

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

EDUCATION PRE-K - 12
Senator Wise, Chair
Senator Bullard, Vice Chair

MEETING DATE: Monday, January 9, 2012
TIME: 10:00 a.m.—12:00 noon
PLACE: 301 Senate Office Building

MEMBERS: Senator Wise, Chair; Senator Bullard, Vice Chair; Senators Alexander, Altman, Benacquisto, Bogdanoff, and Montford

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SJR 96 Negron (Identical HJR 305)	Commissioner of Education; Proposing amendments to the State Constitution to provide for the election of the Commissioner of Education and the inclusion of the commissioner as a member of the Cabinet, etc. ED 01/09/2012 Temporarily Postponed JU BC	Temporarily Postponed
2	SB 492 Braynon (Identical H 4041)	Education Law Repeals; Repealing provisions relating to school district or Florida College System institution sponsorship of athletic activities or sports similar to sports for which public postsecondary educational institutions offer scholarships, etc. ED 01/09/2012 Favorable HE BC	Favorable Yeas 6 Nays 0
3	SB 536 Flores	Sale or Distribution of Obscene Materials to a Minor; Prohibiting an adult from knowingly distributing to a minor or posting on school property certain specified obscene materials; defining the term "school property", etc. ED 01/09/2012 Fav/1 Amendment CJ	Fav/1 Amendment (Yeas 6 Nays 0
4	SB 554 Ring (Identical H 589)	Disability Awareness; Requiring each district school board to provide disability history and awareness instruction in all K-12 public schools; requiring the Department of Education to assist in creating the curriculum for the disability history and awareness instruction; providing for individual presenters who have disabilities to provide the disability history and awareness instruction; requiring the Department of Education to establish a disability history and awareness advisory council; requiring the department to act as the fiscal agent for all financial transactions required by the council providing responsibilities of the council, etc. ED 01/09/2012 Fav/CS CF BC	Fav/CS Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Education Pre-K - 12

Monday, January 9, 2012, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 344 Montford (Similar CS/H 19, S 348)	Public School Buses; Providing for district school board policies that authorize commercial advertisements on school buses; providing policy requirements relating to reimbursement to the school district, prohibited advertisements, and signage and equipment standards; requiring a school bus to be withdrawn from use under certain circumstances; providing for the remittance and allocation of revenue, etc. ED 01/09/2012 Fav/CS TR BC	Fav/CS Yeas 4 Nays 2
6	SB 962 Benacquisto (Compare H 859)	Florida Tax Credit Scholarship Program; Increasing the tax credit cap amount applicable to the program, etc. ED 01/09/2012 Fav/CS BC	Fav/CS Yeas 4 Nays 2
Presentation on Elementary Mathematics and Science by Cheryl Conley, 2011 Teacher of the Year			Not Considered
Presentation on Girls Get IT!			Presented
Presentation on Project Child			Not Considered
Presentation on the Reichert House Youth Academy			Presented
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: SJR 96

INTRODUCER: Senator Negron

SUBJECT: Commissioner of Education

DATE: January 4, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	deMarsh-Mathues	ED	Pre-meeting
2.			JU	
3.			BC	
4.				
5.				
6.				

I. Summary:

This joint resolution proposes a substantial amendment to Sections 3 and 4 of Article IV, and Section 2 of Article IX of the State Constitution that would, subject to voter approval:

- Restore the office of Commissioner of Education as an elected post and Cabinet member; and
- Recreate the State Board of Education from the membership of the state Cabinet and the Governor.

Should this proposed constitutional amendment be adopted by the voters, the office of Commissioner of Education by election would recommence January 6, 2015.

This joint resolution does not amend, create, or repeal any sections of the Florida Statutes.

II. Present Situation:

State Cabinet

In 1998, the state Constitution Revision Commission submitted a revision to the State Constitution amending Article IV, Section 4 to reduce the Cabinet from six elected officials to three. This included removal of the Commissioner of Education (Commissioner) from the Cabinet and changing the office to an appointed position. Approved by the voters, it took effect January 7, 2003.¹

¹ *Restructuring the State Cabinet*, Constitution Revision Commission, Ballot Placement May 5, 1998, Passage of Revision 8, November 3, 1998. The ballot summary provided for the merging of the cabinet offices of treasurer and comptroller into one

As a result of the amendment, the Cabinet is currently composed of three constitutionally recognized, independently elected public officials who serve as Cabinet members: an attorney general, a chief financial officer, and a commissioner of agriculture. In addition to discrete roles that they are required to serve, they also operate in concert regarding both the Internal Improvement and the Land Acquisition Trust Fund, and as the agency head for the Department of Law Enforcement.²

Requirements for cabinet service include an age requirement of at least 30 years old and a residency requirement of seven years.³

Commissioner of Education

Florida law establishes the Commissioner as the chief educational officer of the state, and the sole custodian of the K-20 data warehouse.⁴ The Commissioner works in collaboration with the State Board of Education (SBE) to fulfill all statewide level aspects of the mission and goals of the K-20 education system, other than for the state university system.⁵

Specific Commissioner duties include:

- Organizing and naming the structural units of the Department of Education (DOE);
- Providing counsel to the SBE in all areas of education;
- Making recommendations to the SBE on the State School Fund;
- Submitting recommendations to the SBE for a coordinated K-20 education budget;
- Acting in a cooperative capacity with the Federal government and other public agencies, and in an informative role with the public; and
- Responding to requests by the Legislature.⁶

State Board of Education

The SBE is comprised of seven members who are appointed by the Governor to staggered 4-year terms, subject to confirmation by the Senate.⁷ The board is the chief implementing and coordinating body of public education in Florida, other than the state university system.⁸ The SBE duties include exercising general supervision over the divisions of the DOE, as necessary to ensure coordination of educational plans and programs and resolve controversies and to

chief financial officer; reduction of cabinet membership to the chief financial officer, attorney general and agricultural commissioner; elimination of the secretary of state and commissioner of education from the elected cabinet; change in composition of the state board of education from the governor and cabinet to a board appointed by the governor, with the board to appoint the education commissioner. Available online at the Department of State website at: <http://election.dos.state.fl.us/initiatives/initiativelist.asp>. Last checked December 21, 2011. Chapter 2003-6, L.O.F., made conforming changes relating to the Governor, Cabinet, and the Governor and the Cabinet collectively, or the Governor and certain members of the Cabinet sitting as boards, commissions, or other collegial bodies. The Legislature phased-in statutory changes to implement the provisions related to the Commissioner and the State Board of Education. See ch. 2000-321, L.O.F., and ch. 2001-170, L.O.F.

² Fla. Const., art. IV, s. 4.

³ Fla. Const., art. IV, s. 5.

⁴ s. 1001.10(1), F.S.

⁵ *Id.*

⁶ ss. 1001.10(6) and 1001.11, F.S.

⁷ s. 1001.01, F.S.

⁸ s. 1001.02, F.S.

minimize problems of articulation and student transfers, to ensure that students moving from one level of education to the next have acquired competencies necessary for satisfactory performance at that level, and to ensure maximum use of facilities.⁹

Constitutional Amendments

Article XI of the Florida Constitution provides various methods for proposing amendments to the constitution, along with the methods for approval or rejection of proposals. One method by which constitutional amendments may be proposed is by joint resolution agreed to by three-fifths of the membership of each house of the Legislature.¹⁰ Any such proposal must be submitted to the electors, either at the next general election held more than 90 days after the joint resolution is filed with the Secretary of State, or, if pursuant to law, enacted by the affirmative vote of three-fourths of the membership of each house of the Legislature and limited to a single amendment or revision, at an earlier special election held more than 90 days after such filing.¹¹ If the proposed amendment is approved by a vote of at least 60 percent of the electors voting on the measure, it becomes effective as an amendment to the Florida Constitution on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment.¹²

III. Effect of Proposed Changes:

This proposed constitutional amendment would expand the current Cabinet to include a fourth member, the Commissioner of Education. The role of the Commissioner would include, along with the rest of the Cabinet, service as trustee of the Internal Improvement Trust Fund and the Land Acquisition Trust Fund, and agency head of the Department of Law Enforcement. Age and residency requirements would apply.

Additionally, the SBE would be the Cabinet and the Governor, rather than through appointment by the Governor. The number of SBE members would be reduced from seven to four. The SBE would no longer appoint the Commissioner.

This proposed constitutional amendment provides for the restoration of an elected, rather than appointed post for Commissioner of Education, to take effect January 6, 2015, so that the primary election for the Commissioner of Education would take place in 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁹ s. 1001.02(2)(c), F.S.

¹⁰ Fla. Const., art. XI, s. 1.

¹¹ Fla. Const., art. XI, s. 5(a).

¹² Fla. Const., art. XI, s. 5(e).

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This joint resolution does not require ballot placement at a special election. Therefore, special election costs would not be incurred. Still, each proposed constitutional amendment is required to be published in a newspaper of general circulation in each county, once in the sixth week and once in the tenth week preceding the general election.¹³ Costs for advertising vary depending upon the length of the amendment.

The Department of State (DOS) executes the publication of the joint resolution if placed on the ballot. The cost varies depending on the length of the full text. The DOS estimates that required publication of a proposed constitutional amendment costs \$106.14 per word.¹⁴ The estimated total cost for advertising the amendment amounts to \$97,542.66.¹⁵ These funds must be spent regardless of whether the amendment passes.

Should the amendment be legally challenged, the DOS is typically the defendant in these suits.¹⁶ Estimates for legal defense range anywhere from \$10,000 to \$150,000.¹⁷

VI. Technical Deficiencies:

Lines 104-128 specify the ballot language for the proposed constitutional amendment and provide that the Commissioner is currently appointed by the Board of Education. An amendment to line 115 would clarify that the appointment is currently made by the State Board of Education.

VII. Related Issues:

None.

¹³ Fla. Const., art. XI, s. 5(d).

¹⁴ Fiscal Note on SJR 96, Florida Department of State, September 19, 2011, on file with the Senate Committee on Education Pre-K – 12.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Negrón

28-00011-12

201296__

Senate Joint Resolution

A joint resolution proposing amendments to Sections 3 and 4 of Article IV and Section 2 of Article IX and the creation of a new Section in Article XII of the State Constitution to provide for the election of the Commissioner of Education and the inclusion of the commissioner as a member of the Cabinet.

Be It Resolved by the Legislature of the State of Florida:

That the following amendments to Sections 3 and 4 of Article IV and Section 2 of Article IX and the creation of a new Section in Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE IV

EXECUTIVE

SECTION 3. Succession to office of governor; acting governor.—

(a) Upon vacancy in the office of governor, the lieutenant governor shall become governor. Further succession to the office of governor shall be prescribed by law. A successor shall serve for the remainder of the term.

(b) Upon impeachment of the governor and until completion of trial thereof, or during the governor's physical or mental incapacity, the lieutenant governor shall act as governor. Further succession as acting governor shall be prescribed by

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

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201296__

law. Incapacity to serve as governor may be determined by the supreme court upon due notice after docketing of a written suggestion thereof by ~~four~~ three cabinet members, and in such case restoration of capacity shall be similarly determined after docketing of written suggestion thereof by the governor, the legislature or ~~four~~ three cabinet members. Incapacity to serve as governor may also be established by certificate filed with the custodian of state records by the governor declaring incapacity for physical reasons to serve as governor, and in such case restoration of capacity shall be similarly established.

SECTION 4. Cabinet.—

(a) There shall be a cabinet composed of an attorney general, a chief financial officer, ~~and~~ a commissioner of agriculture, and a commissioner of education. In addition to the powers and duties specified herein, they shall exercise such powers and perform such duties as may be prescribed by law. In the event of a tie vote of the governor and cabinet, the side on which the governor voted shall be deemed to prevail.

(b) The attorney general shall be the chief state legal officer. There is created in the office of the attorney general the position of statewide prosecutor. The statewide prosecutor shall have concurrent jurisdiction with the state attorneys to prosecute violations of criminal laws occurring or having occurred, in two or more judicial circuits as part of a related transaction, or when any such offense is affecting or has affected two or more judicial circuits as provided by general law. The statewide prosecutor shall be appointed by the attorney general from not less than three persons nominated by the

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

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judicial nominating commission for the supreme court, or as otherwise provided by general law.

(c) The chief financial officer shall serve as the chief fiscal officer of the state, and shall settle and approve accounts against the state, and shall keep all state funds and securities.

(d) The commissioner of agriculture shall have supervision of matters pertaining to agriculture except as otherwise provided by law.

(e) The governor as chair, the chief financial officer, and the attorney general shall constitute the state board of administration, which shall succeed to all the power, control, and authority of the state board of administration established pursuant to Article IX, Section 16 of the Constitution of 1885, and which shall continue as a body at least for the life of Article XII, Section 9(c).

(f) The governor as chair, the chief financial officer, the attorney general, ~~and~~ the commissioner of agriculture, and the commissioner of education shall constitute the trustees of the internal improvement trust fund and the land acquisition trust fund as provided by law.

(g) The governor as chair, the chief financial officer, the attorney general, ~~and~~ the commissioner of agriculture, and the commissioner of education shall constitute the agency head of the Department of Law Enforcement.

(h) The commissioner of education shall supervise the public education system in the manner prescribed by law.

