

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HCB6005 PHCB EDC 05-01 SUCCEED, FLORIDA! Initiative  
**SPONSOR(S):** Education Council and Mayfield and Zapata and Domino and Jennings and Arza and Community Colleges & Workforce Committee and Colleges & Universities Committee  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Education Council	10 Y, 0 N	Ashworth	Cobb
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**SUMMARY ANALYSIS**

PHCB EDC 05-01 provides enhanced student opportunities through revisions related to the following educational policy areas.

- Implements the recommendations of the final report of the *Career Education* Task Force. The combined bill establishes a new position for a Deputy Commissioner of Career Education, encourages the creation of career and professional academies, and enhances the student advising and guidance system.
- Creates a program to offer *discounted computers and Internet access for students*.
- Increases access to and expands capacity of *nursing programs* to produce more nurses to enter the workforce in Florida.
- Provides for *community college baccalaureate degree programs* that meet critical workforce needs and for diverse, nontraditional, or geographically bound students.
- Provides additional professional development for career education and guidance counselors in *postsecondary educator preparation institutes*.
- Authorizes creation of new or expansion of existing *centers of excellence*.
- Revises process to determine *residency status for tuition purposes* and provides exemptions.
- Increases the community college *capital improvement fee*; provides flexibility to university boards of trustees with regard to tuition and fees for graduate, graduate professional, and non-resident students; and enacts an *excess credit hour fee*.
- Creates the Florida Independent Collegiate Assistance Grant Program for students in an eligible Commission of Independent Education institution.
- Authorizes procedure for *Florida Prepaid* College Board to transfer ownership of advance payment contract in the event of the death of the purchaser, expands the Prepaid Scholarship Program; and permits use of prepaid contracts at certain for-profit institutions.
- Creates three new SUCCEED, FLORIDA! competitive grant programs.
- Transfers the endowment for the Appleton Museum of Art to the Central Florida Community College Foundation.

See FISCAL COMMENTS for information about the fiscal impact of the combined bill.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

##### **Provide limited government** –

*Discounted Computers and Internet Access for Students* -- The combined bill establishes a new program within the Department of Education to provide students with discount computers, and requires rule-making to implement the program.

*Nursing* -- The Florida Center for Nursing is required to develop and implement an information system to assess the workforce needs of the nursing profession in Florida. The Department of Education is required to identify standardized tests that may be used to earn nursing course credit.

*Community College Baccalaureate Degrees* -- The State Board of Education must adopt rules that address the baccalaureate degree programs at community colleges, including reporting policies and performance accountability requirements for both upper-division and lower-division programs.

*Centers of Excellence* -- The combined bill provides for the establishment of additional centers of excellence or the expansion of current centers subject to appropriation by the Legislature.

*Residency Status* -- The combined bill requires postsecondary institutions to affirmatively determine student residency status eligibility for tuition purposes at time of initial enrollment.

*Florida Independent Collegiate Assistance (FICA)* -- The combined bill creates the FICA Grant Program, a student tuition assistance grant program to be administered by the Department of Education.

*Florida Prepaid College Program* -- The combined bill streamlines the process to transfer ownership of a Florida Prepaid College Program advance payment contract or participation agreement when the purchaser dies without a will or direction as to ownership of assets. The combined bill requires the Florida Prepaid College Board to specify by rule what must be included in the applications and to review all applications.

*Postsecondary Educational Funding* -- The combined bill establishes three competitive grant programs: SUCCEED, FLORIDA! Crucial Professionals Nursing Education Grants Program; SUCCEED, FLORIDA! Crucial Professionals Program; and SUCCEED, FLORIDA! Career Paths Program.

##### **Promote personal responsibility**

*Career Education* -- The combined bill provides an opportunity for students to graduate from high school capable of either entering into the workplace, further their career education or continue on to a postsecondary degree program.

##### **Empower families**

*Career Education* -- The combined bill provides the opportunity for students who complete the career education program to be able to obtain and sustain a job and realize economic self-sufficiency.

*Residency Status* -- The combined bill extends residency status to certain employees and their dependents as well as providing an exemption of payment of nonresident tuition to certain eligible students.

*Florida Prepaid College Program* -- The combined bill provides a process for family members to transfer educational funds that were purchased by persons who die without a will or any direction as to

ownership of assets. The combined bill also provides for the inclusion of children who have lost or may lose a parent in one of the current military conflicts as those eligible for scholarships from the Prepaid Scholarship Program if they are residents of Florida at the time of their parent's death.

B. EFFECT OF PROPOSED CHANGES:

**CAREER EDUCATION**

**Background**

*Of every ten 9<sup>th</sup> graders, three students drop out and three of the remaining seven do not pursue additional education; six students (60%) do not go to college. Only four out of the 10 (40%) attend college.*<sup>1</sup> Reformed career education programs in the middle and high school years would not only benefit the six students who do not attend college, but has the potential of benefiting *all* students.

Since 1998, twelve studies have been conducted on the effectiveness of the workforce education system. The most recent study was the final report of a Career Education Task Force, convened at the request of the 2004 Legislature and chaired by the Lieutenant Governor.<sup>2</sup> The theme in the final report was that due to the critical importance to Florida's students and Florida's economic development, career education should be recognized as a valuable part of the K-20 system and the status of career education should be elevated to a higher level in the K-20 system.

**Effect of Proposed Changes**

The combined bill reflects the recommendations of the Career Education Task Force. The combined bill creates Chapter 1014, F.S., relating to career education; and elevates the status of career education in the K-20 system by setting legislative expectations for the career education system, establishing and funding a new position of Deputy Commissioner of Career Education (DCCE) and a new Office of Career Education (OCE) within the organizational structure of DOE; encouraging the establishment of career and professional academies through a competitive grant program and a follow-up study on the implementation of the academies; and providing for the enhancement of the current student advising and guidance system and structure.

**DISCOUNTED COMPUTERS AND INTERNET ACCESS FOR STUDENTS**

**Background**

A report published by the U.S. Department of Commerce entitled *Falling Through the Net: Toward Digital Inclusion* found that digital divides exist between those with different levels of income and education, different racial and ethnic groups, old and young, single and dual-parent families, and those with and without disabilities. Although the 2004-2005 fiscal year budget provided \$49.9 million for public school technology, which is allocated to districts on a per-student basis, there is currently no statewide program to provide students with discounted computers or to provide computers directly to low-income students.

**Effect of Proposed Changes**

The combined bill creates a program to offer computers and Internet access at a discounted price to students enrolled in grades 5 through 12 in a Florida public school. The Department of Education

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<sup>1</sup> *Career and Professional Education: Preparing Florida's Students for the Knowledge Economy*, Council for Education Policy, Research and Improvement (CEPRI), September 2004.

<sup>2</sup> Career Education Task Force – Final Report: December 8, 2004, Background Information;

[http://www.flcareeredstudy.org/ces\\_report.htm](http://www.flcareeredstudy.org/ces_report.htm)

(DOE) will negotiate with computer manufacturers and Internet providers regarding prices, software and hardware packages and types of warranties. The combined bill requires DOE to adopt rules. The combined bill also establishes a pilot project to assist low-income students to purchase the discounted computers and internet access services as negotiated by DOE. The project will be implemented by the Digital Divide Council. Funding will be determined in the General Appropriations Act. The Council is authorized to accept grants from additional public and private sources for the project. The combined bill could enable students to purchase computers who may not have otherwise been able to purchase them, which would increase opportunities for students' technological education.

## **NURSING**

### **Background**

The National Center for Health Workforce Analysis in the Health Resources and Services Administration (HRSA) projects that by 2020, Florida will need 61,000 more nurses than are projected to be available. The nursing shortage in Florida is projected to grow from a shortage of 7 percent in 2005 to a shortage of 33 percent in 2020.<sup>3</sup>

#### **Florida Board of Nursing**

Section 464.019, F.S., requires the Florida Board of Nursing (the Board) to adopt rules to ensure that approved nursing programs graduate nurses capable of competent practice. Any institution wishing to conduct an approved nursing program in Florida must show compliance with the requirements of section 464.019, F.S., and any applicable rules adopted by the Board. Under current law, the Board is prohibited from adopting any rule limiting the number of students admitted to a nursing program, provided that appropriate faculty-to-student ratios are maintained. Current Board rules require a faculty-to-student ratio of 1:12 for most clinical instruction.

#### **Florida Center for Nursing**

The Florida Center of Nursing (FCN) was established by the 2001 Legislature to address issues of supply and demand for nursing, including issues of recruitment, retention, and utilization of nurse workforce resources. Though some data on the nursing workforce is currently collected, the FCN recommended in their *Statewide Strategic Plan for Nursing Workforce in Florida* that the data collected on the nursing workforce be expanded and collected on a regular, recurrent basis.

