels of government and the private sector. Increases have led to project delays and deferrals in the work

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<sup>54</sup> Ibid.

<sup>55</sup> Presentation by Bob Burleson, FTBA President, Governmental Services Committee meeting, September 10, 2007.

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<sup>56</sup> Ibid.

program and local capital improvement plans.<sup>57</sup>

Some of the factors which Mr. Thibault indicated as considerations of the cost increases are: population and economic growth, global competition for materials, rising energy costs, hurricane damage, labor shortages, and a lack of aggregate supply. He pointed out that 40 to 50 percent of the aggregate affected by the recent court ruling requires new permitting.<sup>58</sup> The Army Corps of Engineers is scheduled to have the new permits ready by the end of the year.<sup>59</sup>

FDOT has recently entered into a contract to purchase 300,000 tons of new source material from Vulcan Materials.<sup>60</sup> This rock is coming from Mexico. FDOT has shown concern and acted to acquire this additional material supply of their own, but 300,000 tons is a drop in the bucket for an FDOT market of 40 million tons. According to Mr. Burluson, contractors believe that the market will step up to supply rock as the need arises. He believes that the state's contract is of very little help and noted that by the time the contract was put into place, the price was higher than the open market price. That could change, however, with the recent court ruling.<sup>61</sup>

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<sup>57</sup> Presentation by Kevin Thibault, FDOT Assistant Secretary, Governmental Services Committee meeting, September 10, 2007.

<sup>58</sup> *Sierra Club v Flowers*, No. 03-23427-CIV, Ruling (S.D. Fla., July 13, 2007)

<sup>59</sup> Presentation by Kevin Thibault, FDOT Assistant Secretary, Governmental Services Committee meeting, September 10, 2007.

<sup>60</sup> Presentation by Bob Burluson, FTBA President, Governmental Services Committee meeting, September 10, 2007.

<sup>61</sup> Presentation by Jose Abreu, Director of Miami International Airport, Governmental Services Committee meeting, September 10, 2007.

## **Metropolitan Planning Organizations**

Michael Howe, Executive Director of the Sarasota/Manatee Metropolitan Planning Organization and representative of the MPO Advisory Council, appeared before the Governmental Services Committee and explained that the Sarasota/Manatee MPO is one of 26 MPOs in the State of Florida. According to Mr. Howe, in 2005, Sarasota had over \$20 billion in needs and had only \$2 billion to spend.<sup>62</sup>

On the state level, cost escalation, needs due to growth, and the strategic intermodal program are all taking funds from local projects to support the strategic intermodal system. Other state roads (non-SIS) are getting only 25 percent of 50 percent of the pot. Local projects were given 50 percent only a few short years ago. Given the current funding issues, it will take 70 years to do the work that is on the board today.<sup>63</sup>

Mr. Howe recommended the establishment of a Transportation Revenue Study Commission to address the disparities in these funding issues, and suggested the commission be staffed by the Center for Urban Transportation Research (CUTR).

## **Vehicle Miles Traveled (VMT)**

The newer automobiles and cleaner technologies (hybrids, ethanol, E-85, biodiesel, etc.) which are becoming more and more popular will have a negative impact on fuel revenues. In fact, revenue estimates for 2007 – 2008

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<sup>62</sup> Presentation by Michael Howe, Executive Director of the Sarasota/Manatee MPO, Governmental Services Committee meeting, September 10, 2007.

<sup>63</sup> *Ibid.*

show a slowing growth rate for fuel taxes. In 2006 – 2007, motor fuel taxes are estimated to grow by 8.92% while the growth rate is projected to slow to 4.74% in 2007-2008.<sup>64</sup> If this slowing effect continues, Florida will need to consider changing the model of utilizing the gas tax as the primary source of transportation funding. The State of Florida needs to start seriously exploring newer models and begin to move away from the gas tax.<sup>65</sup>

There are models that are based on user fees. Some models, such as GPS tracking for road use fees, are now being explored by the Federal DOT and other states. This system works by allowing a GPS to track how far a vehicle travels and to bill the owner appropriately (using Vehicle Miles Traveled or VMT). For instance, if a driver leaves his home and travels 5 miles to Publix, the State of Florida will bill the owner of the car for only the 5 miles traveled (10 miles roundtrip). Doug Callaway discussed Oregon's pilot program with the VMT system. Mr. Callaway allowed that the VMT device would act very much like a GPS. The system would track each driver's miles traveled and bill the driver accordingly, much like a utility.<sup>66</sup>

Dr. Joel Volinski of the Center for Urban Transportation Research (CUTR) at the University of South Florida addressed the committee on the subject of VMT, as well. CUTR is a scholarly, nonbiased, and independent source of research

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<sup>64</sup> 2007 Florida Tax Handbook, Motor fuel taxes, p. 89.

<sup>65</sup> Presentation by Jose Abreu, Director of Miami International Airport, Governmental Services Committee meeting, September 10, 2007.

<sup>66</sup> Presentation by Doug Callaway, Floridians for Better Transportation, Governmental Services Committee meeting, September 10, 2007.

information related to public transportation issues. Dr. Volinski and CUTR are often hired to perform studies on projects similar to the VMT pilot program in Oregon, and other policy related transportation research.<sup>67</sup> He agreed with the other speakers that a VMT system holds promise over time, but that there are serious privacy issues that must be overcome.<sup>68</sup>

In addition to remarks about the work of CUTR and the possible implementation of a VMT type solution to a changing tax environment for transportation, Dr. Volinski suggested that since the world and technology are moving so quickly, the Taxation and Budget Reform Commission should meet more often than every 20 years to address the rapid changes occurring in the State of Florida.<sup>69</sup>

## **RECOMMENDATIONS**

The Governmental Services Committee, based on information received in public meetings, sponsored a proposal regarding Florida's Transportation System.

**SR0036** – Statutory Recommendation relating to Transportation Funding (Reported Favorably out of the Governmental Services Committee and the Finance & Taxation Committee; Favorable by the Taxation & Budget Reform Commission, Transmittal Letter sent to the Legislature on March 28, 2008).

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<sup>67</sup> <http://www.cutr.usf.edu/index2.htm>.

<sup>68</sup> Presentation by Joel Volinski, CUTR representative, Governmental Services Committee meeting, September 10, 2007.

<sup>69</sup> Ibid.