ARTICLE IX

EDUCATION

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SECTION 2. State board of education.—The governor and the members of the cabinet shall constitute a state board of education, which shall be a body corporate and have such supervision of the system of free public education as is provided by law. ~~The state board of education shall consist of seven members appointed by the governor to staggered 4 year terms, subject to confirmation by the senate. The state board of education shall appoint the commissioner of education.~~

ARTICLE XII

SCHEDULE

Commissioner of education.—The amendments Sections 3 and 4 of Article IV and Section 2 of Article IX providing for the election of a commissioner of education as a member of the cabinet shall take effect January 6, 2015, but shall govern with respect to the qualifying for and the holding of the primary election for the commissioner of education in 2014.

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

CONSTITUTIONAL AMENDMENT

ARTICLE IV, SECTIONS 3 and 4

ARTICLE IX, SECTION 2

ARTICLE XII

COMMISSIONER OF EDUCATION.—This proposed amendment to the State Constitution provides for the statewide election of the Commissioner of Education and the inclusion of the Commissioner of Education as a member of the Cabinet of this state.

Currently, the Commissioner of Education is appointed by the Board of Education, whose members are appointed by the Governor and confirmed by the Senate. The amendment provides for

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117 the Commissioner of Education to supervise the state education
118 system in the manner provided by law. The amendment further
119 provides that the Governor and Cabinet will constitute the State
120 Board of Education.

121 Lastly, the existing members of the Cabinet are on the
122 Board of Trustees of the Internal Improvement Trust Fund and the
123 Land Acquisition Trust Fund and are components of the head of
124 the Department of Law Enforcement. This amendment includes the
125 Commissioner of Education as a member of the Board of Trustees
126 of the Internal Improvement Trust Fund and the Land Acquisition
127 Trust Fund and as a component of the head of the Department of
128 Law Enforcement.

TR

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/9/12
Meeting Date

Topic Com. of Ed

Bill Number SR 96
(if applicable)

Name Joy Frank

Amendment Barcode _____
(if applicable)

Job Title General Counsel

Address 208 S. Monroe St

Phone 850-577-5744

Street

1211 FL 32307
City State Zip

E-mail JFrank@fldss.org

Speaking: ☐ For ☐ Against ☒ Information

Representing FL Assoc. of Dist. School Sup

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

1/9/2012
Date

TP
96
Bill Number

Barcode

Name Brian Pitts

Phone 727/897-9291

Address 1119 Newton Ave S
Street
St Petersburg FL 33705
City State Zip

E-mail

Job Title Trustee

Speaking: ☐ For ☒ Against ☐ Information

Appearing at request of Chair ☐

Subject

Representing Justice-2-Jesus

Lobbyist registered with Legislature: ☐ Yes ☒ No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from _____ .m. to _____ .m.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: SB 492

INTRODUCER: Senator Braynon

SUBJECT: Education Law Repeals

DATE: January 3, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	deMarsh-Mathues	ED	Favorable
2.			HE	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill repeals the requirement for a district school board to offer any sport or athletic activity for which a Florida College System (FCS) institution or state university provides scholarships, if the district school board offers a similar sport. The bill repeals a similar requirement that an FCS institution must offer any sport or athletic activity for which a state university provides scholarships, where a similar sport or athletic activity is offered by the FCS institution. The bill also repeals two related provisions (the authority to offer an alternative sport or athletic activity if participation is minimal and the authority to simultaneously offer two similar athletic activities or sports).

This bill repeals sections 1006.17 and 1006.70 of the Florida Statutes.

II. Present Situation:

Florida law requires district school boards that offer sports and athletic activities similar to those provided through scholarship by an FCS or state university to offer the exact version as that provided through scholarship.¹ If an FCS institution offers a sport or an athletic activity similar to one offered through athletic scholarship by a state university, the FCS institution must also offer that sport or athletic activity.²

¹ ss. 1006.17 and 1006.70, F.S.

² *Id.*

Two athletic activities or sports that are similar may be offered simultaneously. The law provides an exception for sports in which participation is minimal, and authorizes a school to offer an alternative sport or athletic activity.³

The requirement for parity in athletic offerings originated with the sport of softball.⁴ At the time, women's slow-pitch softball was the version of softball sanctioned by the Florida High School Athletic Association (FHSAA) and sponsored by the majority of the state's high schools and FCS institutions.⁵ Twenty FCS institutions offered slow-pitch softball scholarships.⁶ In contrast, three state universities had established women's fast-pitch softball programs and one university was offering scholarships for slow-pitch softball.⁷ Public high schools and FCS institutions offering only slow-pitch softball prevented eligibility for fast-pitch softball university scholarships.⁸ The 1986 Legislature enacted this provision to require school districts that offered women's slow-pitch softball to also offer fast-pitch softball, for the purpose of enhancing the ability of student athletes to access the full pool of postsecondary education scholarships.⁹

Today, women's fast-pitch softball is sanctioned by the FHSAA, the Florida College System Athletic Association (FCSAA), and the National Collegiate Athletic Association (NCAA), whereas slow-pitch softball is not sanctioned or recognized by any of these associations.¹⁰

III. Effect of Proposed Changes:

Students may lose some access to particular athletic scholarships. However, repealing these provisions from law does not preclude the practice of parity from continuing, subject to agreement between district school boards and postsecondary institutions.¹¹

This legislation is not expected to adversely impact state universities as they would still be able to provide scholarships to students from schools that do offer the exact version of the sport.¹²

According to the DOE, the directors for the FHSAA and the FCSAA indicated that these statutes are no longer necessary.¹³

³ *Id.*

⁴ DOE bill analysis, October 24, 2011. *See also* Legislative bill analyses for CS/HB 90 and SB 45 (1986), on file with the Senate Committee on Education Pre-K – 12.

⁵ Legislative bill Analysis for CS/HB 90 (1986), on file with the Senate Committee on Education Pre-K - 12.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* In March 1985, the FHSAA Board of Directors voted to continue its sanctioning of women's slow-pitch softball, rather than switch to sanctioning of fast-pitch softball. *Id.*

⁹ s. 4, ch. 86-172, L.O.F.

¹⁰ Information on these organizations are available online at: <http://www.fhsaa.org/sports>; <http://www.thefcsaa.com/>; and <http://www.ncaa.org/>.

¹¹ The Board of Governors notes that the repeal of these provisions will have little, if any impact on students. Board of Governors bill analysis, December 16, 2011.

¹² *Id.*

¹³ DOE bill analysis, October 24, 2011.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The DOE indicates that that there is no fiscal impact on the private sector.¹⁴

C. Government Sector Impact:

The DOE notes that there is no fiscal impact on the state.¹⁵ According to the Board of Governors, there is no fiscal impact on the state university system.¹⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

¹⁴ DOE bill analysis, October 24, 2011.

¹⁵ *Id.*

¹⁶ Board of Governors bill analysis, December 16, 2011.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Braynon

33-00587-12

2012492__

A bill to be entitled

An act relating to education law repeals; repealing
ss. 1006.17 and 1006.70, F.S., relating to school
district or Florida College System institution
sponsorship of athletic activities or sports similar
to sports for which public postsecondary educational
institutions offer scholarships; providing an
effective date.

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

Section 1. Section 1006.17, Florida Statutes, is repealed.

Section 2. Section 1006.70, Florida Statutes, is repealed.

Section 3. This act shall take effect upon becoming a law.

THE FLORIDA SENATE
COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

1/9/2012
Date

Spoke

492
Bill Number

Barcode

Name BRIAN PITTS

Phone 727/897-9291

Address 1119 Newton Ave S.

E-mail _____

Street

St Petersburg
City

FL
State

33705
Zip

Job Title Trustee

Speaking: ☐ For ☐ Against ☒ Information

Appearing at request of Chair ☐

Subject _____

Representing Justice-2-Jesus

Lobbyist registered with Legislature: ☐ Yes ☒ No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from _____ .m. to _____ .m.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: SB 536

INTRODUCER: Senator Flores

SUBJECT: Sale or Distribution of Obscene Materials to a Minor

DATE: January 4, 2012

REVISED: 1/9/12

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	deMarsh-Mathues	ED	Fav/1 amendment
2.			CJ	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input checked="" type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill provides that it is a third-degree felony for a person to knowingly sell or distribute obscene material to a minor or to post obscene materials on public and private school property. The bill defines school property as the grounds or facility of any public or private kindergarten, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school.

This bill substantially amends section 847.012 of the Florida Statutes.

II. Present Situation:

Definition of "Harmful to Minors"

Currently, the law provides for a three-pronged test to determine whether material is harmful to minors. Florida law defines "harmful to minors" as any reproduction, imitation, characterization, description, exhibition, presentation, or representation, of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it:

- Predominantly appeals to a prurient, shameful, or morbid interest;
- Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and
- Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.¹

“Obscene” Materials

Chapter 847, F.S., addresses the regulation of obscenity, and provides several definitions that are used in the chapter. An adult is defined as a person of at least 18 years of age.² A minor, likewise, is considered to be someone who is under the age of 18 years.³ The term “obscene” is defined as the status of material which:

- The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest;
- Depicts or describes, in a patently offensive way, sexual conduct⁴; and
- Taken as a whole, lacks serious literary, artistic, political, or scientific value.⁵

Currently, it is a first-degree misdemeanor⁶ for a person to knowingly distribute, sell, lend, give away, transmit, transmute, or show certain obscene materials.⁷ It is a second-degree misdemeanor⁸ for a person to knowingly have certain obscene material in one’s possession, custody, or control.⁹

Selling or Distributing Harmful Materials to Minors

Current law provides that it is a third-degree felony¹⁰ to knowingly sell, rent, or loan for monetary consideration to a minor:¹¹

- Any picture, photograph, drawing, sculpture, motion picture film, videocassette, or similar visual representation or image of a person or portion of the human body which

¹ s. 847.001(6), F.S.

² s. 847.001(1), F.S.

³ s. 847.001(8), F.S.

⁴ s. 847.001(16), F.S., defines “sexual conduct” as “actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother’s breastfeeding of her baby does not under any circumstance constitute ‘sexual conduct.’”

⁵ s. 847.001(10), F.S.

⁶ A first-degree misdemeanor is punishable by a term of imprisonment not exceeding one year, and a fine not exceeding \$1,000 may be imposed. *See* ss. 775.082 and 775.083, F.S.

⁷ s. 847.011(1)(a), F.S. However, it is a third-degree felony if a violation is based on materials that depict a minor engaged in any act or conduct that is harmful to minors. *See* s. 847.011(1)(c), F.S.

⁸ A second-degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days, and a fine not exceeding \$500 may be imposed. *See* ss. 775.082 and 775.083, F.S.

⁹ s. 847.011(2), F.S. However, it is a third-degree felony if a violation is based on materials that depict a minor engaged in any act or conduct that is harmful to minors. *See* s. 847.011(1)(c), F.S.

¹⁰ A third-degree felony is punishable by a state prison sentence not exceeding five years, and a fine not exceeding \$5,000 may be imposed. *See* ss. 775.082 and 775.083, F.S.

¹¹ s. 847.012(5), F.S.

- depicts nudity or sexual conduct, sexual excitement, sexual battery, bestiality, or sadomasochistic abuse and which is harmful to minors; or
- Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter defined in s. 847.001, F.S., explicit and detailed verbal descriptions or narrative accounts of sexual excitement, or sexual conduct and which is harmful to minors.

The term “knowingly” is defined as having the general knowledge of, reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

- The character and content of any material (described above) which is reasonably susceptible of examination by the defendant; and
- The age of the minor.¹²

A person’s ignorance of a minor’s age, a minor’s misrepresentation of his or her age, a bona fide belief of a minor’s age, or a minor’s consent may not be raised as a defense in a prosecution for a violation of s. 847.012, F.S.¹³

III. Effect of Proposed Changes:

Under the bill, it would be a third-degree felony to knowingly sell or distribute obscene material to a minor or post obscene materials on public and private school property. The bill defines school property as the grounds or facility of any public or private kindergarten, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school.

This new offense would be punishable by up to five years in prison and a \$5,000 fine.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹² s 847.012(1), F.S.

¹³ s. 847.012(2), F.S.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill creates an additional criminal offense. The Criminal Justice Impact Conference (CJIC) has not yet met to consider the prison bed impact, if any, of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:**Barcode 532532 by the Committee on Pre-K – 12 on January 9, 2012:**

Further describes the criminal third degree felony created by this bill in the title of the bill for clarification and notice purposes.



532532

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/09/2012	.	
	.	
	.	
	.	

The Committee on Education Pre-K - 12 (Bogdanoff) recommended the following:

Senate Amendment

In title, delete line 6
and insert:
obscene materials; providing that it is a third-degree
felony for any person to knowingly distribute to a
minor or post on school property certain obscene
materials; defining the term "school

By Senator Flores

38-00579-12

2012536__

A bill to be entitled

An act relating to the sale or distribution of obscene materials to a minor; amending s. 847.012, F.S.; prohibiting an adult from knowingly distributing to a minor or posting on school property certain specified obscene materials; defining the term "school property"; providing an effective date.

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

Section 1. Present subsections (5) through (9) of section 847.012, Florida Statutes, are renumbered as subsections (6) through (10), respectively, and a new subsection (5) is added to that section, to read:

847.012 Harmful materials; sale or distribution to minors or using minors in production prohibited; penalty.—

(5) An adult may not knowingly sell or distribute to a minor or post on school property any material described in subsection (3). As used in this subsection, the term "school property" means the grounds or facility of any kindergarten, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic.

Section 2. This act shall take effect July 1, 2012.