#### **Articulation of Nursing Education Programs**

Florida has an articulation agreement for health education programs designed to permit a student to learn in modules from the basic health science course in high school to a baccalaureate degree program. The intent of the articulation among health education programs is that one level of education can provide a building block to the next. Although some articulation methods are in place, students still may face difficulties when moving from one rung to the next on the career ladder.

### **Effect of Proposed Changes**

The combined bill prohibits the Board from changing Board-mandated faculty-to-student ratios in a way that limits capacity unless the changes are grounded in scientific research. The Board must evaluate its existing rules regarding clinical instruction to maximize clinical instruction opportunities and must also provide assistance to approved programs in expanding their capacity.

Subject to appropriation by the Legislature, the FCN is required to develop an information system to assess the workforce needs of the nursing profession in Florida.

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<sup>3</sup> National Center for Health Workforce Analysis (July 2002). *Projected Supply, Demand, and Shortages of Registered Nurses: 2000-2020*. Available at <ftp://ftp.hrsa.gov/bhpr/nationalcenter/rnproject.pdf>

The combined bill requires DOE, with input from public and private postsecondary institutions, to identify national standardized or licensure exams by which secondary and postsecondary students may earn postsecondary credit for nursing courses. This will enable students to earn credit for material already learned and permit them to progress higher on the career ladder without having to repeat material they have already mastered.

The combined bill creates a competitive grant program to expand the capacity of approved nursing programs and expands participation in state financial programs that target nurses.

## **COMMUNITY COLLEGE BACCALAUREATE DEGREES**

### **Background**

The Legislature has authorized community colleges to offer baccalaureate degrees in fields that meet local workforce needs. Currently, six community colleges have been approved to offer baccalaureate degrees. In addition, nearly all community colleges partner with public and private colleges to provide access to baccalaureate degrees on their campuses.

According to a recently released OPPAGA report, authorizing community colleges to offer baccalaureate degrees improves the state's ability to meet workforce needs and gives students more choice. However, if not carefully implemented, this step could produce unanticipated consequences including higher expenditures per student and weaker community college dedication to their traditional students. To limit these problems, the Legislature should consider several options:

- Strengthening the process for reviewing proposals for new community college degree programs.
- Empowering community colleges to provide baccalaureate degrees that meet workforce needs on their campuses by the most efficient means, which could include providing incentives for partnerships with public and private institutions;
- Limiting community colleges' ability to offer baccalaureate degree programs;
- Slowly transforming some community colleges into four-year colleges that focus on teaching rather than research; and
- Establishing a process to coordinate degree requirements for Bachelor of Applied Science programs.<sup>4</sup>

### **Community College Mission**

Section 1004.65, F.S., defines the primary mission and responsibilities of community colleges to be responding to community needs for postsecondary academic education and career degree education. Their mission and responsibilities include: providing lower level undergraduate instruction and awarding associate degrees; preparing students directly for careers requiring less than baccalaureate degrees; providing students development services; promoting economic development within a college's respective district; and providing dual enrollment instructions.

### **Site-Determined Baccalaureate Degree Process**

Section 1007.33, F.S., expresses the intent of the Legislature to expand access to baccalaureate degree programs through the use of community colleges and sets forth two ways in which a community college may expand access to baccalaureate degree programs.

1. The community college may enter into a formal agreement with another postsecondary institution to provide undergraduate programs.
2. The community college may submit a proposal to the SBE to deliver specified baccalaureate degree programs in the district to meet local workforce needs. The proposal must show a demand for the program, that there is an unmet need for graduates of the program, and that the community college has the facilities and academic resources to deliver the program. The proposal must be submitted to the Council for Education Policy Research and Improvement (CEPRI) for review and

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<sup>4</sup> Office of Program Policy Analysis and Government Accountability (OPPAGA) Report No. 05-20, *Authorizing Community Colleges to Award Baccalaureate Degrees Is One of Several Options to Expand Access to Higher Education*, April, 2005.

comment. Upon approval by the SBE, the college must seek the proper accreditation for the program. If the college wants to offer additional degree programs, it must go through the same evaluation cycle for each degree request.

### **Effect of Proposed Changes**

This combined bill takes into consideration the OPPAGA recommendations<sup>5</sup> in authorizing community colleges to award baccalaureate degrees as well as provide access to such degrees.

Community colleges that are approved by the SBE to offer baccalaureate degree programs must maintain their primary mission; the community college is prohibited from terminating Associate in Arts (AA) or Associate in Science (AS) degree programs as a result of the authorization to offer baccalaureate degree programs. The combined bill also requires that community college faculty who teach upper-division courses that are a component of a baccalaureate degree program teach a minimum of 15 classroom contact hours per week at the institution.

### **Site-Determined Baccalaureate Degree Process**

The combined bill expands the intent language to specifically reference expanding access for Florida residents and programs that meet critical workforce needs. In addition to meeting local workforce needs, a community college may develop a proposal to expand access for diverse, nontraditional, or geographically bound students.

To be eligible to receive state funding to support the program at the baccalaureate level, the proposal must be submitted to the State Board of Education. The proposal must include documentation of demand; an unmet need for graduates; adequate existing resources; and that either alternative attempts were made to meet the identified need, such as distance learning and partnerships with other public or private postsecondary education institutions, or justification for not pursuing such alternatives. The submitted information must also include a five year plan that ensures that the per-credit-hour cost of the program at the end of the five-year period will be less than the costs of similar programs at state universities.

The SBE must make the proposal available to other public and private postsecondary educational institutions for 60 days for review and comment, including the opportunity for such institutions to submit alternative proposals to the SBE for meeting the stated need. The SBE may approve, deny or recommend revisions to the proposals. The combined bill removes the requirement for the proposal to be submitted to the Council for Education Policy Research and Improvement for review and comment. The State Board of Education is required to adopt rules to administer site-determined baccalaureate degree access.

### **Cost and Funding**

The combined bill requires the board of trustees of the community college to review the programs every 5 years to determine the cost-effectiveness of the program, the effectiveness of the program in meeting local workforce needs, and the impact of the program on the college's primary mission of providing associate degrees. A copy of the review must be submitted to SBE, the Governor, and the Legislature. Programs that have excessive per-credit-hour cost, no longer meet workforce needs or hinder a community college's primary mission may lose eligibility for state funding as a baccalaureate degree program.

Funding for such baccalaureate degree programs will be specified in the General Appropriations Act. Students in a such programs must be a Florida resident to be included in calculations of full-time equivalent enrollments for state funding purposes.

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<sup>5</sup> Ibid.

Capital outlay funding for approved baccalaureate degree programs must be submitted in the community college three-year priority list. Enrollment in approved baccalaureate degree programs or baccalaureate degree programs offer under a formal agreement with another college or university may be computed into the survey of need for facilities if the partner is not defraying the cost.

The combined bill requires the State Board of Education to convene a workgroup to develop recommendations on the degree requirements for a bachelor of applied science degree and protocols for accepting credits earned by transfer students in such programs, and to report to the SBE and the Legislature by February 1, 2006.

## ***POSTSECONDARY EDUCATOR PREPARATION INSTITUTES***

### **Background**

Section 1004.85, F.S., authorized postsecondary institutions to create educator preparation institutes for teacher professional development, substitute teachers, paraprofessionals, and an alternative certification program for non-education major baccalaureate degree holders who have an interest in becoming teachers.

### **Effect of Proposed Changes**

The combined bill moves s. 1004.85, F.S., which creates postsecondary educator preparation institutes from Part III relating to community colleges to Part I relating to general provisions of Ch. 1004, F.S. The combined bill authorizes the postsecondary educator preparation institutes to provide instruction in three new areas:

- Demonstrating teaching competencies to associate in science degree holders with business experience interested in teaching career education courses;
- Providing professional development to career education teachers in order to deliver a career education curriculum in a relevant context with a rigorous curriculum; and
- Instructing guidance counselors in the use of a mentor-teacher guidance model.

## ***CENTERS OF EXCELLENCE***

### **Background**

Section 1004.225, F.S., the Florida Technology Development Act (Act), was created by the 2002 Legislature and expired July 1, 2004. The Act provided a mechanism to foster technology transfer, a commercialization process that brings a new technology to market. The Act began the technology transfer process by creating, through a competitive review process, three centers of excellence, each receiving \$10 million appropriated by the 2002 Legislature:

- Florida Atlantic University's Center of Excellence for Biomedical and Marine Biotechnology
- University of Central Florida's Photonics Center of Excellence
- University of Florida's Center of Excellence for Regenerative Health Biotechnology

The Florida Research Consortium, Inc. (FRC) is a strategic partnership between Florida's universities and the business community focused on enhancing progressive research programs at Florida's public and private universities and adding to the diversity and strength of Florida's technology economy through the commercialization of research.