## TAXATION AND BUDGET REFORM COMMISSION

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# Governmental Services Committee Report Florida Water Policy

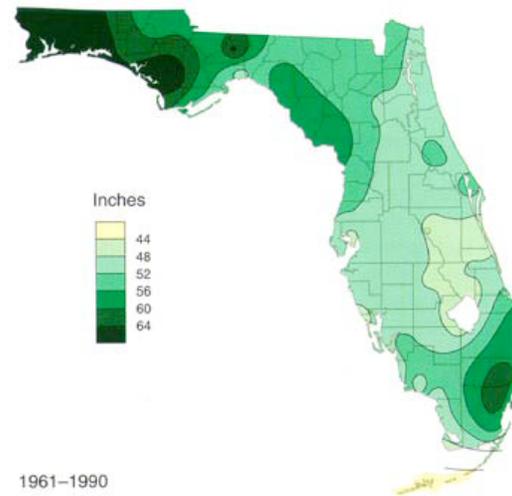
## SUMMARY

Water resources are one of the most valued assets in Florida. The state is underlain virtually everywhere by aquifers capable of yielding significant quantities of fresh groundwater to wells. Surface water resources include 1,700 streams and rivers and 7,800 lakes, providing water for natural and human needs in Florida.<sup>1</sup>

Early in its history, Florida was anxious to modify nature – to drain its “swamp” land for farms, groves, and houses; to cut canals to facilitate drainage and to make navigation faster and safer; and to hold back flood waters with engineering works. The assimilative capacity of surface water was thought unlimited, and rivers and lakes were used as convenient receptacles for wastes. Florida was thought to have too much water.

Now the finite nature of Florida’s freshwater is clear, and attention has shifted to water supply planning and water resource development. In many parts of Florida conserving, protecting, and in some instances restoring natural systems, including aquifers, while at the same time providing enough water to

meet human demands, is the greatest challenge facing water managers.<sup>2</sup>



1961–1990  
<sup>3</sup> Avg. Rainfall in Florida

Florida’s five water management districts (WMD) are responsible for coordinating water resource usage and protection. It is the responsibility of the local WMD to coordinate with local and state governments and planning agencies, as well as large private users, such as utility plants and manufacturers, to assure a safe and available supply of water throughout the district.

<sup>1</sup> Water Resources Atlas of Florida, Richard L. Marella, 1998, Florida State University, Institute of Science and Public Affairs

<sup>2</sup> Water Resources Atlas of Florida, Purdham; Burney; Swihart, 1998, Florida State University, Institute of Science and Public Affairs

<sup>3</sup> [http://www.dep.state.fl.us/water/docs/2004\\_Integrated\\_Report.pdf](http://www.dep.state.fl.us/water/docs/2004_Integrated_Report.pdf).

In addition to the state's five water management districts, other regional water supply entities, such as the Tampa Bay Water Authority, the Withlacoochee River Water Supply Authority, and the Peace River/Manasota Regional Water Supply Authority may play larger roles over time as water supply becomes a more pronounced planning issue.

## **BACKGROUND**

By reference, the Governmental Services Committee accepts the background and findings from the Florida Council of 100 Report, "Improving Florida's Water Supply Management Structure," September 2003, relative to water supply and needs through the year 2020. The work done by the Council of 100 was quite relevant to the work of this committee and the council has graciously allowed us to incorporate their research document by reference. A link to the Council of 100 Report is found in Appendix A of this report.

In 2005, the legislature passed additional water policy legislation, Committee Substitute for Senate Bill 444 by Senator Dockery. The changes in law noted below have since been incorporated into Florida's original water policy, the 1972 Florida Water Resources Act:

- The primary provision of the 2005 legislation creates a \$500 million<sup>4</sup> annual funding program entitled the "Water Protection and Sustainability Program" to

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<sup>4</sup> The legislation provided for \$200 million in the first year and \$100 million thereafter, a large portion of which would be matched by water management districts and local governments to fund alternative water supply projects. Annual amount cut to \$80 million in 2007.

assist in the implementation of many existing water protection and development programs.

- Specific programs funded by the legislation include: a total maximum daily load program, the Surface Water Improvement and Management (SWIM) Program, WMD-designated priority water bodies, the Clean Water State Revolving Fund, the Drinking Water State Revolving Fund, and the Disadvantaged Small Community Wastewater Grant Program. Documentary stamp tax revenues were amended to provide additional funding for the state's invasive plant control program.<sup>5</sup>
- The legislation substantially amended procedures for the implementation of the total maximum daily load program.

The water policy changes that resulted from the passage of the 2005 legislation (CS/SB 444 by Dockery) are not addressed in the 2003 Council of 100 Report, but have enhanced the state's water management capabilities over time. Implementation of these changes is ongoing.

## **METHODOLOGY**

The Governmental Services Committee meeting held on September 20, 2007 at Jacksonville City Hall served as a primary source of data collection used in creating this report.

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<sup>5</sup> Due to budget cuts in 2007, the funding for these programs were substantially reduced or eliminated.

The committee heard presentations from a panel of experts, including Ernie Barnett, Director of Policy and Legislation for the South Florida Water Management District; Peter Dunbar, former State Representative and spokesperson for the Tampa Bay Water Authority; Dave Moore, Executive Director of Southwest Florida Water Management District; Janet Llewellyn Director of the Division of Water Resource Management, Department of Environmental Protection (DEP); Preston Robertson, General Counsel and Vice President of the Florida Wildlife Federation; and Andy McLeod, spokesperson for the Trust for Public Land.

Other individuals who were helpful with research and analysis, as well as in preparing committee report, were: State Senator Paula Dockery; State Representative Debbie Boyd; Chuck Littlejohn, managing partner of Littlejohn, Mann, & Associates; Philip Parsons, water and agriculture policy attorney; Martha Edenfield, representative of the Tampa Bay Water Authority; Jennifer Fitzwater, Assistant Secretary of Policy and Planning for DEP; Janet Bowman, Associate Director of Governmental Relations for the The Nature Conservancy; Sue Mullins, Executive Director of Vanguard Partnership; Garrett Wallace, Director of Legislation and Operations for the South Florida Water Management District; Diane Salz, representative of the Peace River/Manasota Regional Water Supply Authority & Withlacoochee Regional Water Supply Authority; David Still, Deputy Executive Director of the Suwannee River Water Management District; David Moore, Executive Director of the Southwest Florida Water

Management District; Allison DeFoor, State Coordinator of EarthBalance; and Chuck Aller, Director of Water Policy for the Department of Agriculture & Consumer Services.

The Florida Council of 100 was very helpful to staff during the preparation of this report. The Council of 100's report, "Improving Florida's Water Supply Management Structure," from September 2003, reviews many of the areas which the Governmental Services Committee had been directed to research.<sup>6</sup>

Other sources of information used in creating the report were: "Total Maximum Daily Loads – Guidance for Local Officials," produced by the Florida Stormwater Association and DEP; "Tapping New Sources – Meeting 2025 Water Supply Needs," by DEP; "Florida's Agricultural Water Policy," by DOACS; 2005 Legislature's CS/SB 444, by Senator Paula Dockery; Tampa Bay Water Authority's Interlocal agreement; "Integrated Regional Water Supply Master Plan," produced by the Peace River/Manasota Regional Water Supply Authority; "OPPAGA Sunset Review of Water Management Districts" from April 2007; "Water Resources Atlas of Florida," by Edward Fernald and Elizabeth Purdum; and "The Florida Handbook," 30<sup>th</sup> Edition, by Allen and Joan Perry Morris.