Waive

THE FLORIDA SENATE
COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

1/9/2012
Date

536
Bill Number

Barcode

Name BRIAN PITTS

Phone 727/897-9291

Address 1119 Newton Ave S.
Street

E-mail

St Petersburg FL 33705
City State Zip

Job Title Trustee

Speaking: ☒ For ☐ Against ☐ Information

Appearing at request of Chair ☐

Subject

Representing Justice-2-Jesus

Lobbyist registered with Legislature: ☐ Yes ☒ No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from _____ .m. to _____ .m.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: CS/SB 554

INTRODUCER: Education Pre-K - 12 Committee and Senator Ring

SUBJECT: Disability Awareness in Public Schools

DATE: January 9, 2012

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Carrouth	deMarsh-Mathues	ED	Fav/CS
2. _____	_____	CF	_____
3. _____	_____	BC	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill requires district school boards to provide disability history and awareness instruction in all K-12 public schools, beginning with the 2013-2014 school year. The instruction must be provided by individuals who have a disability. They must be approved by the Department of Education (DOE) and meet existing background screening requirements. The DOE would be tasked with assisting in the development of an appropriate disability curriculum to be used in the school districts.

Under the bill, the DOE would be required to establish and provide support for a disability awareness council. The council is tasked with submitting an annual report and ensuring that instructors meet the requirements specified in the bill.

This bill amends section 1003.4205 of the Florida Statutes.

II. Present Situation:

Disability History and Awareness

According to a U.S. Census Bureau report, one in five United States residents – or around 54 million Americans – reported some level of disability in 2005.¹ Approximately 13 percent of children age 6 to 14 have a disability,² and as of 2008, 95 percent of students age 6 to 21 were taught in a general education classroom.³ According to the Museum of disABILITY History, students:

“benefit from learning about the story of people with disabilities, including how they used to be viewed and treated, how conditions have changed over time and how individuals with disabilities are currently actively involved in self-advocacy and in their communities. Given the context of disability history, students will be equipped with the tools needed to engage in critical thinking and will be more likely to view individuals with disabilities as people deserving of dignity and respect just like everyone else.”⁴

Disability advocates began a campaign to help create understanding and to celebrate the history of individuals with disabilities, and in 2006, West Virginia passed the first Disability History Week bill.⁵ Twenty-three other states, including Florida, have since passed similar legislation.⁶

In 2008, the Florida Legislature authorized each district school board to provide disability history and awareness instruction in all K-12 public schools during the first two weeks in October.⁷ During “Disability History and Awareness Weeks,” students may be provided with instruction to expand their knowledge, understanding, and awareness of individuals with disabilities and the history of disability and the disability rights movement. The instruction may be integrated into the existing school curriculum and may be taught by qualified school personnel or knowledgeable guest speakers.

The DOE, developed a resource guide to help school districts promote Disability History and Awareness Weeks.⁸ The guide includes:

- Promotional ideas to help schools promote disability history and awareness;
- Flyers recognizing the contributions of various individuals with disabilities;
- Disability etiquette documents;

¹ Disabled World, *New Statistics 54.4 Million Americans with a Disability* (December 20, 2008), <http://www.disabled-world.com/disability/statistics/us-disability-stats.php>. (last visited January 3, 2012).

² *Id.*

³ National Center for Education Statistics, *Fast Facts*, <http://nces.ed.gov/fastfacts/display.asp?id=59>. (last visited January 3, 2012).

⁴ Museum of disABILITY History, *Disability History Week: Importance*, <http://disabilityhistoryweek.org/pages/importance/>. (last visited January 3, 2012).

⁵ Museum of disABILITY History, *Disability History Week: National Disability History Week Initiative*, <http://www.disabilityhistoryweek.org/blogs/read/9>. (last visited January 3, 2012).

⁶ <http://www.disabilityhistoryweek.org/legislations/>.

⁷ Chapter 2008-156, s. 1, L.O.F., codified in s. 1003.4205, F.S.

⁸ Bureau of Exceptional Education and Student Services, Department of Education, *Disability History and Awareness: A Resource Guide* (2010), available at <http://www.fldoe.org/ese/pdf/DHA-Resource2010.pdf>. (last visited January 3, 2012).

- Documents concerning “people first” language;
- A guide to differentiated instruction;
- A copy of “A Legislative History of Florida’s Exceptional Student Education Program”; and
- A list of websites that contain a variety of games, activities, and lesson plans that can be integrated into a curriculum for students.⁹

In 2010, the Commissioner was directed to develop recommendations to incorporate instruction regarding autism spectrum disorder, Down syndrome, and other developmental disabilities into continuing education for instructional personnel.¹⁰ The commissioner was instructed to address:

- Early identification of, and intervention for, students who have autism spectrum disorder, Down syndrome, or other developmental disabilities;
- Curriculum planning and curricular and instructional modifications, adaptations, and specialized strategies and techniques;
- The use of available state and local resources;
- The use of positive behavioral supports to deescalate problem behaviors; and
- Appropriate use of manual physical restraint and seclusion techniques.¹¹

Governor’s Commission on Disabilities

The Commission was designed, by Executive Order, to “advance public policy for Floridians with disabilities and to provide a forum for advocates representing Floridians with disabilities to develop and voice unified concerns and recommendations.”¹² The Commission made recommendations for strategies to address barriers faced by persons with disabilities in education, employment, transportation, civil rights, health care, and access to technology.¹³

III. Effect of Proposed Changes:

Beginning with the 2013-2014 school year, district school boards would be required to provide disability history awareness and instruction in all K-12 public schools during the first two weeks in October. This instruction is currently an optional activity.

Individuals with disabilities who provide instruction would be approved by the DOE, subject to current statutory background screening requirements.¹⁴ Presumably, the DOE would approve an individual whose expertise is determined by the council.

⁹ *Id.* at 1.

¹⁰ Chapter 2010-224, s. 6, L.O.F., codified in s. 1012.582, F.S.

¹¹ Section 1012.582(1), F.S.

¹² Office of the Governor, State of Florida, *Executive Order Number 07-148* (July 26, 2007), and *Executive Order Number 08-193* (Sept. 11, 2008), available at <http://www.flgov.com/2007-executive-orders/> and <http://www.flgov.com/2008-executive-orders/> (last visited December 31, 2011).

¹³ Governor’s Commission on Disabilities, *2009 Report* (June 2009) and *2010 Report* (July 2010), available at http://www.dms.myflorida.com/other_programs/governor_s_commission_on_disabilities and http://fodh.phhp.ufl.edu/files/2011/05/Report_Final_Edited2010-GovReport0902-10.pdf (last visited December 31, 2011).

¹⁴ The bill specifies that these individuals are subject to the requirements in s. 1012.465, F.S., for noninstructional school district employees and contractors who are permitted access on school grounds when students are present, who have direct contact with students, or who have access to or control of school funds. The bill does not prohibit instructional personnel

Under the bill, the DOE would establish and provide support for a disability awareness council, comprised of the Commissioner of Education, a member of the Senate, a member of the House of Representatives, and the Florida Youth council. The council's responsibilities include ensuring that presenters have the requisite expertise and submitting an annual report to the Governor, the presiding officers of the Legislature, and district school superintendents.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There may be some costs associated with requiring the DOE to assist in developing an appropriate disability curriculum to be used in the school districts. However, the costs may be mitigated if the DOE uses or adapts provisions in the existing resource guide, which includes curriculum topics required under the bill.

The cost to the DOE for acting as the fiscal agent for the council and providing a liaison to the council is unknown.

The bill requires the council to meet at least four times per year and more often as needed. The bill does not specify a source of funding to support the council.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by the Education Pre-K – 12 Committee on January 9, 2012:

The committee substitute:

- Requires the council membership to include the Florida Youth Council, in lieu of members appointed by the Commissioner of Education from different regions of the state;
- Requires the disability awareness council to meet at least four times each year; and
- Corrects a technical reference to the background screening requirements in the bill.

B. Amendments:

None.



203258

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/09/2012	.	
	.	
	.	
	.	

The Committee on Education Pre-K - 12 (Bogdanoff) recommended the following:

Senate Amendment (with title amendment)

Delete lines 54 - 96
and insert:

(c)1. The Department of Education shall establish a disability history and awareness advisory council. The council shall consist of the following members:

a. The Commissioner of Education or his or her designee.

b. The Florida Youth Council, a group of young people ages 15 to 17, and emerging young leaders ages 18 to 30, who live in this state and have disabilities or special health care needs.

c. A member of the House of Representatives, appointed by



203258

the Speaker of the House of Representatives, or his or her
designee.

d. A member of the Senate, appointed by the President of
the Senate, or his or her designee.

2. The department shall provide a liaison to assist the
council in its operation. The department shall act as the fiscal
agent for all financial transactions required by the council.

3. The responsibilities of the council shall be, but are
not limited to:

a. Ensuring that each presenter has first-hand knowledge
and experience pertaining to the challenges facing individuals
who have disabilities;

b. Ensuring that members of the Florida Youth Council in
this state continue to remain involved in leadership
development, self-advocacy, peer mentoring, and other activities
that will improve the quality of life for youth and emerging
leaders who have disabilities; and

c. Submitting an annual report to the Governor, the
President of the Senate, the Speaker of the House of
Representatives, and the superintendent of each school district
in this state.

4. The council shall meet at least four times a year and
more often as needed.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 16

and insert:

financial transactions required by the council;



807178

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/09/2012	.	
	.	
	.	
	.	

The Committee on Education Pre-K - 12 (Bogdanoff) recommended the following:

Senate Amendment to Amendment (203258)

Delete lines 29 - 30

and insert:

leaders who have disabilities;

c. Ensuring that each presenter meets the background screening requirements of s. 1012.465; and

d. Submitting an annual report to the Governor, the

By Senator Ring

32-00108B-12

2012554

A bill to be entitled

An act relating to disability awareness; amending s. 1003.4205, F.S.; requiring each district school board to provide disability history and awareness instruction in all K-12 public schools; requiring the Department of Education to assist in creating the curriculum for the disability history and awareness instruction; providing for individual presenters who have disabilities to provide the disability history and awareness instruction; requiring the Department of Education to establish a disability history and awareness advisory council; providing membership of the council; requiring the department to provide a liaison to assist the council; requiring the department to act as the fiscal agent for all financial transactions required by the council providing responsibilities of the council; providing meeting times for the council; providing an effective date.

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

Section 1. Section 1003.4205, Florida Statutes, is amended to read:

1003.4205 Disability history and awareness instruction.—

(1) Each district school board shall ~~may~~ provide disability history and awareness instruction in all K-12 public schools in the district during the first 2 weeks in October each year. The district school board shall designate these 2 weeks as

32-00108B-12

2012554

"Disability History and Awareness Weeks." The Department of Education shall assist in creating the curriculum for the disability history and awareness instruction that will be used in each school district.

(2) (a) During this 2-week period, students shall ~~may~~ be provided intensive instruction to expand their knowledge, understanding, and awareness of individuals who have ~~with~~ disabilities, the history of disability, and the disability rights movement. Disability history must ~~may~~ include the events and timelines of the development and evolution of services to, and the civil rights of, individuals who have ~~with~~ disabilities. Disability history must ~~may~~ also include the contributions of specific individuals who have ~~with~~ disabilities, including the contributions of acknowledged national leaders.

(b) Beginning with the 2013-2014 school year, the instruction shall ~~may~~ be integrated into the existing school curriculum in ways including, but not limited to, supplementing lesson plans, holding school assemblies, or providing other school-related activities. The instruction shall ~~may~~ be delivered by individual presenters who have disabilities and who have been approved by the Department of Education as presenters ~~qualified school personnel or by knowledgeable guest speakers,~~ ~~with a particular focus on including individuals with disabilities.~~

(c)1. The Department of Education shall establish a disability history and awareness advisory council. The council shall consist of nine members as follows:

a. The commissioner of education or his or her designee.

b. A state resident who has a disability, appointed by the

32-00108B-12

2012554

commissioner of education, from each of the following regions:

(I) Region 1, composed of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton, and Washington Counties.

(II) Region 2, composed of Alachua, Baker, Bradford, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Madison, Marion, Nassau, Putnam, St. Johns, Suwannee, Taylor, and Union Counties.

(III) Region 3, composed of Brevard, Indian River, Lake, Okeechobee, Orange, Osceola, St. Lucie, Seminole, Sumter, and Volusia Counties.

(IV) Region 4, composed of Citrus, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties.

(V) Region 5, composed of Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, and Lee Counties.

(VI) Region 6, composed of Broward, Martin, Miami-Dade, Monroe, and Palm Beach Counties.

c. A member from the House of Representatives, appointed by the Governor, or his or her designee.

d. A member from the Senate, appointed by the Governor, or his or her designee.

2. The department shall provide a liaison to assist the council in its operation. The department shall act as the fiscal agent for all financial transactions required by the council.

3. The responsibilities of the council shall be, but are not limited to:

a. Ensuring that each presenter has first-hand knowledge and experience pertaining to the challenges facing individuals who have disabilities;

32-00108B-12

2012554

b. Ensuring that each presenter meets the requirements of s. 1012.465, the Jessica Lunsford Act, in the county in which the presenter shall instruct; and

c. Submitting an annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the superintendent of each school district in this state.