### **Effects of Proposed Changes**

The combined bill creates s. 1004.226, F.S., to provide for the establishment of additional centers of excellence or the expansion of current centers, subject to appropriation by the Legislature. The

combined bill defines the term “center of excellence” and the purpose and objectives of a center of excellence.

Proposals to establish new or expand existing centers of excellence must be submitted to the SBE for review, in consultation with the FRC. The SBE will develop a plan to establish or expand centers and authorize expenditures to implement the plan. The SBE must report on implementation of the plan and success of the centers to the Governor and Legislature.

## ***RESIDENCY STATUS FOR TUITION PURPOSES***

### **Background**

Section 1009.21, F.S., requires students to be classified as residents or nonresidents for the purpose of assessing tuition in community colleges and state universities, but does not require the classification for students when taking postsecondary career education courses in school districts.

To qualify as a resident for tuition purposes, a student, or the student’s parents if the student is a dependent, must have established legal residence in the state and maintained legal residence in the state for at least 12 months immediately prior to the student’s qualification.

Section 1009.21(10), F.S., designates certain categories of persons applicable to receive residency for tuition purposes, such as active duty members of the Armed Services of the U.S. residing or stationed in Florida and their dependents.

Undocumented aliens, with certain exceptions as provided in federal law, may not establish legal residence in the state for tuition purposes because their residency in the state is in violation of federal law, as they have not been properly admitted into the United States.<sup>6</sup> Section 1101 of Title 8 U.S. Code provides definitions for terms relating to aliens and nationality and defines the term “immigrant” to mean every alien except an alien who falls into one of a series of classes described as nonimmigrant aliens.<sup>7</sup> In order to apply for naturalization, immigrants must have been lawfully admitted for permanent residence in the U.S. and must have resided in the U.S. for five years before they become citizens.<sup>8</sup>

Undocumented aliens are accordingly classified as nonresidents for tuition purposes. Many of these undocumented aliens attend Florida high schools and obtain a high school diploma or the equivalent, as the state may not bar these individuals from attending elementary, middle, or secondary schools.<sup>9</sup> Due to the increased cost of attending a public postsecondary institution as a nonresident, these students may not be able to pursue their education at the postsecondary level.

### **OPPAGA Report No. 03-29: Regarding Residency for Tuition Determinations**<sup>10</sup>

OPPAGA found that institutions were using inconsistent screening criteria and procedures creating the potential for misclassifications and variations in the threshold a student must meet to qualify for residency. OPPAGA identified three costly weaknesses in the current criteria and procedures used in classifying students as residents for tuition purposes:

1. Current law and rules do not provide adequate criteria governing under what specific circumstances students should be reclassified as Florida residents.
2. Current criteria do not adequately specify the determination of students’ dependency status.
3. Institutions are applying varying standards for documenting residency.

<sup>6</sup> Most undocumented aliens, absent a change in federal law or a grant of amnesty, would not qualify for permanent residency.

<sup>7</sup> Nonimmigrant aliens, as defined in 8 U.S.C. s. 1101(a)(15), are aliens lawfully admitted into the U.S. but whose duration of stay is set forth in the applicable visa under which admittance is granted. See <http://uscis.gov/graphics/services/tempbenefits/index.htm>, U.S. Citizenship and Immigration Services, Temporary Visitors.

<sup>8</sup> <http://uscis.gov/graphics/services/natz/general.htm>, U.S. Citizenship and Immigration Services, General Naturalization Requirements.

<sup>9</sup> See Plyler v. Doe, 457 U.S. 202, 102 S. Ct. 2382, 72 L.Ed.2d 786 (1982).

<sup>10</sup> Report 03-29, OPPAGA Special Review, *Non-Residents Qualify Too Easily for Much Lower Resident Tuition Rates*

## Effect of Proposed Changes

The combined bill requires that students be classified as residents or nonresidents for the purpose of assessing tuition for postsecondary workforce education programs offered by school districts.

The combined bill expands the definition of “dependent child” to require that the person receive at least 51 percent of the true cost-of-living expenses from his or her parent. An institution of higher education or school district that offers a workforce education program must determine whether an applicant is a dependent child.

The combined bill revises residency criteria to require that a person reside in-state for 12 consecutive months immediately prior to initial enrollment in a postsecondary education program in Florida and defines “initial enrollment” as the first day of classes. Institutions of higher education, as well as school districts that offer workforce education programs, must confirm that an applicant meets these residency requirements.

The combined bill provides for student reclassification from nonresident to resident under certain conditions. If the student is a dependent child, the reclassification requirements apply to the student’s parent. If the student moves to the state while in high school and graduates from a high school in the state, the student may become eligible for reclassification as a resident when the parent qualifies for permanent residency, if the student is a dependent child.

The combined bill also provides that a student is not eligible for classification as a resident for tuition purposes until the student has provided the documentation confirming status as a dependent child as required by law and by officials of the institution or school district from which the student seeks the in-state tuition rate.

The combined bill expands the categories of persons that are classified as residents for tuition purposes to include full-time employees of international multilateral organizations based in Florida that are recognized by the U.S. Department of State and their spouses and dependent children.<sup>11</sup>

The combined bill allows students, except for nonimmigrant aliens as defined by federal law,<sup>12</sup> who meet the following requirements to apply for an exemption from paying nonresident tuition at public postsecondary institutions.

- Resided in Florida with a parent for at least three consecutive years immediately before receiving a high school diploma and attended a Florida high school.
- Registered and enrolled in a community college or state university.
- Provided the public postsecondary institution an affidavit stating that he/she will apply for permanent U.S. residency as soon as he/she is eligible.
- Submitted an application for the exemption to the institution as prescribed by DOE.

The combined bill limits the exemption to the top 2,000 students in academic performance in Florida high schools who register and enroll at a community college or state university. The number of students who meet the requirements to apply for the exemption is unknown because public K-12 schools are not allowed to inquire about the residency of a student due to the 1990 consent decree.<sup>13</sup>

The combined bill also requires the DOE to administer the exemption program and develop an application form and guidelines for student participation.

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<sup>11</sup> There are currently less than 10 people in Florida who might qualify under this provision. See Florida Department of Education 2005 Legislative Bill Analysis, HB 119, March 1, 2005, at 6.

<sup>12</sup> Title 8 U.S.C. § 1101(a)(15).

<sup>13</sup> See *League of United Latin American Citizens v. Florida Board of Education*, Case No. 90-1913, (S.D. Fla. 1990).

## **STUDENT FEES**

### **Background**

#### **Community College Fees**

Section 1009.23, F.S., specifies the process for establishing community college student fees. The SBE must annually establish a fee schedule for advanced and professional, associate in science degree, and college-preparatory programs. Separate fees are established for capital improvement, technology enhancements, and equipping student buildings. The fee for college credit programs is capped at \$1 per credit hour for residents and must equal or exceed \$3 per credit hour for nonresidents.

Currently a maximum of 15 cents per credit hour from the capital improvement fee may be used for child care centers conducted by the community colleges. Community colleges may choose whether or not to use the Division of Bond Finance of the State Board of Administration to issue any bond authorized to be financed from the community college capital improvements, technology enhancement or equipping student building fee.

Current language allows the capital improvement fee revenues to be pledged for repayment of debt, including lease-purchase agreements, and for revenue bonds<sup>14</sup>. The terms of the revenue bonds may not exceed 20 years, are not to exceed the useful life of the asset being financed and may be bonded only by new construction and equipment, renovation, or remodeling or educational facilities.

#### **State University Fees**

Section 1009.24, F.S., authorizes state universities to charge a number of other fees, in addition to tuition and out-of-state fees, for services and programs provided by the university. The total of the activity and service, health, and athletic fees is capped at 40% of tuition and must not increase by more than 5% each year.

#### **Excess Hour Fees and Timely Completion of Degree Programs**

Excess hours occur when students enroll in classes that they either do not successfully complete or do not need to meet graduation requirements. Section 1001.02(4), F.S., requires the State Board of Education (SBE) to review, and approve or disapprove, baccalaureate-degree programs that exceed 120 semester hours. Section 1007.25(8), F.S., requires that a baccalaureate degree program require no more than 120 semester hours of college credit unless prior approval has been granted by the SBE.