Meeting minutes, audio recordings, presentations, and documents presented to the committee are available on the web at [www.floridatbrc.org](http://www.floridatbrc.org)

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## **FINDINGS**

On Thursday, September 20, 2007 the Governmental Services Committee of the Taxation and Budget Reform Commission held a public meeting on water policy issues at Jacksonville City Hall in Jacksonville, Florida. Many of the agencies, organizations, and interested parties relating to water policy were invited and were in attendance. Ernie Barnett, District Director of Policy and Legislation for the South Florida Water Management District (SFWMD), was the first to deliver a presentation. He gave a brief history of Florida's water policy issues and current concerns in water management.

Mr. Barnett opened his presentation by remarking that the SFWMD contains over 1000 miles of canals and 800 miles of levees which are the product of Florida's old policies. These old policies mandated the draining and ditching of over half of the Everglades for flood control and to allow for development.

He indicated that the state's water policies have changed drastically over the years, and that in 1972 the Legislature passed what would become Chapter 373 of the Florida Statutes. Chapter 373 created the regional model for water management in Florida. These statutes generated a mandate to oversee water and land-related resources by providing for: water quality, flood protection and floodplain management, natural systems, and water supply.

Responsibilities were divided among five regional districts, each with its own governing board. The five water management districts of Florida are: Northwest Florida Water Management

District (NFWFMD), Suwannee River Water Management District (SRWMD), St. Johns River Water Management District (SJRWMD), Southwest Florida Water Management District (SWFWMD), and South Florida Water Management District (SFWMD). Each of the five districts has its own unique landscape, environment, ecology, and history. Despite their differences, the water management districts all have common goals and activities. Some examples of these activities are: planning, regulation, research, data collection, technical and planning assistance, education, restoration, land acquisition, and land management.<sup>7</sup>

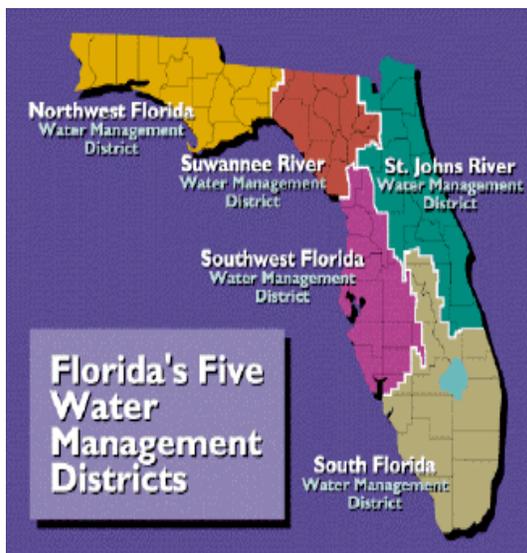
Water Management District activities are organized among six major programs:

- District Management and Administration – executive direction, ombudsman services, budgeting, inspector general, and governing board support.
- Outreach – environmental and water conservation education; governmental affairs; and public relations activities, such as public service announcements.
- Regulation – water use permitting; water well permitting and contractor licensing; environmental resource and surface water management permitting; and permit administration and enforcement.

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<sup>7</sup> Presentation by Ernie Barnett, Director of Policy and Legislation for the South Florida Water Management District to the Governmental Services Committee on September 20, 2007

- Water Resources Planning and Monitoring - includes water management planning (e.g., water supply planning and protecting water resources); research, data collection, analysis, and monitoring of hydrologic and meteorological data; and technical assistance.
- Acquisition, Restoration, and Public Works – developing and constructing capital projects; land acquisition; and restoring lands and water bodies.
- Operation and Maintenance of Lands and Works – operating and maintaining facilities, flood control and water supply structures, lands, and other works.<sup>8</sup>



Mr. Barnett pointed out that the main function of the Water Resources Act of 1972 was to ensure that Florida would have an adequate water supply. Chapter 373 of Florida Statutes governs the

<sup>8</sup> OPPAGA Sunset Review of Water Management Districts, April 2007

consumptive uses of water. Pursuant to statute, WMDs have exclusive authority over the regulation of the consumptive use of water in Florida. (373.223 Florida Statutes) The Water Resource Act of 1972 is the blending of “eastern”<sup>9</sup> and “western”<sup>10</sup> water law; the act holds that ownership of land does not mean ownership of water, and that water is held in trust for the people of Florida.

Good management practices of people, businesses, utilities, and governments are a vitally important part of maintaining a healthy water supply, in terms of both quantity and quality. One example of good management practices, according to Mr. Barnett, is the Florida Ranchland Environmental Services Project. This project combines resources from the United States Department of Agriculture (USDA), the Florida Department of Agriculture and Consumer Services (DACCS), the South Florida Water Management District (SFWMD), and the World Wildlife Federation (WWF) to partner with landowners for storage and treatment of water on private lands. There are currently four projects successfully implemented and four more projects planned. The agricultural area located between Lake Okeechobee and the Everglades is an area of critical concern. Florida farmers in that area have shown

<sup>9</sup> Eastern states limit water use rights to the owners of riparian land, each of whom has a right to make reasonable use of the available supply. Conflicts are decided by reference to a set of social, economic, and environmental factors defining reasonableness.

<sup>10</sup> The law of the West was developed from the customs of gold mining, which required the diversion of water for mining operations. To resolve the inevitable disputes, the miners recognized rights by priority of appropriation. Whoever first appropriated rights by diverting it, had superior rights to junior appropriators.

great responsibility and cooperation in the Florida Ranchland Environmental Services Project and others like it.<sup>11</sup>

Mr. Barnett indicated that agricultural source controls or Best Management Practices (BMP) and regional wetland Stormwater Treatment Areas (STA) are key factors in achieving water quality compliance in the Florida Everglades. BMPs and STAs often employ nutrient-absorbing plants like cattails in order to infuse phosphates and nitrates out of the water and into the plant.

According to Mr. Barnett, DACS, DEP, DCA, WMDs, and local governments should work together to incorporate Best Management Practices as an alternative to traditional regulatory programs. Water resource partnerships should be established at both the local and regional levels among the agricultural community, public water suppliers, and environmental interests should assist with these efforts.<sup>12</sup>

Mr. Barnett indicated that stormwater management is a very important component of water management. Stormwater management systems create and provide updated Digital Flood Insurance Maps (DFIRMs). Cost-share assistance may be available for stormwater management facilities and utilities. The State of Florida has made recent land acquisitions to support stormwater management systems.

<sup>11</sup> Presentation by Ernie Barnett, Director of Policy and Legislation for the South Florida Water Management District to the Governmental Services Committee on September 20, 2007

<sup>12</sup> Presentation by Ernie Barnett, Director of Policy and Legislation for the South Florida Water Management District to the Governmental Services Committee on September 20, 2007

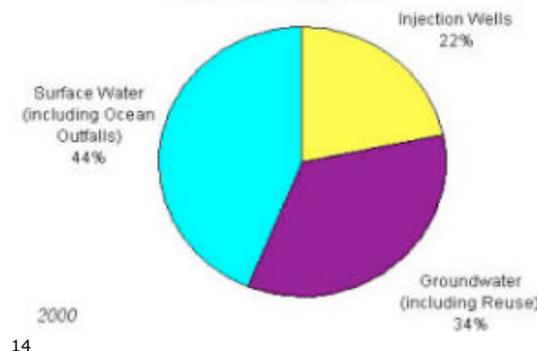
Commissioner McKee asked if the water is first come, first serve. Mr. Barnett responded that the permits are not first come, first serve; are time limited; and are re-evaluated as they expire.