4. The council shall meet at least twice a year and more often as needed.

(3) The goals of disability history and awareness instruction include:

(a) Better treatment for individuals who have ~~with~~ disabilities, especially for youth in school, and increased attention to preventing the bullying or harassment of students who have ~~with~~ disabilities.

(b) Encouragement to individuals who have ~~with~~ disabilities to develop increased self-esteem, resulting in more individuals who have ~~with~~ disabilities gaining pride in being an individual with a disability, obtaining postsecondary education, entering the workforce, and contributing to their communities.

(c) Reaffirmation of the local, state, and federal commitment to the full inclusion in society of, and the equal opportunity for, all individuals who have ~~with~~ disabilities.

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

THE FLORIDA SENATE
COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

Spoke

1/9/2012
Date

554

Bill Number

Barcode

Name BRIAN PITTS

Phone 727/897-9291

Address 1119 Newton Ave S
Street

E-mail _____

St Petersburg FL 33705
City State Zip

Job Title Trustee

Speaking: ☐ For ☐ Against ☒ Information

Appearing at request of Chair ☐

Subject _____

Representing Justice-2-Jesus

Lobbyist registered with Legislature: ☐ Yes ☒ No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from _____ .m. to _____ .m.

THE FLORIDA SENATE
APPEARANCE RECORD

Spoke

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____

Topic Disability History & Awareness

Bill Number 554
(if applicable)

Name Susan Goldstein

Amendment Barcode _____
(if applicable)

Job Title Consultant

Address 3158 Inverness
Street

Phone 954 830-6300

City _____ State _____ Zip _____

E-mail skgoldstein@hotmail.com

Speaking: ☒ For ☐ Against ☐ Information

Representing My Daughter Stephanie

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

Spoke

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/9/12

Meeting Date

Topic Disability History and Awareness

Bill Number SB 554
(if applicable)

Name Curtis Richardson

Amendment Barcode _____
(if applicable)

Job Title Board of Directors, Family Cafe

Address 533 Tuskegee street
Street

Phone 576-6342

Tall. FL 32305
City State Zip

E-mail calbaide@aol.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Family Cafe

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

Spoke

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/9/12

Meeting Date

Topic Disability History/Awareness

Bill Number SB 554
(if applicable)

Name Alex Brown

Amendment Barcode 203258
(if applicable)

Job Title Youth Advisor

Address 1332 N. Duval St.
Street
Tallahassee FL 32301
City State Zip

Phone 850-980-4450

E-mail abrown@family
cafe.net

Speaking: ☒ For ☐ Against ☐ Information

Representing The Florida Youth Council

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Spoke

1/9/2012

Meeting Date

Topic ~~S~~ Disability Awareness

Bill Number SB 554
(if applicable)

Name Veneria Fabiszak

Amendment Barcode _____
(if applicable)

Job Title _____

Address 3006 W Hawthorne Rd.

Phone (619) 253-6928

Tampa FL 33611
City State Zip

E-mail veneriafab@hotmail.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Parent of a child with Rett Syndrome,

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: CS/SB 344

INTRODUCER: Education Pre-K - 12 Committee and Senator Montford

SUBJECT: Public School Buses

DATE: January 9, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	deMarsh-Mathues	ED	Fav/CS
2.			TR	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

Under the bill, commercial advertisements would be permitted to be placed on the exterior of a school bus, according to district school board policies that delineate the content, placement, number, and cost of advertisements. If a bus does not comply with these requirements, it must be withdrawn from use until compliance is met.

Advertising revenue would be allocated as follows: 50 percent for school district transportation, 25 percent for school district-determined programs and 25 percent for the school district foundation to create an endowment that provides income from interest that is matched by corporations or individuals.

This bill substantially amends s. 1006.25 of the Florida Statutes.

II. Present Situation:

Exterior advertising on public school buses is currently prohibited in the Florida School Bus Specifications, adopted by reference in administrative rule.¹ According to the Department of Education (DOE), this specification requirement is based on the 2005 National School Transportation Specifications and Procedures for the purpose of providing national uniformity of the familiar exterior yellow and black coloration of school buses and ensuring safety.² The specifications limit the coloration, lettering, identification, and markings that may be installed on public school bus exteriors, including the National School Bus Yellow paint, black trim, and white roof; retroreflective conspicuity striping; belt line lettering identifying the school district; and bus numbers.

States that permit this type of advertising include New Mexico³ and Arizona.⁴ These states allow local officials to set policies and prohibit or limit various types of advertisements, such as those related to alcohol or tobacco products. Arizona law specifies the permissible location of the ads (e.g., in areas other than those that will impede the safe operation of the school bus).⁵

III. Effect of Proposed Changes:

Under the bill, commercial advertisements would be permitted to be placed on the exterior of a school bus, according to district school board policies that delineate content, placement, number, size, and cost of advertisements. If a bus does not comply, it must be withdrawn from use until compliance is met.

School board contracts must prohibit specified types of advertising, including advertising that is discriminatory in nature or content, contains material that is not child- and community-sensitive, relates to antisocial behavior, or implies or expresses endorsement by the school district. It is unclear what is meant by advertising that is discriminatory, not child- or community-sensitive, or antisocial, and therefore, would likely differ from district to district. Additionally, authorizing advertisements on school buses would likely, by its very nature, be presumed to indicate endorsement by the district. In making its determination as to what constitutes objectionable advertising, a school board would have to balance this with an advertiser's exercise of commercial speech.

Proponents note that school bus advertising provides a necessary source of revenue in challenging economic times. Opponents assert that advertising will compromise the distinctive characteristics of school buses, namely the uniform color of buses, which is associated with the presence of children. They further express concern that a motorist may be distracted by advertising and will result in driving hazards. In response, proponents cite the absence of

¹ Rule 6A-3.0291, F.A.C.

² DOE bill analysis for HB 19, August 25, 2011, on file with the Senate Committee on Education Pre-K - 12.

³ NMSA §22-28-1.

⁴ A.R.S. §15-342.

⁵ Based on responses to a January 2010 survey of all states, the DOE reported that 23 states (74 percent of the 31 respondents) prohibited exterior advertising on school buses: one state allowed it without restrictions; and, seven states (23 percent) allowed it with some restrictions. The DOE notes that this information includes the 2011 New Jersey legislation, which allows exterior school bus advertising, subject to specified limitations. DOE bill analysis for HB 19, August 25, 2011, on file with the Senate Committee on Education Pre-K - 12.

empirical evidence that advertising distracts motorists. Opponents cite studies that confirm the effects of distraction on motor vehicle crashes.⁶

Advertising revenue would be allocated as follows: 50 percent for school district transportation, 25 percent for school district-determined programs and 25 percent for the school district foundation to create an endowment that provides income from interest that is matched by corporations or individuals.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

In general, that a property is government-owned does not automatically open the property up to the public.⁷ Rather, the nature of the forum dictates the level of government control over that property.⁸ Courts distinguish among traditional public forums; designated or limited forums; and nonpublic forums.⁹ A traditional public forum is a physical space such as a public street or park that has traditionally been held in trust for public use, and is a place of open discourse and assembly.¹⁰ A designated public forum refers to public property the government has provided specifically for the purpose of expressive activity, such as university meeting facilities, school board meetings, and municipal theaters.¹¹ Courts have consistently applied strict scrutiny, or the highest level of review, to content-based government restrictions on speech that takes place in a traditional public forum.¹² To survive strict scrutiny, the state is required to show a governmental regulation is narrowly drawn to accomplish a compelling governmental interest, the regulation is reasonable, and the viewpoint neutral.¹³ If the regulation is content-neutral, and the government imposes restrictions in a time, place, and manner approach, mid-level scrutiny applies.¹⁴ If so, the state is required to demonstrate a significant, rather than

⁶ *Statistics and Facts about Distracted Driving*, U.S. Department of Transportation. See <http://www.distraction.gov/content/get-the-facts/facts-and-statistics.html>; Last checked January 5, 2012.

⁷ *Uptown Pawn & Jewelry, Inc.*, 337 F.3d 1275, 1278 (11th Cir. 2003).

⁸ *Id.*

⁹ Michael A. Scherago, *Closing the Door on the Public Forum*, 26 Loy. L.A. L. Rev. 241, 244-245 (Nov. 1992).

¹⁰ *Id.* at 244.

¹¹ *Id.* at 245.

¹² See *Ledford v. State*, 652 So.2d 1254 (2nd DCA 1995).

¹³ *Id.* at 1256.

¹⁴ Scherago, *supra* note 10, at 245.

compelling state interest.¹⁵ These same levels of scrutiny apply to a designated public forum, provided the character of the forum is maintained.¹⁶ Public property that is neither a traditional public forum, nor a limited purpose forum, is designated as a nonpublic forum, and subject to low-level scrutiny.¹⁷ Here, the state only needs to show the restrictions are reasonable and not viewpoint discriminatory.¹⁸ Public buses, subways, and streetcars have been classified as nonpublic fora.¹⁹ Courts have been mixed, however, regarding whether the advertising space on buses constitutes public fora.²⁰

For example, in 1974, the U.S. Supreme Court held that interior advertising space on a city transit system does not constitute a public forum.²¹ Here, the city refused to allow advertising that was political in nature, basing its decision on the appearance of support of one political candidate over another. In upholding the city's action, the court distinguished between speech conveyed in a traditional public forum, where passersby are free to come and go, and speech that is forced upon a captive audience.²² In a concurring opinion, Justice Douglas stated more specifically, "...if we are to turn a bus or streetcar into either a newspaper or a park, we take great liberties with people who because of necessity become commuters and at the same time captive viewers or listeners."²³ The decision to designate a public bus as a nonpublic forum has subsequently been questioned.²⁴

In refusing to rule on whether the interiors of subways and trolley cars constitute a public forum, a 1994 court cited inconsistency and lack of clarity in its application to those places. Instead, the court proceeded directly to the issue of whether the Massachusetts Bay Transportation Authority's restriction was content neutral.²⁵ The First Circuit U.S. Court of Appeals affirmed the District Court's opinion, which struck down the Massachusetts Bay Transportation Authority's ("Authority") policy on restricting advertising in subways and trolley cars.²⁶ Here, where the Authority prohibited ads which used sexual innuendo to educate about Acquired Immune Deficiency Syndrome (AIDS) and condom use, but permitted movie ads with similar levels of sexual content, the court held that the Authority committed viewpoint discrimination.²⁷

While the court has recognized it is possible for a transit authority to define as a legitimate policy the rejection of ads harmful to children, the inquiry does not end upon a

¹⁵ State v. Catalano 60 So.3d 1139, 1144 (Fla. 2d DCA 2011)..

¹⁶ Scherago, *supra* note 10, at 245.

¹⁷ *Id.* at 246.

¹⁸ *Id.*

¹⁹ Cynthia R. Mabry, *Brother Can You Spare Some Change?—And Your Privacy Too?: Avoiding a Fatal Collision Between Public Interests and Beggars' First Amendment Rights*, 28 U.S.F. L. Rev. 309, 329 (Winter, 1994).

²⁰ See, i.e., *New York Magazine v. Metropolitan Transportation Authority*, 136 F.3d 123 (2d Cir. 1998) in which the court held that advertising space on buses were designated public forum; *Ridley v. Massachusetts Bay Transportation Authority*, 390 F.3d 65 (1st Cir. 2004) in which the court finds the opposite.

²¹ *Lehman v. City of Shaker Heights*, 94 S.Ct. 2714 (1974).

²² *Id.* at 2715.

²³ *Id.* at 2719.

²⁴ Scherago, *supra* note 9, at 261.

²⁵ *Aids Action Committee of Massachusetts, Inc., v. Massachusetts Bay Transportation Authority*, 42 F.3d 1, 10 (1st Cir. 1994)

²⁶ *Id.* at 3.

²⁷ *Ridley*, *supra* note 21, at 85-86.

mere assertion of child protection.²⁸ Where a transit authority prohibited marijuana decriminalization ads but had previously accepted ads promoting the use of alcohol, the court held the authority had not adequately refuted viewpoint discrimination. Further, the court held the authority failed to show a sufficient link between the drug ads and a negative impact on juveniles.²⁹

The bill, as written, does not provide guidelines on sponsor language, and therefore, is not likely itself to be the subject to a court challenge. A greater potential for challenge exists when a school board adopts policies for acceptance/rejection of sponsors. It is unclear whether a court would interpret the listing of a sponsor's name and logo on the outside of school buses as forcing ideas on a captive audience, in this case the students riding on the bus, in the same vein as the impact of political advertising inside the bus or subway on passengers, as was the case in *Lehman*. Provided that a court would likely designate a school bus as a nonpublic forum, it appears that lower level scrutiny would apply to a review of restrictions on speech, such that the state would only be required to show a reasonable relationship between the restriction and the state's purpose. In this case, the state would probably assert the protection of children as the state interest. Case law, however, still requires restrictions on speech to be viewpoint neutral. This is particularly notable if a district school board rejects certain sponsors and permits others who are similarly situated.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The revenue that would accrue to businesses under contract with school districts for advertisements is indeterminate.

C. Government Sector Impact:

Businesses under contract with school districts must reimburse school districts for all costs associated with advertising, such as retrofitting buses and related maintenance. The amount of revenue that will accrue to school districts is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²⁸ *Id.* at 85-86.

²⁹ *Id.* at 88-89.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by the Committee on Pre-K – 12 on January 9, 2012:

This bill reallocates advertising revenue at the following percentages:

- 50 percent for school district transportation;
- 25 percent for school district-determined programs; and
- 25 percent for the school district foundation to create an endowment that provides income from interest that is matched by corporations or individuals.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



317194

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/09/2012	.	
	.	
	.	
	.	