According to information from OPPAGA, 97% of the community college students accumulated excess hours, and 61% attempted credit hours that exceeded the legislative standard of 120% of the hours needed for graduation. On average, these students took an average of 30.3 more credit hours than they needed, and these excess hours cost the state \$26.6 million. According to OPPAGA, the main causes of excess hours at the community college level are student characteristics, inadequate academic advising, and the need for some students to take a full load of courses that they may not need in order to meet financial aid requirements. In addition, some students take community college courses that will satisfy upper division requirements, which causes excess hours at the community college level; however, universities accepted only about a third of the excess credit hours the students attempted. OPPAGA recommends that community colleges strengthen advising and that the Legislature consider providing institutional and student-based financial incentives such as charging higher tuition for excess hours or creating a shared savings incentive program.

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<sup>14</sup> Section 11(d), Article VII of the Florida Constitution states: Revenue bonds may be issued by the state or its agencies without a vote of the electors to finance or refinance the cost of state fixed capital outlay projects authorized by law, and purposes incidental thereto, and shall be payable solely from funds derived directly from sources other than state tax revenues.

OPPAGA Report No. 04-44<sup>15</sup> indicates that the 2002-2003 graduating class from state universities accumulated 337,837 credit hours over 115% of their degree requirements, costing the state approximately \$29 million. Overall, 20% of the students earned 83% of all credit hours over the 115% standard. The report suggests three ways to reduce state costs:

- Charge the full cost for credit hours in excess of 115 percent of graduation requirements;
- Provide tuition rebates to students who graduate with minimal excess hours; and
- Offer “locked-in” tuition, which requires students who do not graduate within four (4) years to pay higher tuition rates.

Section 1007.28, F.S., requires the SBE to maintain, within the DOE, a single, statewide computer-assisted student advising system, which must be an integral part of the process of advising, registering, and certifying students for graduation. The system must consist of a degree audit and an articulation component that includes certain characteristics that will assist students in timely completing their degree program.

### **Effects of Proposed Changes**

#### **Community College Fees**

The combined bill adds a reference to baccalaureate degree programs authorized by the SBE pursuant to s.1007.33, F.S., and directs the SBE to adopt a resident fee schedule for such programs by December 31 of each year.

The combined bill allows the community college board of trustees to increase the fee for capital improvement, technology enhancements, or equipping student buildings. The combined bill allows an increase of up to 10% of tuition for residents and 10% of the total tuition and out-of-state fees for nonresidents. The fee increase for residents is capped at \$2 per credit hour over the prior year.

The combined bill requires community colleges to use the Division of Bond Finance of the State Board of Administration to issue any bond authorized to be financed from the community college capital improvements, technology enhancement, or equipping student building fee.

The combined bill increases the maximum amount of the capital improvement fee that can be used for child care centers from 15 cents per credit hour to 15% per credit hour. The use of these funds for child care centers is made subordinate to the payment of any bonds secured by the fees.

The combined bill changes the length of time for which a revenue bond may be issued from 20 years to 20 annual maturities. A number of community colleges may jointly request the state to issue a revenue bond which may pledge the fees from each of the colleges to secure the bonds. New language is included as a covenant with the holders of such revenue bonds that the state will not take any action to adversely affect the rights of such bond holders. Only the initial series of bonds will be required to be validated.

#### **State University Fees**

The combined bill provides that the Legislature has the responsibility to establish tuition and fees and requires each university board of trustees to set undergraduate tuition and fees within the proviso language provided in the GAA.

The combined bill also requires each university board of trustees, beginning in the fall 2005 semester, to set tuition and fees for graduate, graduate professional, and nonresident students. Tuition and fees for graduate, graduate professional, and nonresident students must not exceed the average full-time nonresident tuition and fees for corresponding programs at public institutions that are members of the Association of American Universities.

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<sup>15</sup> Report No. 04-44, OPPAGA Information Brief, *Stronger Financial Incentives Could Encourage Students to Graduate With Fewer Excess Hours*

For graduate, graduate professional, and nonresident students who enrolled prior to 2005, tuition and fees will continue to be established in proviso in the General Appropriations Act or by law. The bill further provides that the annual percentage increase in tuition and fees established by each board of trustees for students enrolled prior to fall 2005 must not exceed the annual percentage increase approved by the Legislature for resident undergraduate students.

The bill requires that at least 20% of the amount raised by tuition increases must be allocated by each university to need-based financial aid for students.

Further, the tuition and fees set by the university board of trustees are not subject to the 40% cap of activity and service, health, and athletic fees.

### Excess Hour Fees

The combined bill enacts an excess credit hour policy that requires the payment of 75% over the in-state tuition rate for a student who takes more than 120% of the credit hours required for his or her associate or baccalaureate degree requirement, regardless of whether those hours were taken while enrolled at a community college, a state university, or any private postsecondary institution if the student received state funds while enrolled at the private postsecondary institution. However, a student who has earned an associate degree is exempt from paying the full cost for a maximum of 24 credit hours taken while enrolled at a community college which apply to the student's baccalaureate degree.

The combined bill also provides for an exemption of certain credit hours from being calculated as hours required to earn a baccalaureate degree and requires postsecondary institutions to implement student notification policies regarding the excess hour policy.

The excess hour policy applies to freshmen who enroll in a state university or community college in fall 2005 and thereafter.

The combined bill also requires OPPAGA to conduct a study to examine how each state university supports students in making timely progress toward the completion of the student's degree and submit the results of the study to the Governor and Legislature.

## **FINANCIAL ASSISTANCE PROGRAMS FOR STUDENTS**

### Background

#### Tuition Assistance Grant Programs

Classification as a resident for tuition purposes is also an eligibility criteria for participation in certain financial assistance programs such as the Florida Student Assistance Grant (FSAG) Program and the Florida Resident Assistance Grant (FRAG) Program. Section 1009.40, F.S., requires that the resident status for purposes of receiving state financial aid awards must be determined in the same manner as resident status for tuition purposes pursuant to s. 1009.21 and rules of the SBE.

The FRAG and the Access to Better Learning and Education Grant Program (ABLE), established pursuant to ss. 1009.89 and 1009.891, F.S., are two student tuition assistance grant programs that fund baccalaureate degree-seeking students.

#### Nursing Loan Programs

The Nursing Student Loan Forgiveness Program<sup>16</sup> was established to encourage qualified personnel to seek employment in areas where critical nursing shortages exist. The program provides financial assistance to eligible nurses by making payments toward loans obtained by nurses to pay for a postsecondary nursing education.

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<sup>16</sup> Section 1009.66, Florida Statutes.

The Nursing Scholarship Program<sup>17</sup> was established to give financial assistance to applicants who are enrolled as full-time or part-time students in an associate, baccalaureate, or graduate degree program in nursing. A scholarship may be awarded for no more than 2 years in an amount no greater than \$8,000 per year for associate and baccalaureate study or \$12,000 per year for graduate study.

#### Statewide and Regional Targeted Occupations List

The statewide list of targeted occupations is determined by the Florida Workforce Estimating Conference (WEC). The WEC meets semi-annually and makes recommendations to Workforce Florida, Inc. for use as a guide for establishing Regional Targeted Occupation Lists, which are approved by Workforce Florida, Inc. The statewide and regional lists are updated annually.<sup>18</sup>

#### Florida Prepaid College Program

Section 1009.97, F.S., established the Florida Prepaid College Program (Florida Prepaid) to allow Florida residents to pay the cost of higher education in advance at a fixed level and with a statutory state guarantee.

Currently, when a purchaser of an advance payment contract or participation agreement of a Florida Prepaid program has not designated a co-purchaser on an account, there is not a mechanism for the Florida Prepaid College Board to transfer ownership of the account other than utilizing provisions of the probate code, which require that an estate is officially probated through court.

The Florida Prepaid College Foundation was established in 1990 as a direct-support organization of the Board.<sup>19</sup> The Foundation established Project STARS to provide scholarships for economically disadvantaged youth who remain drug and crime free.<sup>20</sup> The Foundation has also established the Fallen Soldiers program that provides 4 year tuition, local fee, and 1 year dormitory scholarships to all children of Florida soldiers who have given their lives in Iraq or Afghanistan.<sup>21</sup> However, due to statutory limitations, the funds directed for Project STARS cannot be used to support the Fallen Soldiers program.

### **Effect of Proposed Changes**

#### Financial Aid Eligibility Requirements

The combined bill clarifies that financial aid eligibility requirements relating to residency also include tuition assistance grant programs. The ABLE and Florida Independent Collegiate Assistance (FICA) Grant Programs are added to the list of programs where eligibility requires residency in the state for no less than 1 year preceding the award. The combined bill also prohibits a student from receiving more than one tuition assistance grant award per semester.