There are two sources of water in Florida; the current natural system and the development of alternative water supplies as determined against environmental concerns.

Mr. Barnett noted that, as of the year 2000, agriculture used roughly half of Florida's water supply. Demographics and population trends indicate that growth in the state will cause public water supply needs to increase, and will surpass agriculture by the year 2025.

He also indicated that irrigation needs may be met through re-use programs. For example, Lee and Collier counties operate at 80 to 90 percent reuse for irrigation. However, Dade County, the greatest consumer of water, only reuses 5 percent; with Palm Beach County up to 30 percent reuse.<sup>13</sup>

Effluent and Reclaimed Water in Florida  
Use and Disposal



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<sup>13</sup> Ibid

<sup>14</sup> <http://www.dep.state.fl.us/water/wastewater/facts.htm>.

Commissioner Randy Miller asked what the original reason was for dredging and building ditches and dikes around the state's waterways. Mr. Barnett replied that legislation passed in 1949 for flood control mandated construction projects. What was considered good policy at the time is not considered to be good policy now. Water is a public resource owned by all citizens of the state. To protect water resources, Florida must protect the environment and the natural systems of the state. Statewide standards are needed for water resource policies with governance "close to the people" through water management systems.<sup>15</sup>

Commissioner Barney Barnett asked about actual ownership of the Everglades. Ernie Barnett replied that the State of Florida owns 2.4 million acres, some parcels are owned by WMDs, some by private in-holdings, and the remaining land in the National Park is owned by the federal government.

Peter Dunbar, former State Representative and spokesperson for the Tampa Bay Regional Water Supply Authority, addressed the committee. Mr. Dunbar began by indicating that Florida is entering a new era in water policy, particularly in water supply, regardless of public or private source delivery. This issue has been over three decades in the making in the Tampa area alone, and there are other regions in the state that have faced water supply shortages, as well.

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<sup>15</sup> Presentation by Ernie Barnett, Director of Policy and Legislation for the South Florida Water Management District to the Governmental Services Committee on September 20, 2007

Mr. Dunbar reported that the main issue for the Tampa Bay area is the transport and withdrawal of water. There have been massive expense and permitting problems, which caused a stalemate in the 1990's, often referred to as the Tampa Water Wars, and impeded local economic growth. In 1998, the Tampa Bay Water Authority was created to supply the needs of the region at a unitary rate. This board created a local water supply master plan in which all costs are paid by rate payers.

One of the groundbreaking features of the Tampa Bay Water Authority is its desalinization plant. The authority uses diametriusis earth (DE) filters which remove salt and other water particles before osmosis. Desalinization is a cutting edge alternative water supply production method which has experienced some difficulties in its early stages of implementation.<sup>16</sup>

Desalination processes include:

- Reverse osmosis, which involves seawater being pushed through a semi-permeable membrane that traps the salt and other impurities on one side and allows water to be filtered through a microscopic strainer.
- Thermal distillation, which involves boiling saline water and collecting the purified vapor.
- Electrodialysis, which involves the removal of salts by separating and collecting their chemical components through electrolysis,

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<sup>16</sup> Presentation by Pete Dunbar, former State Representative and spokesperson for the Tampa Bay Water Authority to the Governmental Services Committee on September 20, 2007

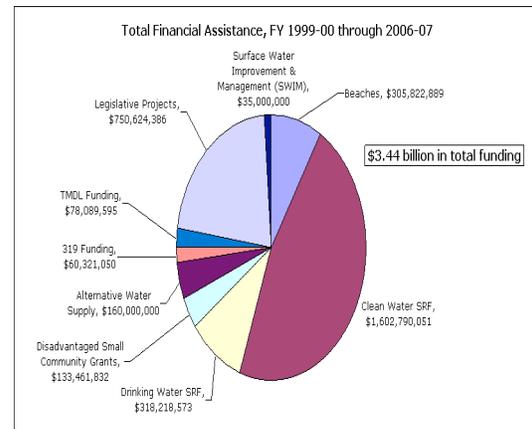
and which is more suited to salty groundwater than seawater.<sup>17</sup>

Reverse Osmosis is a process of desalination in which seawater diffuses through a membrane under high pressure, removing salts and impurities to ensure the water is suitable for drinking. It is used on most ocean-going vessels (including cruise ships and navy vessels) and by industries that require very pure water. The seawater is pre-treated to remove particles, such as sand, shells or seaweed, which would clog the membranes. The quality of the water produced depends on the pressure, the concentration of salts in the seawater, and the size of the membranes. Water quality can be improved by adding a second pass of membranes, whereby product water from the first pass is fed to the second pass.<sup>18</sup>

Mr. Dunbar asserted that the Tampa Bay Water Authority is an innovative regional government entity that transcends political boundaries. To accomplish such goals would be difficult without the “carrots and sticks” of a proactive solution like a regional water supply authority. Other areas have tried, but the Tampa Bay Water Authority is unique due to incentives that have made their success possible.

Dave Moore, Executive Director of the Southwest Florida Water Management District, joined Mr. Dunbar at the podium. Mr. Moore indicated that SWFWMD views the Tampa Bay Water Authority as a model for Florida’s future. Nearly all of the alternative

water supply projects funded through SWFWMD are allocated through a regional water supply authority.



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Commissioner Randy Miller asked what caused the initial failures experienced by the desalination plant. Mr. Dunbar replied that the Tampa Bay Water Authority Board owns the largest desalination plant in the Western Hemisphere, but the tropical environment adds levels of complexities not experienced in other climates. Particles and sediment brought in from ships contributed to the filters increased workload.

Commissioner Barney Barnett asked where the desalination plant is located. Mr. Dunbar answered that it is co-located next to the Tampa Electric Company (TECO) Big Bend Plant. The co-location helps because of normal daily intakes at the TECO Plant.

Commissioner Randy Miller asked how the authority was funded. Mr. Dunbar replied that Tampa Bay Water operates like other utilities by charging user fees and rate changes to help fill the funding

<sup>17</sup>[http://www.goldcoast.qld.gov.au/attachment/goldcoastwater/EBWS\\_FS4.pdf](http://www.goldcoast.qld.gov.au/attachment/goldcoastwater/EBWS_FS4.pdf).

<sup>18</sup><http://www.sydneycoastalcouncils.com.au/documents/Whatisdesalination-factsheet.pdf>.

<sup>19</sup><http://www.dep.state.fl.us/water/waterprojectfunding/index.htm>.

gaps. Commissioner Miller asked if the authority is considered a government agency. Mr. Dunbar responded that the courts have held that they are, but a case is currently under appeal.

Commissioner Moore asked why the WMDs cannot do what the Tampa Bay Water Authority Board is doing. One reason, according to Mr. Dunbar, is that the WMDs already have a lot of responsibilities, and creating an organization of local governments to agree on any issue is quite challenging. This was a policy issue because WMDs would become both the supply and control agency. The Legislature likely never considered giving control to the WMDs; their responsibilities have grown well beyond those for which they were created.