The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment

Delete lines 72 - 82
and insert:

(c) All revenue from a contract under this subsection shall be remitted to the respective school district, with 50 percent allocated for school district transportation, 25 percent allocated for programs as determined by the school district, and 25 percent allocated to the school district foundation for the creation of an endowment that provides income from the interest which is matched by corporate or individual gifts.

By Senator Montford

6-00237-12

2012344

A bill to be entitled

An act relating to public school buses; amending s. 1006.25, F.S.; providing for district school board policies that authorize commercial advertisements on school buses; providing policy requirements relating to reimbursement to the school district, prohibited advertisements, and signage and equipment standards; requiring a school bus to be withdrawn from use under certain circumstances; providing for the remittance and allocation of revenue; providing an effective date.

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

Section 1. Subsection (5) is added to section 1006.25, Florida Statutes, to read:

1006.25 School buses.—School buses shall be defined and meet specifications as follows:

(5) ADVERTISEMENTS.—

(a) Commercial advertisements may be placed on the exterior of a school bus according to district school board policies that require the following:

1. The school district must be reimbursed by the advertiser for all costs incurred by the school district and its contractors for supporting the advertising, including, but not limited to, retrofitting buses, storing advertising, attaching advertising to the bus, and related maintenance.

2. At a minimum, a contract must prohibit advertising and advertising images that:

Page 1 of 3

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

6-00237-12

2012344

a. Solicit the sale, or promote the use, of alcoholic beverages or tobacco products.

b. Are discriminatory in nature or content.

c. Imply or declare endorsement of the product or service by the school district.

d. Contain material that is sexual in nature.

e. Contain material that is not child and community sensitive.

f. Contain material that is political in nature or relates to a political activity, campaign, or candidate.

g. Are false, misleading, or deceptive.

h. Relate to an illegal activity or antisocial behavior.

i. Distract from the effectiveness of required safety warning equipment.

3. The design, placement, and size of signage on the exterior of a school bus acknowledging the advertiser must be prescribed by the district school board and address the following minimum standards:

a. Cost of the advertising.

b. Designation of individuals authorized to sell and approve the advertising.

c. Specification of how the advertising will be attached, if not painted on the bus, including a prohibition against signage that:

(I) Extends from the body of the bus so as to allow a handhold or pose a danger to pedestrians.

(II) Covers any structural or sheet metal damage or alteration.

(III) Interferes with the operation of any door, window,

Page 2 of 3

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59 required lettering, lamp, reflector, or other device.

60 (IV) Is placed on a side emergency door or the back of the
61 bus.

62 (V) Interferes with school bus identification.

63 (VI) Is digital or electronic.

64 4. A school bus with attached advertising must meet the
65 school bus equipment standards under this section.

66 5. A school bus may not have more than two advertisements.

67 6. Each advertisement must be no larger than 2 feet high
68 and 6 feet long.

69 (b) A school bus that violates this subsection must be
70 withdrawn from use as a school bus until it meets the
71 requirements of this subsection.

72 (c)1. All revenue from a contract under this subsection
73 shall be remitted to the respective school district, with 50
74 percent allocated for school district transportation, 40 percent
75 allocated for other programs as determined by the school
76 district, and 10 percent allocated for the school district
77 driver education programs, of which 30 percent must be allocated
78 for behind-the-wheel instruction.

79 2. However, if a school district does not offer driver
80 education in any of its schools, the 10 percent allocated for
81 driver education programs may be allocated for other programs as
82 determined by the school district.

83 Section 2. This act shall take effect July 1, 2012.

spoke

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/9/12
Meeting Date

Topic Public School Buses

Bill Number 344
(if applicable)

Name Martha Harbin

Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address PO Box 4307

Phone (850) 251-2803

Tallahassee, FL 32315-4307
City State Zip

E-mail martha@flbev.org

Speaking: ☐ For ☐ Against ☒ Information

Representing Florida Beverage Assoc.

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

Waive

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/9/2012
Meeting Date

Topic School Bus Adv.

Bill Number SB 344
(if applicable)

Name Walter Blanton

Amendment Barcode _____
(if applicable)

Job Title Exec. Director

Address 203 S. Monroe St.
Street

Phone 414-2578

Tallahassee Fla. 32301
City State Zip

E-mail blanton@k.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Fla. School Boards Assoc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

Spoke

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-9-12
Meeting Date

Topic _____

Bill Number 344
(if applicable)

Name Donna Sanford

Amendment Barcode _____
(if applicable)

Job Title Retired

Address P.O. Box 1478
Street
Crawfordville FL 32326
City State Zip

Phone 850 926-7602

E-mail glsdks123@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

Representing FL, Children on Buses

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: SB 962

INTRODUCER: Senator Benacquisto

SUBJECT: Florida Tax Credit Scholarship Program

DATE: January 5, 2012

REVISED: 1/6/12

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	deMarsh-Mathues	ED	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

For the Florida Tax Credit Scholarship Program, the bill increases the \$ 218,750,000 maximum tax credit by \$ 31,250,000 to \$250 million beginning with FY 2012-2013. In fiscal year 2012-2013 and thereafter, the cap will increase by 25 percent whenever tax credits approved in the prior fiscal year are equal to or greater than 90 percent of the tax credit cap amount for that year.

This bill substantially amends section 1002.395 of the Florida Statutes.

II. Present Situation:

Florida Tax Credit Scholarship Program (FTC program)

Under the FTC program, tax credit scholarships were created to encourage private, voluntary contributions from corporate donors to nonprofit scholarship-funding organizations.¹ A corporation can receive a dollar for dollar tax credit against its state corporate income tax, insurance premium tax, severance taxes on oil and gas production, self-accrued sales tax liabilities of direct pay permit holders, and alcoholic beverage tax on beer, wine, and spirits for donations to private nonprofit scholarship-funding organizations.

Eligible Private Schools and Students

Private schools participating in the FTC program must provide documentation of financial stability and comply with federal antidiscrimination law and all state laws regulating private

¹ Sections 1002.395(1) and 1002.421, F.S. In 2010, the program was transferred from s. 220.187, F.S., to s. 1002.395, F.S., by ch. 2010-24, L.O.F.

schools.² To be eligible for participation in the FTC program, a private school must demonstrate fiscal soundness and accountability.³

Under the program, SFOs provide a scholarship to a student who qualifies for free or reduced-price school lunches under the National School Lunch Act⁴ or who qualifies for the Supplemental Nutrition Assistance Program (SNAP), the Temporary Assistance to Needy Families Program (TANF), or the Food Distribution Program on Indian Reservations (FDPIR)⁵ and:

- Was counted as a full-time equivalent student during the previous state fiscal year for purposes of state per-student funding;
- Is eligible to enter kindergarten or the first grade;
- Received a scholarship under the FTC program or from the state the previous school year; or
- Is placed, or during the previous state fiscal year was placed, in foster care.

A student does not lose his or her scholarship due to a change in the economic status of the student's parents unless the parent's economic status exceeds 230 percent of the federal poverty guidelines.⁶ A sibling of a scholarship student who continues to participate in the program and resides in the same household as the student is considered to be a first-time FTC scholarship recipient, as long as the student's and the sibling's household income level does not exceed 230 percent of the federal poverty level.⁷

Eligibility is contingent upon available funds.⁸ The amount of the scholarship provided to any child for any single school year by any eligible SFO may not exceed the following limits:⁹

- For FY 2011-2012, the maximum scholarship amount is 64 percent of the Florida Education Finance Program (FEFP) unweighted full-time equivalent (FTE) amount for the fiscal year, for a scholarship awarded to a student for tuition and fees;¹⁰ or
- \$500 for a scholarship awarded to a student for transportation to a Florida public school that is located outside the district in which the student resides.

² Sections 1002.395(8) and 1002.421, F.S.

³ Section 1002.421, F.S.

⁴ Section 1002.395(3)(b), F.S. The eligibility guidelines are available at:

<http://www.fns.usda.gov/cnd/governance/notices/iegs/IEGs10-11.htm>.

⁵ Children from households that receive benefits under SNAP (formerly the Food Stamp Program), TANF, or the FDPIR, are deemed "categorically eligible" for free school meals, thereby eliminating the need for households to submit an application for meal benefits. *Direct Certification in the National School Lunch Program: State Progress in Implementation, Report to Congress – Summary*, U.S. Department of Agriculture (USDA), October 2011, available at:

<http://www.fns.usda.gov/ora/menu/published/CNP/FILES/DirectCert2011.pdf>.

⁶ Section 1002.395(3)(b)2., F.S.

⁷ Section 1002.395(3)(b)3., F.S. The student must also meet one or more of the eligibility criteria.

⁸ Section 1002.395(3)(b), F.S.

⁹ Section 1002.395(12)(a), F.S. Beginning in FY 2011-2012, the percentage used to determine the maximum scholarship award increases by four percent in any fiscal year when the tax credit cap also increases, until it reaches a maximum of 80 percent. In that fiscal year and thereafter, the scholarship limit will be equal to 80 percent of the per FTE funding amount.

¹⁰ Section 1002.395(12)(a)1.a.III, F.S. E-mail, DOE, January 6, 2012, on file with the Senate Committee on Education Pre-K – 12.

Scholarship Funding Organizations

An SFO must be a charitable organization exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code.¹¹ Scholarships must be provided for eligible students on a first-come, first-served basis, unless the student qualifies for priority consideration.¹² An SFO may not restrict or reserve scholarships for use at a particular private school or for the child of an operator or owner of a private school or SFO. A taxpayer making the contribution may not designate a specific child or group of children as the beneficiaries of the scholarship.¹³ If the SFO has been in operation for three years and does not have any negative financial findings, the SFO may retain up to three percent of the taxpayer's contributions for reasonable and necessary administrative expenses.¹⁴

The Legislature initially capped the scholarship program at \$50 million in tax credits per state fiscal year,¹⁵ but subsequently expanded the cap to \$88 million in 2003.¹⁶ Beginning with FY 2008-2009, the cap was increased by \$30 million to \$118 million.¹⁷ Until 2009, tax credits under the scholarship program were only available against the state's corporate income tax.

In 2009, the Legislature expanded the revenue sources against which tax credits can be claimed for donations to an SFO to include the premium tax under s. 624.509, F.S., which is imposed on insurance premiums written in Florida and paid by insurance companies to the Department of Revenue (DOR).¹⁸

In 2010, the Legislature added three new revenue sources by allowing taxpayers to receive credits for eligible contributions against: severance taxes on oil and gas production;¹⁹ self-accrued sales tax liabilities of direct pay permit holders;²⁰ and alcoholic beverage taxes on beer, wine, and spirits.²¹ The 2010-2011 fiscal year cap on tax credits authorized under the FTC program is \$140 million.²² In fiscal year 2011-2012 and thereafter, the cap will increase by 25 percent whenever tax credits approved in the prior fiscal year are equal to or greater than 90

¹¹ Section 1002.395(2)(f), F.S.

¹² Sections 1002.395(6)(e) and (f), F.S.

¹³ Section 1002.395(2)(e), F.S.

¹⁴ Section 1002.395(6)(i), F.S.

¹⁵ Chapter 2001-225, L.O.F.

¹⁶ Section 9, ch. 2003-391, L.O.F.

¹⁷ Chapter 2008-241, L.O.F.

¹⁸ Section 624.51055, F.S., allows insurance companies to receive a credit of 100 percent of an eligible contribution to an eligible SFO against any tax due for a taxable year under the provisions of the insurance premium tax. However, the credit may not exceed 75 percent of the tax due.

¹⁹ Section 211.0251, F.S., authorizes a credit of 100 percent of an eligible contribution to an SFO against any tax due under ss. 211.02 or 211.025, F.S., for oil or gas production. However, the credit may not exceed 50 percent of the tax due on the return the credit is taken.

²⁰ Section 212.1831, F.S., authorizes a credit of 100 percent of an eligible contribution against any state sales tax due from a direct pay permit holder (e.g., dealers who annually make purchases in excess of \$10 million per year in any county and dealers who purchase promotional materials whose ultimate use is unknown at purchase) as a result of the direct pay permit held. See s. 212.183, F.S., and Rule 12A-1.0911, F.A.C.

²¹ Section 561.1211, F.S., authorizes a credit of 100 percent of an eligible contribution to an SFO against tax due under ss. 563.05, 564.06, or 565.12, F.S., except for taxes imposed on domestic wine production. Further, the credit is limited to 90 percent of the tax due on the return on which the credit is taken.