#### Nursing Loan Programs

The combined bill renames the Nursing Student Loan Forgiveness Program to the Nursing Student Loan Reimbursement Program and revises the program to make nurses employed as instructional faculty in an approved nursing program eligible to enroll in the program. The combined bill also renames the Nursing Scholarship Program to the Nursing Scholarship Loan Program, deletes the statutory requirements for repayment interest rates, and authorizes the SBE to determine repayment schedules and rates. To qualify for either program, nursing faculty must agree to spend a minimum of 75% of their time providing instruction, developing curriculum, or advising or mentoring students. The combined bill also provides that nurses are eligible if they have either taken out loans to pay for study

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<sup>17</sup> Section 1009.67, Florida Statutes.

<sup>18</sup> See <http://www.labormarketinfo.com/wec/index.htm> and <http://www.workforceflorida.com/wages/wfi/partners/tol/index.htm>

<sup>19</sup> See s. 1009.983, F.S.

<sup>20</sup> See s. 1009.984, F.S.

<sup>21</sup> Information from the presentation by Florida Prepaid to the House Colleges and Universities Committee, January 11, 2005.

or are currently enrolled in a licensure exam preparatory course for foreign-trained nurses. The combined bill revises administrative requirements of the programs.

The combined bill transfers the Nursing Student Loan Reimbursement Program, the Nursing Student Loan Reimbursement Trust Fund, and the Nursing Scholarship Loan Program from the Department of Health to the Department of Education by a type two transfer.

#### Florida Independent Collegiate Assistance (FICA) Grant Program

The combined bill creates s. 1009.895, F.S., the FICA Grant Program, for eligible CIE institutions. FICA is to be administered by the DOE according to rules adopted by the SBE and implemented to the extent funded by the GAA. Institutions eligible to participate in ABLE or FRAG are not eligible for FICA.

The combined bill provides that the DOE may issue a FICA grant to any student who meets all of the established requirements, including enrollment in an undergraduate degree program that leads to employment in an occupation that is listed on a Regional Targeted Occupations List of a Florida Workforce Board at the time of enrollment.

#### Florida Prepaid College Program

The combined bill authorizes the Florida Prepaid College Board (the Board) to establish a simplified procedure to transfer ownership of an advance payment contract or participation agreement in the event of the death of the purchaser whether or not the purchaser's estate will be formally probated.

The combined bill expands Florida Prepaid eligibility to certain for-profit institutions and requires institutions that reference Florida Prepaid to allow the Board to review all advertising materials.

The combined bill expands the Scholarship Program mandate in order to award scholarships to children of members of the Armed Forces or Coast Guard who died while participating in the combat theater of operations for Iraqi Freedom or Enduring Freedom provided that the children were residents of Florida at the time of their parent's death.

## **POSTSECONDARY EDUCATIONAL FUNDING**

### **Background**

Currently, state appropriations for enrollment growth are appropriated directly to each delivery system in the GAA. The enrollment growth funding is not tied to specific fields of study.

Section 1011.83, F.S., specifies how community colleges are to be funded. Funding for all workforce education programs must be based on cost categories, performance output measures, and performance outcomes measures. All other appropriations for operational activities of the community college are to be provided through appropriations to the Community College Program Fund (CCPF) under s. 1011.80, F.S.

### Workforce Needs

The statewide list of targeted occupations is determined by the Florida Workforce Estimating Conference (WEC), pursuant to s. 216.136(9), F.S.

### Nursing Needs

From 2002 to 2004, the Florida Board of Nursing approved 25 new nursing programs.<sup>22</sup> Despite this growth, 4,039 students were admitted and 6,243 qualified applicants were turned away from RN programs in Fall 2004 (including both ADN and BSN programs).<sup>23</sup> Nursing programs face a number of

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<sup>22</sup> Florida Board of Nursing presentation to the Colleges and Universities Committee, 8 February 2005.

<sup>23</sup> Associate degree programs were unable to admit 3,917 applicants; baccalaureate degree programs were unable to admit 2,326 applicants. Florida Center for Nursing (March 2005). *Nurse Education in Florida: January 2005 Survey Report*.

challenges when attempting to expand the capacity of their programs, such as: shortage of qualified faculty, insufficient funded faculty positions, insufficient clinical sites, and non-competitive faculty salaries.<sup>24</sup> The approval of new programs and efforts to increase capacity have resulted in a planned increase of 1,987 slots in RN or higher programs in academic year 05-06;<sup>25</sup> however, nursing program capacity will likely remain unequal to demand unless additional increases in capacity are realized.

#### Community College Legislative Capital Outlay Budget

Section 1013.60, F.S., requires the Commissioner of Education to submit an integrated, comprehensive budget request for education facilities construction and fixed capital outlay needs for school districts, community colleges, and state universities pursuant to the provisions of s. 1013.64, F. S., and applicable provisions of ch. 216, F.S.

### **Effect of Proposed Changes**

#### Baccalaureate Degree Programs at Community Colleges

The combined bill provides that funding for baccalaureate degree programs approved pursuant to s. 1007.33, F.S., must be specified in the General Appropriations Act. Non-resident students are not to be included in calculation of FTE enrollment for state funding purposes. A new baccalaureate degree program is prohibited from accepting students without recurring legislative appropriations. Reporting and funding distinctions must be maintained between programs approved by the SBE and other baccalaureate degree programs involving traditional concurrent-use partnerships.

#### SUCCEED, FLORIDA! Crucial Professionals Program

The SUCCEED, FLORIDA! Crucial Professionals Program will award funds to accredited public and nonpublic postsecondary educational institutions through a competitive process. The program is designed to increase the capacity of programs that meet the critical workforce needs of the state and maximize the number of degrees, certificates, and diplomas that are awarded in high demand workforce fields.

Each year, the Legislature will establish a priority list of targeted programs eligible for funding based on input from Workforce Florida, Inc. Grant recipients will be required to enter into a contract with the state to produce a specific number of graduates in the designated program within a specific time period and must submit periodic reports to the DOE documenting compliance with accountability measures established by DOE.

#### SUCCEED, FLORIDA! Crucial Professionals Nursing Education Grant Program

The SUCCEED, FLORIDA! Crucial Professionals Nursing Education Grant Program will award funds to approved nursing programs in the state through a competitive process. The program is a contract grants program designed to increase the capacity of approved nursing programs to produce more nurses or nursing faculty to enter the workforce in Florida.

Grant recipients will be required to enter into a contract between the institution and the state to produce a specific number of nursing graduates within a specific time and must submit periodic reports to DOE to document compliance with the performance measures established by DOE. Award amounts to a grant recipient after the first year of the grant will be tied to student retention, degree or certificate production, and the number of graduates placed in a nursing position in Florida.

The SUCCEED, FLORIDA! Career Paths Program will award funds, through a competitive process, to offset implementation costs of partnerships between a district school board or the Florida Virtual School and one or more businesses, industries, or postsecondary educational institutions to operate a career and professional academy. Current existing workforce education programs may apply for a grant to

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<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

redesign their program to comply with the requirements career and professional academies. The Office of Career Education within the DOE will administer the startup grants.

### Community College Legislative Capital Outlay Budget

The combined bill authorizes community college board of trustees to request capital outlay funding from Public Education Capital Outlay (PECO) funds for authorized baccalaureate degree programs. Such request must be included in the 3-year priority list for community colleges submitted by the State Board of Education in its legislative budget request.

## **APPLETON MUSEUM OF ART**

### **Background**

The endowment for the Appleton Museum of Art was established in 1987 through the Cultural Arts Endowment Program and is currently held by the Appleton Cultural Center, Inc.

### **Effect of Proposed Changes**

The combined bill transfers the endowment for the Appleton Museum of Art to the Central Florida Community College Foundation.

#### C. SECTION DIRECTORY:

**Section 1.** Creates an unnumbered section; naming the act as "SUCCEED, FLORIDA! Initiative".

**Section 2.** Amends s. 20.15, F.S., providing for appointment of a Deputy Commissioner of Career Education in the Department of Education.

**Section 3.** Amends s. 446.032, F.S., providing duties of the department relating to apprenticeship programs and services.

**Section 4.** Repeals s. 446.609, relating to the Jobs for Florida's Graduates program.

**Section 5.** Amends s. 464.019, F.S., authorizing the Board of Nursing to change faculty-to-student ratios only under certain circumstances; requiring a study to evaluate rules regarding clinical instruction; providing for assistance to approved nursing programs to expand capacity.