Mr. Dunbar offered in closing that of all the water agencies in the State of Florida, the Tampa Bay Water Authority is one of the most accountable to the citizens because its board members are elected officials and must answer for performance during re-election.

Janet Llewellyn, Director of the Division of Water Resource Management with DEP, made a presentation following Mr. Dunbar's remarks. Ms. Llewellyn began her presentation by outlining the demographic information relating to Florida's water policy. Population trends for the State of Florida show a steady increase of people moving into the state, creating a large upturn in demand for services. Among these highly demanded services is water.

DEP's Office of Water Policy functions include:

- Working in close coordination with Florida's five regional WMDs and other agencies to resolve statewide water planning and management issues.
- Developing policies on water management issues.
- Working with WMDs to ensure that regional water supply plans and programs are consistent with provisions of the Florida Water Resources Act, the Florida Water Plan, and other applicable guidance.
- Producing the Florida Water Plan Annual Progress Report; updating the Water Resource Implementation Rule (Chapter 62-40, F.A.C.); and preparing the Annual Status Report on Regional Water Supply Planning and Five-Year Water Resource Development Work Programs.<sup>20</sup>

In her remarks, Ms. Llewellyn addressed the issue of ocean outfalls. Florida's ocean outfalls are spillways where 300 million gallons of minimally treated wastewater are discharged via ocean outfalls every day. Ms. Llewellyn suggested that Florida should look into ways to recapture outfall.<sup>21</sup>

Commissioner Randy Miller asked why Dade County was at 5 percent reuse. Ms. Llewellyn offered that Dade County has infrastructure and funding issues with reuse; DEP and SFWMD are applying pressure for improvement.

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<sup>20</sup><http://www.dep.state.fl.us/water/waterpolicy/index.htm>.

<sup>21</sup> Presentation by Janet Llewellyn, Director of the Division of Water Resource Management for DEP to the Governmental Services Committee on September 20, 2007

**Miami-Dade Water and Sewer Department  
Population and Water Demand Projections**

Year	Total System-wide Population Served (people)	Average Day Demand (MGD)
2006	2,226,305	348.42
2007	2,256,517	349.76
2008	2,239,564	347.13
2009	2,269,203	351.73
2010	2,298,841	358.90
2015	2,447,888	382.45
2020	2,570,634	401.88
2025	2,693,379	421.32

MGD = million gallons per day

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Reclaimed water and brackish water demineralization are the dominant sources of new water supplies, and will provide approximately 77 percent of the water developed by the alternative water supply projects. When completed, these projects are expected to provide 725 million gallons per day of “new” water.<sup>23</sup>

Commissioner Moore noted that Pinellas County has low-flow toilet rebates and that the program seems to have saved a lot of gallons of water. He asked how that impacts other areas of the state and if water is too cheap. Ms. Llewellyn indicated that price signal is very important, and conservation should be paramount.

Increasing knowledge or awareness of issues and concerns related to our water

resources will help protect these important resources in the future. Public education programs are designed to increase public awareness of water quality conditions and provide opportunities for participation and involvement. Printed materials such as brochures, booklets and posters, as well as educational displays at environmental events, are part of the educational efforts of the WMDs. By increasing public awareness of the importance of water resources and conservation, further degradation can be prevented.<sup>24</sup>

Water conservation is another area where the WMDs have begun focusing their attention. Conservation is a very important demand management tool for public water supply utilities to enhance the sustainability of Florida's water resources. Many years of developing, implementing, and refining water conservation programs by public water supply utilities have created the opportunity for the next phase of effectiveness: the implementation of the Statewide Comprehensive Water Conservation Program for Public Water Supply.<sup>25</sup>

The Governmental Services Committee held a public meeting on December 14, 2007. The committee continued its discussion with a second series of presentations on the state's water policies, the urgent need to begin developing alternative water sources, and the statewide advantages to regional cooperation.

Commissioner Randy Miller began by explaining that without an adequate

<sup>22</sup> Table 6: Population and Water Demand Projections from 2006 to 2025 for the MDWASD service area. (Source: Miami-Dade Water and Sewer Department 2006) - [http://conservefloridawater.org/csdocs/conserve\\_florida\\_water\\_guide\\_case\\_studies.pdf](http://conservefloridawater.org/csdocs/conserve_florida_water_guide_case_studies.pdf).

<sup>23</sup> *Tapping New Sources, Meeting 2025 Water Supply Needs*, FDEP March, 2007

<sup>24</sup> <http://www.nwfwmd.state.fl.us/about/protectwaterresources.html>.

<sup>25</sup> Ibid

water supply, development stops, and Florida's economy fails. He posed the following question for consideration: "Who is in charge of water policy in Florida?"

He suggested that the committee should take a look at the state's five WMDs. They were created by statute (Ch. 373, F.S.) as special taxing districts and given specific taxing authority and millage caps by amendment to the Florida Constitution (Art. 7, Sec. 9). Four of the five WMDs were granted a millage rate of not more than 1 percent. The fifth district, the Northwest Florida Water Management District, was given authority in Florida's Constitution to levy up to one twentieth (.05) of a mil. This disparity in tax rates was due, in part, to the relative lack of population and growth experienced by Florida's panhandle. Commissioner Randy Miller explained that Northwest Florida is now among the fastest growing regions in the state, and should be granted authority to levy a full mill in order to bring equity to the 5 districts.<sup>26</sup>

Commissioner Miller opined that demands and pressures throughout the state are creating a situation where management should be spearheaded by the state, followed by regional and local governments, in order to secure the funding needed to develop and build alternative water supply sources.

The Governmental Services Committee Ms. Diane Salz, representing the Peace River Regional Water Supply Authority, and the Withlacoochee Regional Water Supply Authority, suggested that

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<sup>26</sup> Comments by Commissioner Randy Miller, from the Governmental Services Committee meeting on December 14, 2007

regional water supply authorities are unique to the SWFWMD, but should be mentored along in other parts of the state. There are currently three regional water supply authorities operating within the SWFWMD.<sup>27</sup> The three water supply authorities are: the Tampa Bay Water Authority, the Withlacoochee Regional Water Supply Authority, and the Peace River/Manasota Regional Water Authority. Ms. Salz introduced Mr. Ray Pilon, the Governmental Affairs Director of the Peace River/Manasota Regional Water Authority, to be followed by Mr. Jack Sullivan, Executive Director of the Withlacoochee Regional Water Supply Authority.

Mr. Pilon stated that change occurs when the status quo becomes more painful than change itself. Change can be very difficult, but often is necessary. Regional water supply authorities offer the development and delivery of water in an environmentally sensitive and sustainable manner.

Mr. Pilon indicated that a natural area to begin a review is to look at what is working and what is not. Regionalism is the most effective method of pooling local government funds. The joining of common interests with common watersheds and resources is the central premise of regional water supply authorities. Simply put, regionalism works, and going it alone may not be a long term solution.