²² Section 1, ch. 2010-24, L.O.F., codified in s. 1002.395(5), F.S.

percent of the tax credit cap amount for that year. The tax credit cap amount is \$175 million for the 2011-2012 state fiscal year and \$218,750,000 for the 2012-2013 state fiscal year.²³

The following summarizes information related to the tax credits approved by the DOR:²⁴

Tax Year	Number of Approved Tax Credit Allocation Applications	Number of Taxpayers	Total Amount of Tax Credit Allocations Approved for All Taxpayers	Number of Small Businesses Approved for Tax Credit Allocations	Total Amount of Tax Credit Allocations Approved for Small Businesses²⁵
2002-03	77	48	\$47,686,000	4	\$186,000
2003-04	114	56	\$47,579,000	3	\$79,000
2004-05	102	58	\$47,560,000	2	\$60,000
2005-06	126	79	\$80,323,071	2	\$4,000
2006-07	94	65	\$87,123,000	1	\$3,000
2007-08 ²⁶	106	62	\$85,611,140	0	\$0
2008-09	125	75	\$97,415,847	0	\$0
2009-10	121	83	\$111,773,617 ²⁷	0	\$0
2010-11	128	100	\$136,321,200	0	\$0
2011-12	124	110	\$173,757,000	0	\$0

The credit allocation process for the 2012-2013 fiscal year does not begin until January 1, 2012.²⁸

²³ E-mail, DOR, December 12 and December 27, 2011, on file with the Senate Committee on Education Pre-K - 12. *Taxpayer Information Publication 11ADM-03*. See https://taxlaw.state.fl.us/wordfiles/CIT_TIP_11ADM-03.pdf.

²⁴ E-mail, DOR, March 28, 2011, on file with the Senate Committee on Education Pre-K - 12.

²⁵ Until 2006, s. 220.187(3)(a), F.S., provided that five percent of the tax credit was reserved for small businesses as defined under s. 288.703(1), F.S. Chapter 2006-75, L.O.F., reduced the small business cap to one percent. The cap was subsequently repealed by ch. 2008-241, L.O.F.

²⁶ Effective for tax years beginning January 1, 2006, s. 220.187(5)(d), F.S., (currently s. 1002.395(5)(e), F.S.) permits a taxpayer to rescind all or part of its previously allocated tax credit. When approved, the rescinded allocation can be allocated to another taxpayer.

²⁷ Of the total amount of the allocation of tax credits, \$15,130,000 was allocated to insurance companies based on 18 approved applications.

²⁸ E-mail, DOR, December 12, 2011, on file with the Senate Committee on Education Pre-K - 12.

The following reflects the credit allocations per SFO for 2007-2008, 2008-2009, 2009-2010, 2010-2011,²⁹ 2011-2012, and 2012-2013:

Credit Allocations per SFO 2007-2008³⁰	
SFO	TOTAL
Academy Prep Foundation, Inc.	\$0
Children First Central Florida ³¹	\$38,178,882
Florida School Choice Fund ³² (Florida P.R.I.D.E.)	\$41,663,140
The Carrie Meek Foundation, Inc.	\$1,875,000
Credit Carry Forward	\$3,894,118
Total Allocations	\$85,611,140
Credit Allocations per SFO 2008-2009³³	
SFO	TOTAL
The Children's Cause, Inc. ³⁴	\$0
Children First Florida (Children First Central Florida)	\$42,317,008
Florida P.R.I.D.E.	\$35,930,000
The Carrie Meek Foundation, Inc.	\$3,010,000
Step Up for Students ³⁵	\$7,001,750
Credit Carry Forward	\$9,157,089
Total Allocations	\$97,415,847
Credit Allocations per SFO 2009-2010³⁶	
SFO	TOTAL
Children First Florida ³⁷	\$14,406,666
Florida P.R.I.D.E. ³⁸	\$7,431,666
The Carrie Meek Foundation, Inc.	\$2,734,318
Step Up for Students	\$64,909,850
Credit Carry Forward	\$22,291,117
Total Allocations	\$111,773,617
Credit Allocations per SFO 2011-2012³⁹	
SFO	TOTAL
Step Up for Students	\$173,757,000
Total Allocations	\$173,757,000

²⁹ Data for applications for credit allocations current through February, 2010. The 2008-09 and 2009-10 applications are still open as of that date.

³⁰ E-mail, DOR, March 28, 2011, on file with the Senate Committee on Education Pre-K – 12, for tax years beginning in 2007. The allocation began January 1, 2007, for tax years beginning in calendar year 2007. The allocation is closed.

³¹ Children First Central Florida was subsequently known as Children First Florida.

³² Florida School Choice Fund was subsequently known as Florida P.R.I.D.E.

³³ DOR, March 1, 2010, for tax years beginning in 2008. The allocation began January 1, 2008, for tax years beginning in calendar year 2008. This allocation is closed.

³⁴ The Children's Cause was approved by the DOE for 2008-2009.

³⁵ The Florida School Choice Fund, Inc., d/b/a Step Up for Students, was approved effective July 1, 2009. The assets of Florida PRIDE and Children First Florida were transferred to Florida School Choice Fund, Inc.

³⁶ E-mail, DOR, March 28, 2011, on file with the Committee on Education Pre-K – 12, for tax years beginning in 2009. The allocation began January 1, 2009, for tax years beginning in calendar year 2009. This allocation is closed.

³⁷ Children First Florida ceased to exist on July 1, 2009. The assets of Children First Florida were transferred to Step Up for Students.

³⁸ Florida PRIDE ceased to exist on July 1, 2009. The assets of Florida Pride have been transferred to Step Up for Students.

³⁹ E-mail, DOR, December 12 and December 27, 2011, on file with the Committee on Education Pre-K – 12, for tax years beginning in 2011. The allocation began January 1, 2011, for tax years beginning in calendar year 2011. The allocation is open.

Currently, there are 1,181 participating private schools and 37,578 students receiving scholarships.⁴⁰ Step Up for Students is the only approved SFO for 2011-2012.⁴¹

III. Effect of Proposed Changes:

For the Florida Tax Credit Scholarship Program, the bill increases the \$ 218,750,000 maximum tax credit by \$ 31,250,000 to \$250 million beginning with FY 2012-2013. In fiscal year 2012-2013 and thereafter, the cap will increase by 25 percent whenever tax credits approved in the prior fiscal year are equal to or greater than 90 percent of the tax credit cap amount for that year.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet adopted an official estimate of the revenue impacts expected under the bill.

B. Private Sector Impact:

The bill increases the maximum tax credit available to taxpayers under the FTC program.

C. Government Sector Impact:

The impact on General Revenue receipts of the authorized additional tax credits and the projected FEFP cost savings to the state are unknown. The Revenue Estimating Conference has not yet adopted an official estimate of the revenue impacts expected under the bill.

The DOR notes that there is an insignificant fiscal impact on the department's operations.

⁴⁰ *Corporate Tax Credit Scholarship Program Quarterly Report*, Florida Department of Education, November 2011. Of the participating private schools, 77 percent are religious schools and 23 percent are non-religious schools. See https://www.floridaschoolchoice.org/Information/CTC/quarterly_reports/ftc_report_nov2011.pdf.

⁴¹ E-mail, DOE, December 22, 2011, on file with the Senate Committee on Education Pre-K – 12.

VI. Technical Deficiencies:

On lines 13-14 of the bill, the tax credit cap for 2012-2013 is \$250 million. However, lines 15-17 establish a credit cap for 2012-2013 that is based on the tax credit cap in the prior state fiscal year. On line 15, the date should be changed to refer to the 2013-2014 state fiscal year.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



458930

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/09/2012	.	
	.	
	.	
	.	

The Committee on Education Pre-K - 12 (Benacquisto) recommended the following:

Senate Amendment

Delete line 15
and insert:

2. In the 2013-2014 ~~2011-2012~~ state fiscal year and each

By Senator Benacquisto

27-00814A-12

2012962__

A bill to be entitled

An act relating to the Florida Tax Credit Scholarship Program; amending s. 1002.395, F.S.; increasing the tax credit cap amount applicable to the program; providing an effective date.

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

Section 1. Paragraph (a) of subsection (5) of section 1002.395, Florida Statutes, is amended to read:

1002.395 Florida Tax Credit Scholarship Program.—

(5) SCHOLARSHIP FUNDING TAX CREDITS; LIMITATIONS.—

(a)1. The tax credit cap amount is \$250 million ~~\$140 million~~ in the 2012-2013 ~~2010-2011~~ state fiscal year.

2. In the 2012-2013 ~~2011-2012~~ state fiscal year and each state fiscal year thereafter, the tax credit cap amount is the tax credit cap amount in the prior state fiscal year. However, in any state fiscal year when the annual tax credit amount for the prior state fiscal year is equal to or greater than 90 percent of the tax credit cap amount applicable to that state fiscal year, the tax credit cap amount shall increase by 25 percent. The department shall publish on its website information identifying the tax credit cap amount when it is increased pursuant to this subparagraph.

Section 2. This act shall take effect July 1, 2012.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/9/2012
Meeting Date

Topic Tax Credit Scholarships

Bill Number 962
(if applicable)

Name Ryan West

Amendment Barcode _____
(if applicable)

Job Title Policy Director

Address 136 South Bronough St
Street

Phone 850 521-1257

Tallahassee, FL 32301
City State Zip

E-mail rwest@flchamber.com

Speaking: ☐ For ☐ Against ☐ Information

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/9/12
Meeting Date

Topic Tax Credit Sch Pay

Bill Number 962
(if applicable)

Name Jon Frank

Amendment Barcode _____
(if applicable)

Job Title General Counsel

Address 208 S. Monroe St

Phone 850-577-5784

Tallah FL 32301
City State Zip

E-mail Jon.Frank@flcourts.org

Speaking: ☐ For ☐ Against ☒ Information

Representing FAPSS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-9-12
Meeting Date

Topic Tax Credit Scholarship Bill Number SB 962
Name Lynda Russell Amendment Barcode _____
Job Title public school advocate (if applicable)
Address 213 S. Adams St. Phone 850-254-2028
City Tallahassee State FL Zip 32301 E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida Education Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

1/9/2012
Date

962
Bill Number

Barcode

Name Brian Pitts

Phone 727/897-9291

Address 1119 Newton Ave S.
Street

E-mail

St Petersburg FL 33705
City State Zip

Job Title Trustee

Speaking: ☒ For ☐ Against ☐ Information

Appearing at request of Chair ☐

Subject

Representing Justice-2-Jesus

Lobbyist registered with Legislature: ☐ Yes ☒ No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from _____ .m. to _____ .m.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-9-12
Meeting Date

Topic A tax credit scholarship

Bill Number SB962
(if applicable)

Name Gacey Webb

Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address 123 S. Adams St
Street
FL FL 32311
City State Zip

Phone 590-2766

E-mail Webb@sastrategy.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Student First

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-9-12

Meeting Date

Topic Florida Tax Credit Scholarship

Bill Number 962
(if applicable)

Name Patricia Levesque

Amendment Barcode _____
(if applicable)

Job Title Executive Director, Foundation for Florida's Future

Address 215 South Monroe Street
Street

Phone 850-391-3070

Tallahassee Fl 32302
City State Zip

E-mail patricia@afloridapromise.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Foundation for Florida's Future

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/9/12

Meeting Date

Topic Step up scholarship

Bill Number 962
(if applicable)

Name Elleton R. Collins

Amendment Barcode _____
(if applicable)

Job Title Parent of scholarship students

Address 4768 Woodville Hwy #412

Phone _____

Street

Tall

City

FL

State

32305

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)



The Foundation for Florida's Future

SB 962: Tax Credits for Contributions to Nonprofit Scholarship-funding Organizations By Senator Benacquisto

The Foundation for Florida's Future asks that you vote **YES** on SB 962 in the Senate Education Pre-K-12 Committee on January 9th. The bill allows for a one-time bump in the statewide tax credit cap to \$250 million in the Florida Tax Credit Scholarship Program. This increase will expand educational opportunities for 6,500 children of families with limited financial resources who would otherwise be turned away because of the cap.

Expanding Opportunity and Closing the Achievement Gap

As of November 2011, there are 37,578 scholarship recipients. At one point, the waiting list for students reached a high of 13,000 students. Of the 37,578 low-income students:

- 34.1% are African-American
- 34.5% are Hispanic and
- 25.2% are White

Approximately 60 percent of these students are living in single-parent homes. The average income of the families receiving scholarships is \$25,971, or 21% above the federal poverty line, with a household size of four.

Saving Florida Taxpayers Money

A March 2010 OPPAGA Research Memorandum estimates that the program saved \$36.2 million in Fiscal Year 2008-09. The scholarship funding organizations were able to fund 21,219 scholarships at the maximum amount per student funding. Approximately 95% of the scholarships went to students who would have attended public school otherwise, avoiding \$118.4 million in education spending through the Florida Education Finance Program (FEFP).

The bill will result in additional savings for the state's education budget at a time when the Legislature is forced to make cuts.

"I am the strongest possible supporter of public education. But I know that not every school works for every child."

- Senator Al Lawson

Your support of our legislative priorities will be reflected in the grade you earn on Florida's Education Report Card, slated for release following the 2012 Legislative Session. If you have any questions, please contact Joanna Hassell, Policy Analyst, at (850) 298-8571 or joanna@floridapromise.org.