**Section 6.** Amends s. 464.0195, F.S., requiring the Florida Center for Nursing to develop and maintain an information system; requiring an implementation plan.

**Section 7.** Amends s. 1001.02, F.S., revising State Board of Education duties with respect to developing a postsecondary enrollment plan; requiring the State Board of Education to develop, with input from the Board of Governors and independent postsecondary educational institutions, a 5-year plan for postsecondary enrollment; requiring the plan to indicate the capacity of each sector, including state universities, community colleges, postsecondary career centers, and independent postsecondary educational institutions, to respond to the planned enrollment and estimate the cost to the state of expanding capacity to accommodate the enrollment plan; requiring State Board of Education rules that address baccalaureate degree programs at community colleges.

The combined bill requires the State Board of Education to develop, with input from the Board of Governors and independent postsecondary educational institutions, a 5-year plan for postsecondary enrollment. The plan shall indicate the capacity of each sector, including state universities, community colleges, postsecondary career centers, and independent postsecondary educational institutions, to respond to the planned enrollment and estimate the cost to the state of expanding capacity to accommodate the enrollment plan.

**Section 8.** Amends s. 1001.20, F.S., creating the Office of Career Education in the Department of Education and providing responsibilities of the office.

**Section 9.** Amends s. 1001.64, F.S., providing that community colleges that grant baccalaureate degrees remain under the authority of the State Board of Education with respect to specified responsibilities; providing that the board of trustees is the governing board for purposes of granting baccalaureate degrees; providing powers of the boards of trustees, including the power to establish tuition and out of state fees; providing restrictions; requiring such boards to adopt a policy requiring teachers who teach certain upper-division courses to teach a specified minimum number of hours.

**Section 10.** Amends s. 1002.23, F.S.; requiring guidelines for parents relating to the availability of the online student advising and guidance system and additional educational opportunities.

**Section 11.** Amends s. 1003.492, F.S., relating to industry-certified career education programs; deleting obsolete provisions relating to studies.

**Section 12.** Amends and renumbers s. 1004.85, F.S., providing additional purposes for creation of educator preparation institutes.

**Section 13.** Creates s. 1004.226, F.S., defining the term “center of excellence”; providing purposes and objectives of centers of excellence; providing for proposals for establishing or expanding centers of excellence; requiring the State Board of Education to develop a plan recommending the establishment or expansion of centers of excellence; requiring reporting.

**Section 14.** Amends s. 1004.65, F.S., including community colleges approved to offer baccalaureate degree programs under authority to operate; requiring such community colleges to maintain their primary mission and prohibiting them from terminating associate degree programs; prohibiting a community college from offering graduate programs.

**Section 15.** Amends s. 1004.68, F.S.; authorizing the continued awarding of degrees, diplomas, and certificates by community colleges approved to offer baccalaureate degree programs.

**Section 16.** Creates s. 1006.01, F.S., requiring the department to provide a secondary and postsecondary academic and career education online student advising and guidance system; providing requirements for such system.

**Section 17.** Amends s. 1006.02, F.S., requiring documentation that students have utilized the online student advising and guidance system

**Section 18.** Amends s. 1006.025, F.S., requiring such documentation in guidance reports.

**Section 19.** Amends s. 1007.2615, F.S., revising provisions relating to certification of American Sign Language teachers.

**Section 20.** Amends s. 1007.33, F.S., revising requirements for a proposal by a community college to deliver a baccalaureate degree program; requiring the State Board of Education to make proposals available for review and comment by other postsecondary education institutions and authorizing alternative proposals; eliminating requirement for review and comment by the Council for Education Policy Research and Improvement; authorizing the State Board of Education to approve, deny or require revisions to proposals; requiring periodic evaluation of approved programs; authorizing termination of funding for certain approved programs; requiring rulemaking.

**Section 21.** Amends s. 1009.21, F.S., revising provisions relating to determination of resident status for tuition purposes; providing for such determination for purpose of assessing tuition for instruction in

workforce education programs offered by school districts; revising definitions and updating terminology; revising requirements for qualification as a resident; providing duties of institutions of higher education and school districts; providing for reclassification under certain circumstances; classifying as residents certain employees of international organizations; providing eligibility criteria for certain students who are not permanent residents of the United States for exemption from payment of nonresident tuition; limiting enrollment and requiring the department to administer the exemption program.

**Section 22.** Amends s. 1009.23, F.S., providing guidelines and restrictions for setting tuition and out-of-state fees for upper-division courses; requiring the State Board of Education to adopt a resident fee schedule for baccalaureate degree programs offered by community colleges; revising provisions relating to the fee for capital improvement, technology enhancement, or equipping student buildings and the use thereof; providing requirements for the issuance and validation of bonds; revising provisions relating to the allocation for child care centers.

**Section 23.** Amends s. 1009.24, F.S., providing responsibilities of the Legislature and state university boards of trustees to establish tuition and fees; providing restrictions.

**Section 24.** Creates s. 1009.286, F.S., requiring students to pay 75 percent over the in-state tuition rate for certain excess credit hours; restricting certain credit hours for purpose of calculation; providing for notice of requirements.

**Section 25.** Amends s. 1009.40, F.S., providing general requirements for student eligibility for tuition assistance grants; providing that certain students are ineligible to receive more than one state-funded tuition assistance grant.

**Section 26.** Amends s. 1009.66, F.S., renaming the Nursing Student Loan Forgiveness Program and transferring administration of the program to the Department of Education; revising criteria for receiving funds under the program and for repayment of loans requiring the certain nurses employed as faculty in an approved nursing program be given priority in receiving funds under the program; renaming the Nursing Student Loan Forgiveness Trust Fund and transferring administration of the trust fund to the Department of Education; authorizing the adoption of rules.

**Section 27.** Amends s. 1009.67, F.S., renaming the Nursing Scholarship Program and transferring administration of the program to the Department of Education; revising criteria for receiving funds under the program; revising repayment provisions requiring the adoption of rules.

**Section 28.** Creates 1009.895, F.S., creating the Florida Independent Collegiate Assistance Grant Program; providing for program administration; authorizing tuition assistance grants to certain postsecondary education students enrolling in undergraduate degree programs for specified occupations; providing institution eligibility requirements.

**Section 29.** Amends s. 1009.971, F.S., providing that the Florida Prepaid College Board shall have the power to provide for the transfer of ownership of an advanced payment contract under the Florida Prepaid College Program or a participation agreement under the Florida College Savings Program upon inheritance, devise, or bequest; providing procedures and requirements with respect to such transfer of ownership; providing for specification of application contents by rule; providing applicability.

**Section 30.** Amends ss. 1009.972, F.S., providing that the Florida Prepaid College Board shall have the power to provide for the transfer of funds retained from terminated advance payment contracts and canceled contracts to the direct-support organization established pursuant to s. 1009.983, F.S., for the Florida Prepaid Tuition Scholarship Program and for children of specified members of the armed forces of the United States who die while participating in the combat theater of operations for Operation Iraqi Freedom or Operation Enduring Freedom.

**Section 31.** Amends ss. 1009.98, F.S., deleting the requirement that an independent college or university be a not-for-profit institution to be eligible for transfer of benefits; providing a restriction on transfer of benefits; providing that the Florida Prepaid College Board shall have the power to provide for the transfer of funds retained from terminated advance payment contracts to the direct-support organization established pursuant to s. 1009.983, F.S., for the Florida Prepaid Tuition Scholarship Program and for children of specified members of the armed forces of the United States who die while participating in the combat theater of operations for Operation Iraqi Freedom or Operation Enduring Freedom.

**Section 32.** Amends ss. 1009.981, F.S., providing that the Florida Prepaid College Board shall have the power to provide for the transfer of funds to the direct-support organization established pursuant to s. 1009.983, F.S., for the Florida Prepaid Tuition Scholarship Program and for children of specified members of the armed forces and Coast Guard of the United States who die while participating in the combat theater of operations for Operation Iraqi Freedom or Operation Enduring Freedom.

**Section 33.** Amends s. 1011.83, F.S., providing for funding of approved baccalaureate programs at community colleges; providing for use of funds and reporting requirements.