The Peace River Water Supply Authority purchased the General Development Corporation's infrastructure and assets to increase the supply of affordable water. Members of

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<sup>27</sup> The Southwest Florida Water Management District is often referred to as "Swiftmud"

the Peace River Water Supply Authority typically work together to take high flows off of the Peace River, store the water, and redistribute it according to county contracts.

These Regional Authorities are able to develop economies of scale, protecting the resource and sustaining supply. Funding comes from ad valorem appropriations through CS/SB 444 and bonding.<sup>28</sup> Mr. Pilon indicated that regional water supply authorities should have more reliable funding through a formula whereby the authorities can have funds secured for economic downturns and instability.

Commissioner Randy Miller asked how documentary stamp tax funds are currently allocated. Mr. Pilon believes that there was an amount guaranteed for ten years on documentary stamps, but the legislature cut the amount short in their last round of budget cuts. He indicated that he was unsure of exact figures.

Ernie Barnett was recognized to discuss documentary stamp funding issues. Mr. Barnett explained that CS/SB 444 had set up \$100 million per year to be directed into a trust fund for water issues. The 2007 Legislature reduced the \$100 million to \$80 million, then eliminated SWIM funding and spread out other cuts across remaining programs. The net effect is a reduction of \$52 million for fiscal year 2007 - 2008.<sup>29</sup>

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<sup>28</sup>Presentation Ray Pilon, Director of Governmental Affairs for the Peace River Water Supply Authority to the Governmental Services Committee on December 14, 2007

<sup>29</sup>Presentation by Ernie Barnett, Director of Policy and Legislation for the South Florida

Ray Pilon noted that the regional water supply authorities are considered utilities, serving their member governments, which have varying concerns and problems with water supply. He noted that all counties participating in the Peace River Regional Water Supply Authority are in the water supply business.

The authority provides 100 percent of Desoto County's wholesale water, over 90 percent for Charlotte County, 30-40 percent for Sarasota County, and none to Manatee County. Customers all pay a unitary rate, which is based on a 7 year contract on rates and a 20 year contract on supply. Their governing board is made up of four members who are elected to various local posts. Mr. Pilon added that the Peace River Water Supply Authority is quite different from the Tampa Bay Water Authority, which is very dissimilar from the Withlacoochee Supply Authority.<sup>30</sup>

Commissioner McKee asked Mr. Pilon if their board members are locally elected officials. Mr. Pilon answered that they are most often elected officers of city and county governments. Commissioner McKee then asked if the local officials could levy their own millage increase to benefit the creation of regional water supply authorities. Mr. Pilon replied that local governments can adjust the millage rate for water supply, but that their members tend to favor increases in the

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Water Management District to the Governmental Services Committee on December 14, 2007

<sup>30</sup>Presentation by Ray Pilon, Director of Governmental Affairs for the Peace River Regional Water Supply Authority to the Governmental Services Committee on December 14, 2007

millage rate for projects which will diversify their water sources.

Commissioner McKee identified alternative sources of water as a statewide problem. He asked Mr. Pilon if he believed that WMDs should be the exclusive entity on alternative water supplies. Mr. Pilon replied in the negative and noted that the districts have too many responsibilities already. The regional approach has proven to be an effective way to encourage local water retailers to pool funds in order to develop methods of water supply which could not be afforded without the regional cooperation.

Jackson Sullivan, Executive Director of the Withlacoochee Regional Water Supply Authority, addressed the committee regarding the creation and expansion of regional water supply authorities. Mr. Sullivan noted that the Peace River Regional Water Supply Authority had reached the milestone of 25 years in business. One of the major differences between the Withlacoochee Regional Water Supply Authority and the other two Regional Authorities is that the Withlacoochee Authority has not yet begun to develop alternative water supplies, but will do so when the infrastructure is ready.

According to Mr. Sullivan, SWFWMD is the only district which both sponsors and mentors the regional water supply authorities. The Withlacoochee Regional Water Supply Authority is currently on the cusp of working out a solution between all of the local governments and water retailers.

Since its inception, several of the original counties have dropped out of the regional authority. One of the main

reasons for the difficulties is that local governments are not used to working together to solve problems. The local governments are typically very sensitive to the "local sources first" concepts. To be successful, the local authorities must focus on the development of alternative resources such as: reclaimed water, reverse osmosis, and desalinization.<sup>31</sup>

Mr. Sullivan indicated that "local sources first" standards help governments look at all possible alternatives before going beyond the authority level. Additionally, regionalization helps maximize options for local sources. Mr. Sullivan continued that all water supplies begin with sources from groundwater. Groundwater sources should be maximized before the more expensive alternative options are employed.

Mr. Sullivan indicated that places with extremely fast population growth, such as The Villages in northeastern Sumter County will need alternative sources very soon. He added that Hernando County also has experienced tremendous growth in recent years.

Commissioner McKee asked Mr. Sullivan why regional supply authorities are better for alternative sources. Mr. Sullivan explained that the local sources are collected first, then new supply sources can be implemented such as: reuse, reclaimed water, desalinization, and others. These alternative sources are more expensive to build and operate, so regional cooperation is the most cost-

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<sup>31</sup> Presentation by Jackson Sullivan, Executive Director of the Withlacoochee Regional Water Supply Authority to the Governmental Services Committee on December 14, 2007

effective method of utilizing alternative sources. Mr. Sullivan suggested that as important as these new methods of water supply will be for the state, groundwater will still be the most used water source in 20 years. By that time, however, there will have been significant growth in alternative supplies to supplement the groundwater intake.<sup>32</sup>

Commissioner Randy Miller asked Mr. Sullivan how many counties in Florida currently operate under regional water supply authorities. Mr. Sullivan responded that there is a similar association made up of 3 panhandle counties (Walton, Okaloosa, and Santa Rosa), and another similar water board set up to be used only in Volusia County. Finally, there are three such organizations found in the SWFWMD consisting of Pasco, Pinellas, Hillsborough, Sarasota, Charlotte, Desoto, Manatee, Citrus, Hernando, and Sumter counties.<sup>33</sup>

Mr. Sullivan suggested that he did not believe this type of regional plan would work very well in Southeast Florida. The regional water authorities are wholesale providers to local governments and are not designed to make a profit from their member governments.