Institute for School Innovation



- Non-profit educational institute
- Professional development & research
- Founded at Florida State University
- Served over 200,000 students since 1988
- Expanded into multiple states
- Documented results with all populations: Title One, urban, rural, ESOL, ESE

Project CHILD®



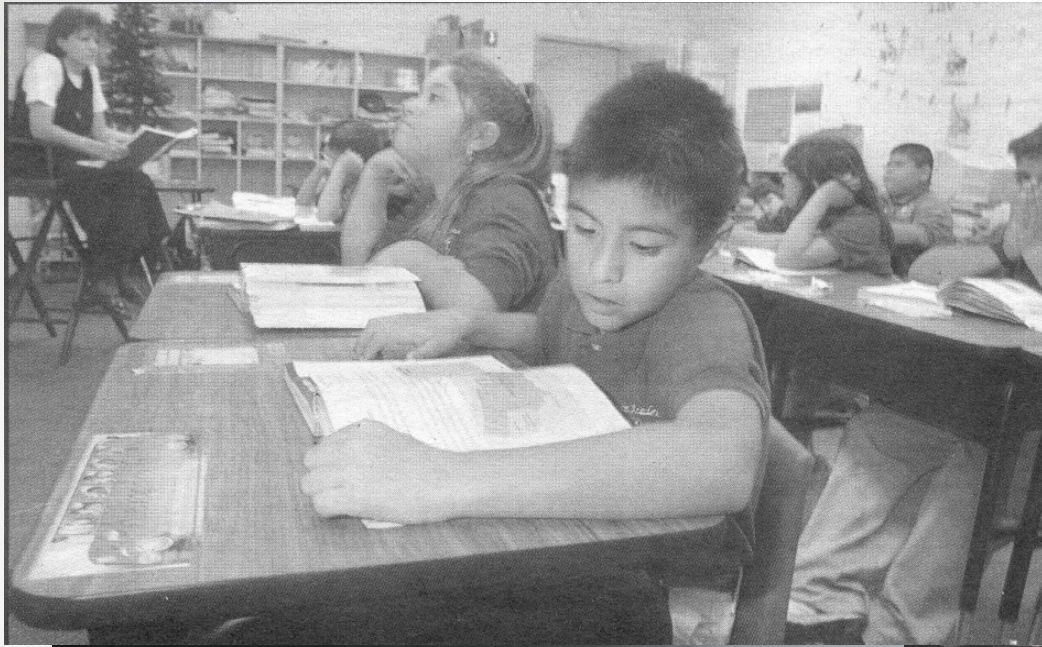
21st Century Innovative Model
Restructuring Schools
Successful Reform
Proven Efficacy
Inclusive



21st Century Children



21st Century Classrooms?



“If we teach today the way we taught yesterday, we rob children of tomorrow.”
John Dewey

Project CHILD transforms classrooms!



Ready for Real Transformation

- Restructure the elementary school.
- Succeed with traditionally marginalized students-
 - At Risk, Special Needs and Title One.
- Create positive & lasting relationships between teachers, children and family.
- Incorporate research-based elements:
 - looping
 - time & learning
 - specialization
 - small group learning
 - common core focus
 - differentiated instruction
 - technology integration

CHILD Fosters Effective Teachers

- Subject Experts
- Team Collaboration
- Multiple Years with Students
- Mentoring
- Peer Learning Communities



All Children Learn with CHILD!



Research and Sustainable Results

- CHILD students perform at higher levels on standardized tests.
- CHILD students have fewer discipline problems and fewer absentees.
- CHILD reduces achievement gaps, especially for minority and Title One students.
- CHILD parents report high rates of satisfaction.
- CHILD teachers report higher levels of job satisfaction.

South Heights Elementary

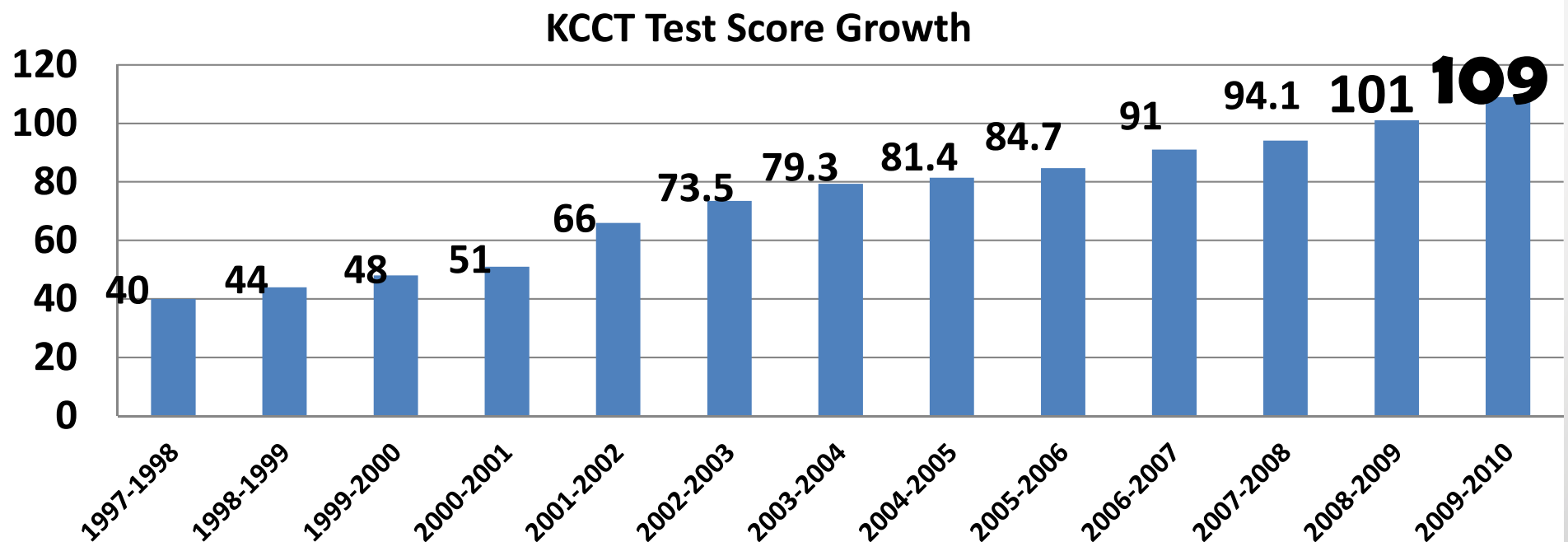
Henderson, KY

- 600 students (prek-5)
- 90% free and reduced rate
- 20% minority, 10% homeless
- In 2000, bottom 25 of all elementary schools in KY, in restructuring and began CHILD
- #684 out 700 elementary schools
- Poor reputation within community
- Dumping place for many “problem” teachers



South Heights Elementary 2011

- Top 8% of all elementary schools in the state of KY (#54/721)
- 69 point jump in academic index since 1998
- Turned down state Reading First grant to stay the course
- Won National School Change Award
- Featured in 2 books, several educational journal articles
- National Demonstration Site for Project CHILD
- Received multiple grants
- Presented nationally at several conferences: Model School Conference



Alliances



Panasonic
ideas for life

SAFARI
MONTAGE™

Institute for School Innovation

Dr. Larry Rosen
President & CEO
lrosen@ifsi.org

Winifred Jenkins-Rice
Vice President for Educational Programs
wrice@ifsi.org

www.ifsi.org

800-940-6985

630 Capital Circle NE Suite 3
Tallahassee, Florida 32301



THE FLORIDA SENATE

APPEARANCE RECORD

1/9/12

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic

REICHERT HOUSE

Bill Number

(if applicable)

Name

KEN VAN NORTWICK

Amendment Barcode

(if applicable)

Job Title

VOULTEER

Address

281 NW 46 TH ST

Phone

352-339-1746

Street

GAINESVILLE, FL 32607

City

State

Zip

E-mail

KEN@PROINK.COM

Speaking:



For



Against



Information

Representing

REICHERT HOUSE

Appearing at request of Chair:



Yes



No

Lobbyist registered with Legislature:



Yes



No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

Reichert House Youth Academy est. 1987



“Equipping Young Men For Life”

A Development Plan To Serve The Future

Our Mission

The Reichert House Youth Academy is a proactive program designed to give young men the opportunity to learn about themselves and their community via education. The cornerstone of the Reichert House program centers around three elements: respect, restraint and responsibility. The program helps youth develop, achieve and maintain a lifestyle free from substance abuse and crime. The Reichert House provides youth with the opportunity and support to build positive lives so they can move in to contributing roles in society.



HISTORY

- ★ The original Reichert House opened its doors in 1988. The program's first and only goal was to keep youth out of the Criminal Justice system.
- ★ At first, the program operated only one (1) day per week, serving approximately 15 youth from Public Housing communities.
- ★ The original partners were the Gainesville Housing Authority, the Gainesville Police Department,, the Black on Black Crime Task Force, and the Corner Drug Store.
- ★ The first program operated out of a community room in the Gainesville Public housing community.



HISTORY

- ★ When the program participants increased to 25 youth, we realized we had out-grown our present facility and needed additional space.
- ★ Then, we moved to a house leased to the City of Gainesville by the former State of Florida HRS.
- ★ The facility was only 800 Square Feet and had only one (1) bathroom!
- ★ With the assistance of a grant from the US Department of Justice's Office of Juvenile Justice and Delinquency, the Reichert House program expanded to include academic instruction and assisted with life skills training and other needed education.

HISTORY

Department of Corrections gathered inmates with certifications to assist with the construction of the new Reichert House, which would be over 7,000 sq. ft.



Current Locations



1704 SE 2nd Avenue



1734 SE 2nd Avenue

Enrollment

Elementary: 21 Middle: 64 High: 45

Requirements

Ages 11-18

**Enrolled in school or
pursuing GED**

3 of 5 risk factors

Risk Factors of OJJDP

•School

•Community

•Individual

Family

•Peer

❖ Zip codes with high juvenile arrest are 32641 and 32609, which makes up 60% of the Reichert House roster

Why a Reichert House?

- On school days the hours from 3:00pm to 6:00pm are the peak hours for juveniles to commit crimes, be victims of a crime, be in or cause a car crash, smoke, drink or use drugs, and/or engage in sexual activity. **Reichert House afterschool hours are from 1:45pm to 8:00pm.**
- Children who participate in high quality, constructive after-school programs demonstrate high school attendance and improved performance on standardized tests. **Due to our daily campus presence, school attendance is strong amongst our students, as well as overall academic success.**
- Teens that do not participate in an after school program are three times more likely to skip school, smoke marijuana, consume alcohol, drugs and engage in sexual activity. **Reichert House provides a safe place that offers positive, constructive activities to at-risk youth during afterschool hours.**
- Studies show that the positive benefits resulting from elementary age children's participation in quality after-school programs includes: better grades, work habits, emotional adjustment, peer relations, improvement in social skills, ability to maintain self-control and avoid conflicts and make constructive choices about their personal behavior. **The Reichert House began accepting elementary students due to the studies such as "Pipeline to Prison", which projects the probability of a student's criminal life based on 3rd Grade performance.**
- Research supports the relationship between a high quality after-school program and a decrease in crime, in other words High Quality After-school Programs Reduce Youth Crime. **The Reichert House has served as proven model of such research for over two decades in the state of Florida.**

The After school Hours in America Fact sheet. After school Alliance.

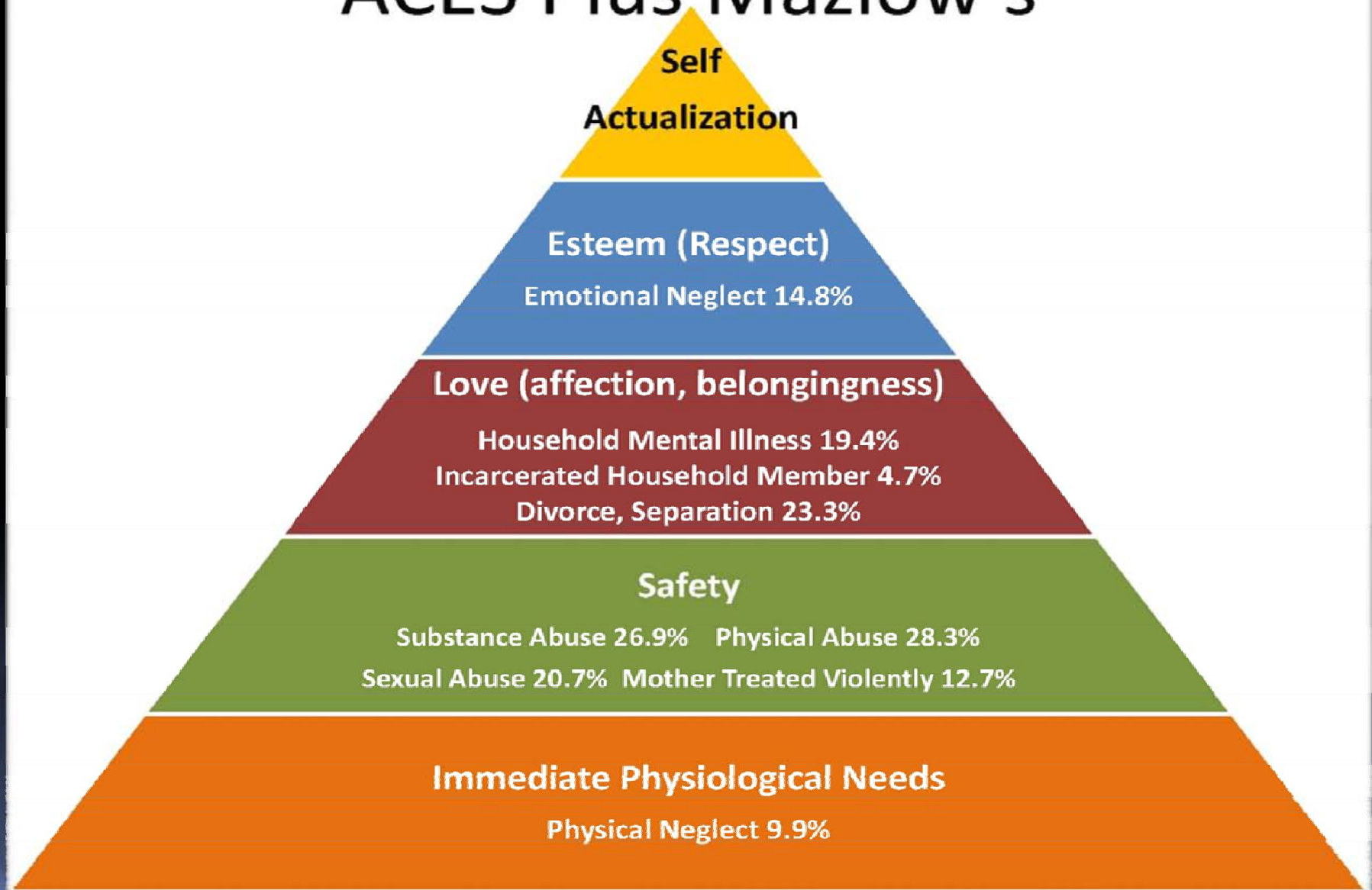
The Problem...