**Section 34.** Creates part VI of ch.1011, F.S., establishing the SUCCEED, FLORIDA! Crucial Professionals Program; providing for the appropriation of funds to the Department of Education to be distributed on a competitive basis to postsecondary educational institutions to offer programs that meet critical workforce needs; providing for a request for proposals and requirements of such proposals; requiring establishment annually by the Legislature of a priority list; providing for funding of proposals; providing requirements for grant recipients and renewal grants; establishing the SUCCEED, FLORIDA! Crucial Professionals Nursing Education Grant Program, a contract grant program for increasing the capacity of approved nursing programs; requiring the Department of Education to establish guidelines and procedures; specifying requirements for grant proposals; establishing priorities for receipt of grants; providing for review, approval, and funding of proposals; requiring the State Board of Education to submit a report on implementation status; establishing the SUCCEED, FLORIDA! Career Paths Program to provide career and professional academy startup grants; providing qualification criteria.

**Section 35.** Amends s. 1012.82, F.S.; revising provisions relating to minimum contact hours for community college faculty who teach upper-division courses.

**Section 36.** Amends s. 1013.60, F.S., allowing community college boards of trustees to request funding for all authorized programs and specifying requirements; requiring that enrollment in baccalaureate degree programs be computed into the survey of need for facilities.

**Section 37.** Creates ch. 1014, F.S., relating to career education; defining the term “career education”; providing elements of the rigorous career education system; providing guiding principles for career education; establishing the position of Deputy Commissioner of Career Education to direct the Office of Career Education in the Department of Education and specifying qualifications for the deputy commissioner; specifying responsibilities and duties; providing legislative expectations and funding criteria for the career education system; defining the term “career and professional academy”; providing elements and duties of a career and professional academy and for certification thereof; requiring adoption of rules.

**Section 38.** Amends s. 215.20, F.S., conforming provisions relating to a trust funds.

**Section 39.** Creates an unnumbered section; creating a program to offer discounted computers and Internet access to public school students in grades 5 through 12; requiring the department to negotiate terms with computer manufacturers and broadband Internet access providers; requiring the adoption of rules.

**Section 40.** Creates a new unnumbered section, requiring the Digital Divide Council to implement a pilot project to assist low-income students with purchasing discounted computers and Internet access services; providing for funding and authorizing the council to accept grants to implement the pilot project.

**Section 41.** Creates a new unnumbered section, requiring a study and report by the Office of Program Policy Analysis and Government Accountability (OPPAGA) to study implementation of career and professional academies and make recommendations; requiring report to include determination of the extent to which and under what conditions vocational and technical centers in states that are members of the Southern Regional Education Board are permitted to use the term “college” as part of their name and the impact of such usage on accreditation, transfer of credit, and other articulation issues.

**Section 42.** Creates a new unnumbered section, requiring OPPAGA to study and report on student progression in state universities.

**Section 43.** Creates a new unnumbered section, requiring the Department of Education to identify specified examinations for earning postsecondary credit for mastery of nursing course material; requiring a status report.

**Section 44.** Creates a new unnumbered section, authorizing the position of Deputy Commissioner of Career Education and providing an appropriation; requiring the transfer of positions and funds for the creation of the Office of Career Education.

**Section 45.** Creates a new unnumbered section, providing for a type two transfer with respect to nursing loan programs.

**Section 46.** Creates a new unnumbered section, requiring the convening of a workgroup to make recommendations regarding bachelor of applied science degree programs; requiring a report; providing for not precluding any recommendation or authorization regarding the Daytona Beach Community College proposal for a bachelor of applied science degree program presented at the April 2005 meeting of the SBE.

**Section 47.** Creates a new unnumbered section, approving a transfer of an endowment from the Appleton Cultural Center, Inc., to the Central Florida Community College Foundation; providing restrictions on the management of the endowment and statutory requirements.

**Section 48.** Providing an effective date of July 1, 2005.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

See FISCAL COMMENTS.

#### 2. Expenditures:

See FISCAL COMMENTS.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS.

D. FISCAL COMMENTS:

**Career Education**

The combined bill provides an appropriation of \$175,000 for the position of the new Deputy Commissioner of Career Education. This amount includes salary, benefits (approximately 30% of salary), expenses, operating capital outlay (OCO), and human resource services.

Specific Appropriation 7A of the House General Appropriations Bill (HB1885) for Fiscal Year 2005-2006 provides \$11 million for secondary and postsecondary career education offered by public schools, school district operated career centers, or the Florida Virtual School to establish a career and professional academy.

The CAP academies have the potential of generating expenses and revenue at the local level.

**Discounted Computers & Internet Access for Students**

Specific Appropriation 99 in the House Appropriations Bill (HB 1885) for Fiscal Year 2005-2006 provides \$50,000 for the Digital Divide Computer Assistance Pilot Program.

The combined bill may have a direct economic impact on the private sector if it enables students, including low-income students, to purchase computers who would be otherwise unable to purchase them at full-price. Though the manufacturers and providers with whom DOE negotiates contracts would be offering the computers and internet services at a reduced price, the manufacturers and providers will still be selling computers and internet access to a population who might not otherwise purchase them.

**Nursing**

The fiscal impact of the nursing workforce information system is subject to appropriation by the Legislature. However, the Florida Center of Nursing currently estimates the costs for the development of the information system to be as follows:

\$24,000 for collaboration with other agencies  
\$21,500 for survey development  
\$37,500 for data analysis and forecasting (not including un-estimated computer model costs)  
\$83,000 TOTAL (cost will be greater once computer model costs are calculated)

**SUCCEED FLORIDA!**

The House General Appropriations Bill for Fiscal Year 2005-06 (HB 1885) provides a total of \$12 million, comprised of \$7 million from Specific Appropriation 7B and \$5 million from Specific Appropriation 9A to the SUCCEED, FLORIDA! Crucial Professionals Program to increase the capacity of nursing programs approved by the Board of Nursing at public and private postsecondary educational institutions to produce more nurses to enter the workforce in Florida.

Specific Appropriation 119 allocates a total of \$12 million; from this \$12 million, \$7 million is allocated to increase the capacity of education programs at public and private postsecondary educational institutions to produce more qualified and trained graduates to enter high skill, high wage occupations in Florida; and \$5 million is allocated to the SUCCEED, FLORIDA! Crucial Professionals Program to increase the capacity of teacher certification programs at public and private postsecondary educational institutions to produce more teachers to enter the workforce in Florida.

The grant programs provide funding to programs in areas with the most pressing workforce needs. To the extent the combined bill increases production of graduates in these high demand workforce fields, the private sector may experience an increase in the number of qualified employees available for high demand jobs.

### **Community College Baccalaureate Degrees**

According to information from OPPAGA, the underlying assumption initially was that community colleges offering baccalaureate degree programs would be less expensive than university programs. However, thus far expenditures per credit hour have been higher than at universities. Much of the increased expense appears to be start-up costs. If community colleges were able to attract enough students, the cost per credit hour may decrease. The bill requires that any baccalaureate degree program authorized at a community college must be evaluated by the board of trustees of the community college every 5 years to determine the:

- Cost-effectiveness of the program,
- Effectiveness of the program in providing access to baccalaureate degrees for Florida residents and meeting local workforce needs, and
- Impact of the program on the college's primary mission of providing associate degrees.

Programs that have excessive per-credit-hour costs, fail to provide meaningful access to baccalaureate degrees for Florida residents, no longer meet workforce needs, or hinder a community college's primary mission may lose eligibility for state funding as a baccalaureate degree program.

Funding for baccalaureate degree programs approved pursuant to s. 1007.33, F.S., must be specified in the General Appropriations Act. A new baccalaureate program is prohibited from accepting students without recurring legislative appropriations for this purpose. To be eligible to receive state funding to support the baccalaureate program at the community college, students must be residents of the state.

### **Centers of Excellence**

The addition or expansion of centers of excellence is subject to appropriation by the Legislature.

Technology transfer could be a source of revenues for universities; therefore, the extent of technology transfer occurring at centers of excellence could benefit universities.

The amount of technology transfer occurring in the state could increase whereby businesses and individuals could benefit. According to the Florida Space Research Institute, Florida-based university and industry involvement in strategic areas of research can also attract significant federal investments in that research.

### **Residency Status for Tuition Purposes**

OPPAGA has estimated that if Florida eliminated the reclassification of nonresident students completely, institutions could receive \$28.2 million in additional tuition revenue from nonresidents if these individuals remained enrolled at a Florida public postsecondary institution.<sup>26</sup>

The private sector could receive a more direct impact if students who, in the past, may have been unable to afford a postsecondary education but will now have expanded educational opportunities due to the exemption.

The extension of tuition residency status to certain undocumented aliens and certain employees of international multilateral organizations and their dependents may increase the number of students that enroll in state universities and community colleges because of the reduced cost to such students; therefore, these institutions may experience an increase in tuition and fee revenues. However, this increase in revenue could be offset by students who would have attended a state university or

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<sup>26</sup> Report 03-29, OPPAGA Special Review, *Non-Residents Qualify Too Easily for Much Lower Resident Tuition Rates*

community college even if classified as an out-of-state student. In addition, the state will pay 75% or more of the cost of courses these individuals might take, instead of that amount being paid by a student classified as an out-of-state resident.