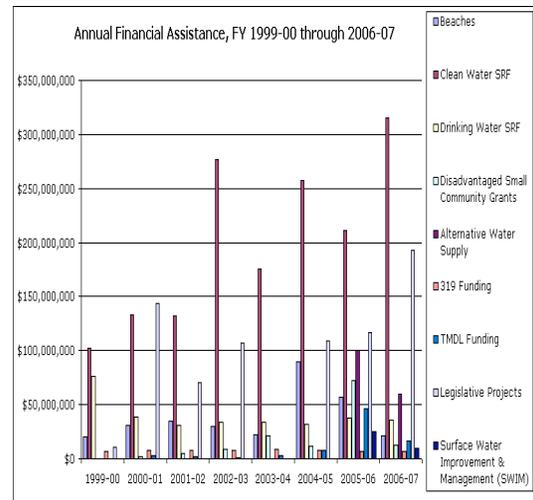
Doug Mann, representing the American Waterworks Association, commented that population growth will cause water to be a huge cost factor for the future. CS/SB 444 requires a 100-percent funding match from water management

<sup>32</sup> Ibid

<sup>33</sup> Presentation by Jackson Sullivan, Executive Director of the Withlacoochee Regional Water Supply Authority to the Governmental Services Committee on December 14, 2007

districts, which local governments then have to match up to 60 percent to draw down state appropriated funds. Mr. Mann opined that where regionalism works, it can be a good solution, but a state mandate could harm the regional concept and Florida Water policy as a whole.<sup>34</sup>

Tom Swihart, Administrator of the Office of Water Policy for DEP, stated that the Department is the statewide manager for water, providing general supervisory authority over WMDs. The districts do have the authority to levy up to 1 mill, but none of the five districts levy the full mill, and there are statutory caps as well.<sup>35</sup>



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<sup>34</sup> Remarks by Doug Mann, Shareholder of Littlejohn, Mann & Associates and representative of the American Waterworks Association to the Governmental Services Committee on December 14, 2007

<sup>35</sup> Remarks by Tom Swihart, Administrator of the Office of Water Policy for DEP to the Governmental Services Committee on December 14, 2007

<sup>36</sup> <http://www.dep.state.fl.us/water/waterprojectfunding/index.htm>.

Commissioner D'Alemberte suggested Florida needs a Water Estimating Conference that meets on a regular basis. He added that DEP is charged with providing a Florida Water Plan every five years. He noted that the University of Florida's Florida Water Institute has begun developing a model for long-term water use.

Commissioner Les Miller asked if it may be time for Florida to look into a 'Water Czar.' After some discussion among the committee members, the group decided that water policy should be managed as close to those affected by the policies as possible. According to Commissioner Miller, water management districts are decidedly the most effective agency for issuing consumptive use permits.

There are a variety of programs in the State of Florida that focus exclusively on water policy needs. Some examples of these programs are listed below:

### **Total Maximum Daily Loads**

The Total Maximum Daily Load (TMDL) Program is a federally required water quality program administered by DEP under the Florida Watershed Restoration Act (Section 403.067, Florida Statutes).<sup>37</sup>

Through the program, DEP works closely with affected stakeholders to determine how to reduce targeted pollutant loadings to restore the legally designated uses (e.g., drinking water, fishing, swimming, shellfish harvesting) of the polluted waters. A TMDL is the

maximum amount of a pollutant that a water body can receive and maintain its designated uses. A given water body may have several TMDLs – one for each target pollutant (phosphorus, coliforms, nutrients, etc.)<sup>38</sup>

Under the Florida Watershed Restoration Act, TMDLs must be developed for all waters that do not meet their designated uses due to human impacts and consequently, are defined as "impaired." A TMDL, or a water body's assimilative capacity, is scientifically derived, typically using existing monitoring data and water quality models or empirical relationships between the pollutant load and the water body's response. The final TMDL provides a margin of safety that accounts for uncertainty in the analysis.<sup>39</sup>

Section 303(d) of the Clean Water Act (33 United States Code) requires states to identify impaired waters and the pollutants causing the water quality impairment. The state must then establish a TMDL for each identified pollutant. Though these federal requirements were enacted in the early 1970s, they were not implemented in most states until citizen and environmental groups filed a number of successful lawsuits in the mid-1990s.

### **Florida Springs Initiative**

Geologists estimate that there are more than 700 springs in the state of Florida, representing what may be the largest concentration of freshwater springs on Earth.<sup>40</sup>

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<sup>37</sup> *Total Maximum Daily Loads, Guidance for Local Officials*, produced by the Florida Stormwater Association and the Florida Department of Environmental Protection

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<sup>38</sup> Ibid

<sup>39</sup> Ibid

<sup>40</sup> [www.dep.state.fl.us/springs/about.htm](http://www.dep.state.fl.us/springs/about.htm).

Springs have provided immeasurable natural, recreational, and economic benefits for residents and visitors for more than a century. Ginnie Springs is the most popular freshwater diving location in the world, and the 15 state parks named for springs across Florida attract more than 2 million visitors, contributing nearly \$7 million in revenue annually.<sup>41</sup>

Florida's springs serve as windows to the mysteries of the Floridan Aquifer. Because of the pristine beauty of the springs, the bottled water industry has a renewed interest in spring water, while at the same time, many of Florida's diverse wildlife communities continue to depend on the careful stewardship of Florida springs for their needs. The challenge lies in preserving the water quality of Florida's springs while meeting the needs of Florida's residents, visitors, and wildlife alike.

In 1999, DEP inaugurated the Florida Springs Protection Initiative to help protect and restore the state's six hundred plus springs. This included the formation of a multi-agency Florida Springs Task Force (FSTF) to provide recommended strategies for the protection and restoration of the springs.

The FSTF's principal goals are to determine the current status of Florida's springs and develop strategies for their long-term protection. To achieve these goals, in November 2000, the FSTF produced the Florida's Springs Task Force Report "Strategies for Protection and Restoration." This report outlines steps for protecting and restoring the springs and the underground aquifer through on-going scientific research,

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<sup>41</sup> <http://www.dep.state.fl.us/springs/about.htm>.

biological and water quality monitoring, regulation and management, education and outreach, and landowner assistance and land acquisition projects.

### **Disadvantaged Small Community Wastewater Grant Programs**

Established in 2000, the Disadvantaged Small Community Grant Program provides funds to plan, design, and build wastewater management facilities. The program provides money for installation or renovation of sewer systems, wastewater treatment plants, water reuse facilities, and effluent disposal systems.

Since the program began, the state has committed more than \$45 million for wastewater upgrades in smaller communities throughout the state. Funding for the grants comes from fees assessed on DEP State Revolving Fund (SRF) loans. As the SRF grows, more grant money becomes available for disadvantaged communities.<sup>42</sup> The grant is being distributed yearly in \$750,000 installments to build new collection systems and provide reclaimed water to nearby areas, further safeguarding public health and protecting the quality of the St. Johns River.<sup>43</sup>

The Disadvantaged Small Community Wastewater Grant Programs is the only water supply program created by CS/SB 444 which was unaffected by the 2007 budget cuts.

### **Florida's Future Water Needs**

According to findings reported in the March 2007 DEP Report, "Tapping New

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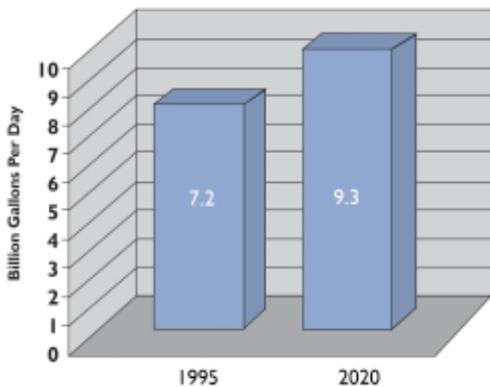
<sup>42</sup> [http://www.floridadep.com/secretary/post/2006/1103\\_2.htm](http://www.floridadep.com/secretary/post/2006/1103_2.htm).