The fiscal impact of the undocumented alien exemption on funding required or award amount for programs such as Bright Futures, FSAG, and FRAG is indeterminate; however, the number is limited to the 2,000 student cap.

Increased administrative costs may be incurred by postsecondary institutions in determining whether or not a student meets the criteria and is eligible to be classified as a resident for tuition purposes and determining whether or not a student meets the criteria and is eligible to receive the exemption.

## **Student Fees**

### Capital Improvement Fee

The increase of the capital improvement fee will result in an additional \$14.7 million in fee revenue for the first \$2 increase and \$36.1 million once the fee has been fully implemented to the 10 percent maximum. This analysis assumes that the 27 community colleges currently imposing the capital improvement fee will continue to do so and the remaining community college not imposing the fee will continue to follow that practice.

The bill allows for an increase to the capital improvement fee within community colleges. An increase of \$2 per credit hour over the prior year will result in a higher cost to the state to pay for the Bright Futures Scholarship. The projected increased cost to the Bright Futures program is \$1,282,580 for Fiscal Year 2005-2006. The fee increase will impact the Florida Prepaid Program as well.

### Excess Hours Fee

According to information from OPPAGA, 97% of the community college students accumulated excess hours, and 61% attempted credit hours that exceeded the legislative standard of 120% of the hours needed for graduation. On average, these students took an average of 30.3 more credit hours than they needed, and these excess hours cost the state \$26.6 million.

Data provided by OPPAGA indicate that the 2002-2003 graduating class from state universities accumulated 337,837 credit hours over 115% of their degree requirements, costing the state approximately \$29 million. Overall, 20% of the students earned 83% of all credit hours over the 115% standard.

Students who take more than 120% of the credit hours required for an associate or baccalaureate degree will pay 75% over the in-state tuition rate. Implementing this policy will provide actual savings to the state; however, the exact amount is indeterminate at this time.

In addition, if student behavior changes and some or all excess credit hours are eliminated, any reduction in revenues may be offset by tuition paid by new students for whom space has been made available due to students moving through the institution more quickly.

### State University Fees

The fiscal impact of each university board of trustees setting tuition and fees for graduate, graduate professional, and nonresident students is indeterminate. Such tuition and fees must not exceed the average full-time nonresident tuition and fees for corresponding programs at public institutions that are members of the Association of American Universities.

For graduate, graduate professional, and nonresident students who enrolled prior to 2005, tuition and fees will continue to be established in proviso in the General Appropriations Act or by law. The bill further provides that the annual percentage increase in tuition and fees established by each board of trustees for students enrolled prior to fall 2005 must not exceed the annual percentage increase approved by the Legislature for resident undergraduate students.

If the university board of trustees raises the tuition and fees, at least 20% of the amount raised by tuition increases must be allocated by each university to need-based financial aid for students.

The tuition and fees set by the university board of trustees are not subject to the 40% cap on activity and service, health, and athletic fees.

### **Financial Aid for Students**

#### Florida Independent Collegiate Assistance (FICA) Grant Program

The FICA program is subject to appropriation by the Legislature.

FICA may have a direct economic impact on the private sector by providing a more affordable education for eligible students and possibly increasing enrollment at the eligible institutions.

#### Nursing student loan forgiveness and scholarship awards

The private sector could be directly impacted economically due to the financial benefit to nurses who receive student loan forgiveness or scholarship awards.

#### Florida Prepaid

The amendments made to the Florida Prepaid program may have a positive fiscal impact on various segments of the private sector:

- Family members who need to transfer an advance payment contract or participation agreement will be provided a less time consuming and a less costly process for transferring ownership.
- The transfer of benefits to a for-profit accredited institution provides contract purchasers with increased flexibility and may increase attendance at such institutions.
- Children who have lost a parent during either the Afghanistan or Iraq conflict will be providing with an education that may have been financially unattainable otherwise.

Provisions that provide for transfer of ownership of an advance payment contract or participation agreement may require minimal expenditures by the Prepaid Board due to administrative costs that may be incurred in reviewing and approving an application. However, according to Florida Prepaid representatives, the Board will save both time and money with the new procedure compared to the time consuming and expensive process currently used by the Board.

In addition, minimal administrative costs may be incurred in determining eligibility of children of fallen soldiers to participate in the Scholarship Program.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

#### **1. Applicability of Municipality/County Mandates Provision:**

The combined bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds

#### **2. Other:**

##### Residency for Tuition Provisions

The U.S. Constitution provides the Federal Government with preeminent power over the regulation of aliens within the U.S.<sup>27</sup> Any state action that imposes discriminatory burdens upon the entrance or residence of aliens lawfully admitted into the U.S. conflicts with the Supremacy Clause of the U.S.

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<sup>27</sup> See *Takahashi v. Fish & Game Commission*, 334 U.S. 410, 418-420, 68 S.Ct. 1138, 1142-1143, 92 L.Ed. 1478 (1948).

Constitution.<sup>28</sup> The bill permits certain students, other than nonimmigrant aliens within the meaning of 8 U.S.C. s. 1101 (a)(15), to apply for an exemption from paying non-resident tuition at community colleges and state universities.

The bill authorizes any student to qualify for the exemption if the student meets specified criteria. Accordingly, 8 U.S.C. s. 1623, which bars any alien who is unlawfully present in the United States from receiving any postsecondary education benefit on the basis of residence in the state unless a U.S. citizen or national is eligible for such benefit in the same amount, duration, and scope, would not be applicable.

Nine other states have a similar law that provides students, who meet certain criteria, with an in-state tuition classification. These states are: California, Texas, New York, Utah, Washington, Illinois, Oklahoma, Kansas, and New Mexico. Similar legislation is being considered this year in Nebraska, Colorado, Arkansas, and North Carolina. The laws differ slightly between the states, as some statutes offer state financial aid benefits along with the tuition classification, while other statutes are purely for tuition purposes. Currently, federal law prohibits illegal immigrant students from receiving federal loans and grants; work-study jobs are also prohibited.

#### B. RULE-MAKING AUTHORITY:

The State Board of Education is required to adopt rules for the following:

- Baccalaureate degree programs at community colleges.
- Integration of the discounted computers and Internet access for students program into computer training provided at the district level; how parents and students may be notified of such program; and the distribution of eligibility certificates to the students, the locations at which discounted computers and Internet access services are available for purchase, and how students may obtain and pay for the equipment and services covered by this program.
- Administration of the provisions for the career and professional academies.
- Florida Independent Collegiate Assistance Grant Program.

The bill transfers the requirement to develop rules to implement the Nursing Student Loan Forgiveness and Nursing Scholarship programs from DOH to the SBE. The bill authorizes the SBE to determine repayment schedules and interest rates for the Nursing Scholarship Program.

The bill requires the Florida Prepaid College Board to specify by rule the information that must be included in the application of an heir for a change in the purchaser or benefactor.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

A proposal in the U.S. Congress may also affect states that provide in-state tuition without regard to immigration status. The Development, Relief, and Education for Alien Minors (DREAM) Act, was first introduced in 2003 by Senator Orrin Hatch of Utah and again introduced in 2004; however, Congress recessed without taking action on the Act. The Senator is expected to reintroduce this legislation again in 2005.<sup>29</sup>

The DREAM Act would enact two major changes in current law: eliminate the federal provision that discourages states from providing in-state tuition without regard to immigration status and permit some immigrant students who have grown up in the U.S. to apply for legal status.<sup>30</sup> If passed it would provide illegal immigrants in the U.S. the ability to sustain legal status if they graduated from high school, attended at least two years of college or spent two years in the military, and stayed out of trouble.

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<sup>28</sup> *Id.*

<sup>29</sup> Matthew Hansen, *Tuition relief for illegal immigrants?*, Lincoln Journal Star, January 19, 2005.

<sup>30</sup> National Immigration Law Center, *Immigrants' Rights Update: Immigrant Student Adjustment and Access to Higher Education*, Vol. 17, No. 5, September 4, 2003.

Those students who live in the U.S for at least five years would also be eligible for federal financial aid.<sup>31</sup> The DREAM Act would permit qualified students to become temporary legal residents, putting them on a path to permanent legal status.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

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<sup>31</sup> Matthew Hansen, *Tuition relief for illegal immigrants?*, Lincoln Journal Star, January 19, 2005.