<sup>43</sup> Ibid

Sources, Meeting 2025 Water Supply Needs,” by 2025, the demand for fresh water is estimated to increase by about 2 billion gallons per day to 8.5 billion gallons per day. This is an increase of 29.5 percent.

Agriculture, the sector with the smallest projected increase in use over the next 20 years, will no longer be the largest user and its percentage of total use will decline to 35 percent. By 2025, public water supply is expected to increase by 49 percent and become the largest user of fresh water (43 percent of total fresh water use). The sector with the largest percentage increase over the next 20 years is expected to be power generation. However, this sector is still expected to account for only 5 percent of the total fresh water used.<sup>44</sup>

**Projected Total Water Use Statewide 1995-2020**



Marella, R.L., "Water Withdrawals, Use, Discharge, and Trends in Florida", USGS, Water-Resource Inventory Report, 99-4002, (1999)

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As water supply needs in Florida continue to grow, it is imperative to find new methods of cooperation with all

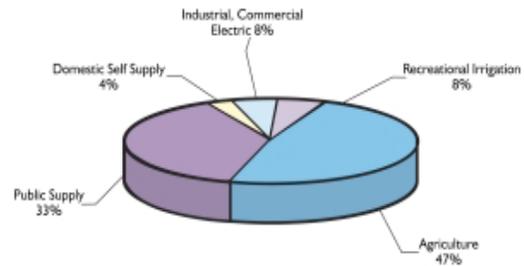
<sup>44</sup> *Tapping New Sources, Meeting 2025 Water Supply Needs*, FDEP March, 2007

<sup>45</sup> [http://www.floridaagwaterpolicy.com/PDF/Florida\\_Agricultural\\_Water\\_Policy\\_Report.pdf](http://www.floridaagwaterpolicy.com/PDF/Florida_Agricultural_Water_Policy_Report.pdf).

levels of government in order to ensure that fresh water remains available. Local, regional, state, and federal cooperation will benefit the state's demand for new alternative water supply options.

Many of the alternative water supply projects described above can be quite costly. Regional plans can be an effective way to share the costs of expensive options, such as desalination, among local governments and utilities.

**Statewide 2020 Projected Demands**



Marella, R.L., "Water Withdrawals, Use, Discharge, and Trends in Florida", USGS, Water-Resource Inventory Report, 99-4002, (1999)

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Full implementation of regional water supply plans and other efforts will be challenging, but the work done to date indicates that meeting Florida's future needs in an environmentally sound and cost-effective manner is within our reach. Water conservation and alternative supplies will become more imperative over time. Many projects will succeed only if local stakeholders can structure coordinated approaches to regional projects.

<sup>46</sup> Ibid

## **RECOMMENDATIONS**

The Governmental Services Committee, based on information received in public meetings, sponsored a proposal regarding Florida's water policies.

**CP0031** – Constitutional Proposal relating to the Increase in the Millage Rate Cap for the North West Florida Water Management District (Tabled by the Finance & Taxation Committee).

## **APPENDIX A**

Please visit the Florida Council of 100 website to view the 2003 report on water policy, [Improving Florida's Water Supply Management Structure](#). This report was adopted to constitute the background section of the TBRC Report. To access the Florida Council of 100 report, please click on the following link:

<http://www.fc100.org/documents/waterreportfinal.pdf>



# 4. Appendix



## 1990-92 TBRC Summary

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The work of the 1990-92 Taxation and Budget Reform commission resulted in several changes to Florida's Constitution, largely regarding state budgeting. These included the creation of the Budget Stabilization Fund, the 72-hour review period before the state budget can be voted on, and the introduction of a performance and productivity measurement system to state government. The 1990-92 TBRC proposed four constitutional amendments for voters to consider in November 1992. Two of those amendments passed, one failed, and one was challenged and subsequently removed from the ballot.

### 1990-92 Constitutional Amendments

**Amendment 4** - This amendment contained the bulk of the commission's constitutional proposals and it passed with an 83-percent vote. It dealt with budget reform and included the following:

- 72-Hour Budget Review Period: Required that copies of any appropriation bill be made public at least 72 hours before it can be voted on;
- Budget Stabilization Fund: Mandated a reserve fund equal to 5 percent (phased in) of total general revenue that can only be used for general revenue shortfalls and emergencies and allowed the fund to grow up to 10 percent of the prior year's general revenue collections;
- Annual Budgeting: Adopted an annual budget and planning process and required that annualized and non-recurring costs be included in agency budget requests;
- Appropriation Bill Format: Set up the current appropriation bill format and classified any bill with an appropriation as such for the governor's line-item veto power;
- Appropriation Review Process: Required each agency to submit a planning document and supporting budget request for review by the appropriations committees of both houses of the Legislature. The review shall include a comparison of the major issues in the budget requests to major issues included in the governor's recommended budget;
- Final Budget Report: Required a final budget report by the 90<sup>th</sup> day of the fiscal year;
- Trust Fund Review: Made it harder to create trust funds by requiring a three-fifths vote of the membership of both the House and Senate, and set up a sunset process for most trust funds;
- State Planning Process: Attempted to improve the state planning process (State Comprehensive Plan) by including biennial review and revision, and requiring state agencies to develop plans consistent with the State Plan. It also mandated a quality management and accountability system for state government;

- Gubernatorial Authority for Revenue Shortfalls: Gave the governor and Cabinet authority to make budget cuts to balance the budget; and
- Educational Capital Outlay: Expanded the use of Public Education Capital Outlay (PECO) money to maintenance, restoration, and repair of existing educational facilities.
- Abolishing the corporate tax exemptions for subchapter S corporations and partnerships;
- Expanding the definition of utilities subject to the gross receipts tax;
- Urging the Legislature to examine whether the current system of multiple business taxes should be replaced with a single comprehensive business tax based on value added;

**Amendment 5** - This amendment mandated that a Taxpayer Bill of Rights be provided in state law, and passed overwhelmingly with more than 90 percent of the vote. This had been recommended by the legislatively-created Taxpayers Bill of Rights Task Force in 1990. After failing to pass in 1990 and 1991, the 1992 Legislature passed a Bill of Rights prior to the vote on the constitutional amendment.

**Amendment 6** - This was the only amendment to fail and would have allowed cities and counties to levy up to a 1-percent local option sales tax with voter approval.

- Increasing the allowable non-voted options for local governments;
- Providing more revenue-raising options for local governments;
- Removing the referendum requirement to enact the local option infrastructure sales tax and remove the limitations on its use; and
- Changing the homestead exemption to exempt 50 percent of the first \$50,000 of value to have all homesteads that pay at least some property taxes.

## 1990-92 Statutory Recommendations

Although only one significant recommendation dealing with tax structure made it to the ballot and failed (Amendment 6), the 1990-1992 TBRC recommended to the Legislature some far-reaching changes to the state's tax structure, including:

- Removing the prohibition against a state personal income tax from the constitution;
- Eliminating most sales tax exemptions and begin taxing professional, insurance, and personal service transactions;