These are many contributing risk factors surrounding troubled youth in today's society. Without proper prevention and intervention, these youth are most likely to a life of crime, incarceration, or an early death. Reichert House students are more than likely to suffer from some of these problems, if not all.

The Problem...

ACES Plus Mazlow's



Academic Achievement Gap

Schott | FOUNDATION for PUBLIC EDUCATION



Florida's graduation rates for male students declined between the 2005/6 and 2007/8 school years. Black Male students in Florida in 2007/8 graduated at considerably lower rates than the national average, as they had in earlier years, as did the state's White Male students. Therefore, the racial gap is narrower in Florida than the national average. Between 60% and 80% of the Black Male students in the largest Florida districts do not graduate with their classes.

The *Benchmark* for graduation rates of Black Male students for states enrolling more than 10,000 Black students is 69% (New Jersey).

Location	Black Males	Graduation Rate 2007/8			Graduation Rate 2005/6		Change	
		Black Male	White Male	GAP	Black Male	White Male	Black Male	White Male
USA	4.2 mil.	47%	78%	31%	47%	75%	0%	3%
Florida	313,887	37%	57%	20%	38%	60%	-1%	-3%

Alachua County black male graduation rate is lower than the state and national average. The Reichert House exceeds both black male graduation rates by more than 50%.



The Problem...

Contributing factors often cited on the achievement gap:

- **Poor attendance**
- **Lack of medical/dental/vision care**
- **Poor nutrition**
- **High mobility**
- **Lack of parental involvement and/or education**
- **Fewer reading materials in the home**
- **Less exposure to a broad vocabulary**
- **Peer pressures against academic achievement**

Poverty and Homelessness



According to the Alachua County Health and Human Service Plan of 2005, 44.1% of children in area code 32641 lives in poverty. The same zip code has the highest concentration of crime, and the lowest academic achievement. **The Reichert House is located in the same zip code to be accessible to greatest population of need. The Reichert House's "holistic approach" breaks the generational correlation cycle between poverty, academic failure, and incarceration by providing an array of learning avenues such employability skills. Through strategic education efforts, academics of all sorts, including vocations, serves as our platform of success that will lead to a productive life as a contributing member of society, saving millions of taxpayers dollars every year.**

Reichert House

Case

Management

Plans

TRACT 1: Educational Services

Code

1-A

1-B

1-C

1-D

1-E

1-F

1-G

TRACT 2: Life Skills

Codes

2-A

2-B

2-C

2-D

2-E

2-F

TRACT 3: Pre-Employment Skill Training

Codes

3-A

3-B

3-C

3-D

3-E

3-F

TRACT 4: Occupational Skills

Codes	Courses
4-A	<u>Internship</u> – non-paid
4-B	<u>Internship</u> – paid employment opportunities
4-C	<u>Career Exploration</u> – provide on-the-job observation and guest speakers from various professions, job fairs
4-D	<u>Job Search Assistance</u> – upon completion of the program, assist students with finding immediate employment, college, military, trade or vo-tech education.

We track our student's progress throughout their duration of the program from the time they enter until they graduate and exit. Providing this form of Case Management allows the Reichert House to monitor the progress of measureable objectives set by the students, schools, parents, and Reichert House staff. Our case management system has proven to be an effective model for students' success in areas such as High School Graduation, Employment, and Personal Goal Setting.

EDUCATIONAL SERVICES PROVIDED

9 FTE Intervention Specialist Daily School Visits to check on students

Many of Intervention Specialist have office space on the campus

Staff attends school meetings, including Individual Education Plan meetings

Currently have 4 teachers providing supplemental curriculum on daily basis

Only afterschool program in county that provides Credit Retrieval

Provide daily tutorial sessions, including remedial one on one sessions



Provide financial assistance for ACT and SAT exams for college entrance



Reichert House has a 97% High School Graduation Rate



During the first 9 weeks of the 2011-2012 school year, 40 students earned a 3.0 or higher grade point average.

Disproportionate Minority Contact

Disproportionate Minority Contact (DMC): A core requirement of the Juvenile Justice and Delinquency Prevention Act (JJDP Act) that directs States to address juvenile delinquency prevention and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups who come into contact with the juvenile justice system.

<http://www.jjab.ky.gov/terms.htm>

2010 Alachua County Juvenile crime by race

2010 Crime Type	Black	Hispanic/Other	White	Number/% of Total
Property	215(62.5)	1	130	346/25%
BURGLARY	98 (72.5%)	0	37	135/9.7%
Drug	18	0	21	39
Drug Alcohol	3	0	6	9
Drug Marijuana	67 (53%)	3	56	126
DRUG TOTAL	88 (50.5%)	3	83	174/12.6%
OTHER	163 (82%)	0	36	199/14%
TRESPASS	37 (74%)	0	13	50/3.6%
PERSONAL	261 (70%)	4	106	371
Dom Violence	39	0	28	67
ROBBERY	12	0	1	13
SEX	5	0	14 (74%)	19
Crime involving GUN	8	0	0	8
TOTAL PERS CRIMES	325 (68%)	4	149	478/34.6%
Total	926 (67%)	7	448	1,382

Delinquency and Academic Correlation

Lunch Status Percentage free/reduced lunch 80%

Daily Attendance

- Range Number of total absences low = 2 high = 104
- Number of excused absences low = 0 high = 44
- Number of unexcused absences low = 2 high = 76

Percentage of students incurring 10 or fewer absences 33%

Percentage of students incurring 11-21 absences 34%

Percentage of students incurring 21 or more absences 33%

FCAT Achievement Levels

Reading (g3-10) Levels 1-2 = 63% Levels 3-5 = 37%

Math (g3-10) Levels 1-2 = 74% Levels 3-5 = 26%

Science (g5,8,11) Levels 1-2 = 88% Levels 3-5 = 13%

Writing (g4, 8,10) 1.0-3.0 = 13% 3.5-4.0 = 87% >4.5-6.0 = 0%

Discipline Events

87% of students incurred 1 or more discipline referrals. Total referrals = 1,157.

57% of students incurred 1 or more out-of-school suspensions.

Total number of out-of-school suspensions was 271.

Total number of days suspended was 868.

2010 Alachua County Juvenile crime by zip code

Zip Code	2009 Juvenile Offenses	2010 Juvenile Offenses
32601	141	116
32605	134	80
32606	66	72
32607	128	199
32608	135	97
32609	186	173
32615	61	72
32640	23	18
32641	326	239
32653	40	41
32669	39	36

Transportation



Children enrolled in the Reichert House program are picked up from their regular school at the conclusion of the school day and transported to the Reichert House. After programming, the children are transported home at the conclusion of the Reichert House activities. The vehicles and Staff are provided by the Gainesville Police Department and the Corner Drug Store.

Crime Free Success



86% of Reichert House Youth did not enter or re-enter into Department of Juvenile Justice while enrolled in the program during the 2010 calendar year



International Association of Chiefs of Police
Denver, Colorado

DENVER, COLORADO



**2009, #1 in the World for
Community Policing Model
for saving the state of
Florida over 11.5 million in
taxpayers dollars by keeping
at-risk youth out of
Department of Juvenile
Justice**

Mental and Physical Well Being

Conduct Disorder

Conduct disorder refers to a group of behavioral and emotional problems in youngsters. Children and adolescents with this disorder have a great difficulty following rules and behaving in a socially acceptable way. They are often viewed by other children, adults and social agencies as “bad” or delinquent, rather than mentally ill. Many factors may contribute to a child developing conduct disorder, including brain damage, child abuse, genetic vulnerability, school failure, and traumatic life experiences.

American Academy of Child and Adolescent Psychiatry



Clifford Miller Jr., 24, went on a shooting rampage on October 5, 2010, killing his father and wounding 5 others before killing himself. Miller suffered from Mental Health Issues

The Reichert House has Licensed Mental Health Counselors to provide treatment for all of our students in need

Provide wholesome meals and snacks to at-risk youth

Food Insecurity

"Limited or uncertain availability of nutritionally adequate and safe foods or limited or uncertain ability to acquire acceptable foods in socially acceptable ways"

Gainesville-Alachua County 2009 Hunger Abate Plan

STOP!

32641

44.1% children between ages of 0-17
lives in poverty

30% does not have a high school
diploma



Provide wholesome meals and snacks to at-risk youth

Reichert House Statistics

98% of participants qualifies for free and reduced lunch
60% of participants resides in 32641 and 32608



Frequency

Monday - Thursday, 90 at-risk students of the Reichert House receive a daily snack, and a full course meal. Meals are also prepared on Fridays and Saturdays for special programming.



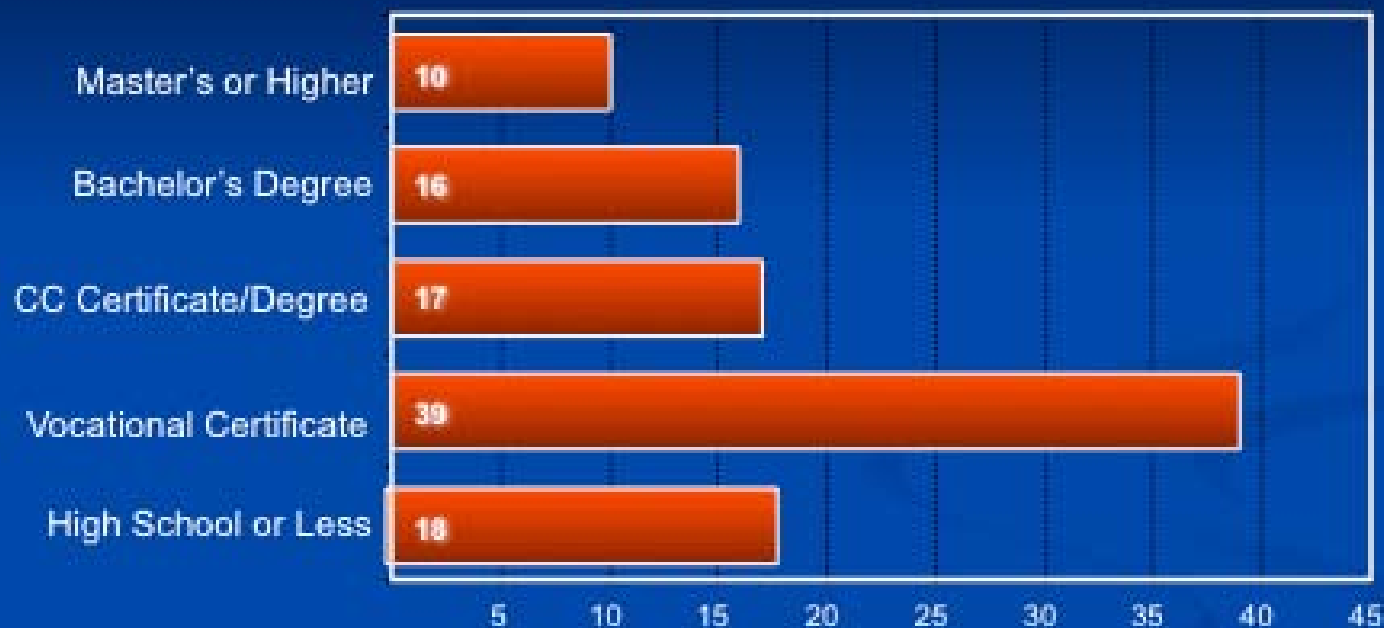
Vocations

- Of the 30 fastest growing job categories in the next decade, only 7 typically require a bachelor's degree
- Among the top 10 growing job categories, only two require bachelors degrees
- Half the jobs created in the next decade will be well matched with associates degrees or vocational/technical training (i.e. dental hygienist, nurses, carpenters, etc.)
- 83% of workers with associate degrees earn the same as workers with bachelors degrees



Vocations

Florida 100 Fastest Growing Occupations by Minimum Educational Requirements 2012



Source: Agency for Workforce Innovation, Labor Market Statistics



Vocations

- Phase in began last school year with 9th-graders, full implementation by 2013-14
- Students must take and pass Algebra 1 and 2, geometry, biology, chemistry or physics and another equally rigorous science course to graduate high school
- Students must pass new state tests in Algebra 1, geometry and biology
- Students must pass one online course
- Students must earn higher score on FCAT reading; equivalent to top 20-25% nationwide

Reichert House Entrepreneurship



Landscaping/Lawn Maintenance
20 students enrolled



Reichert House Café
22 students enrolled

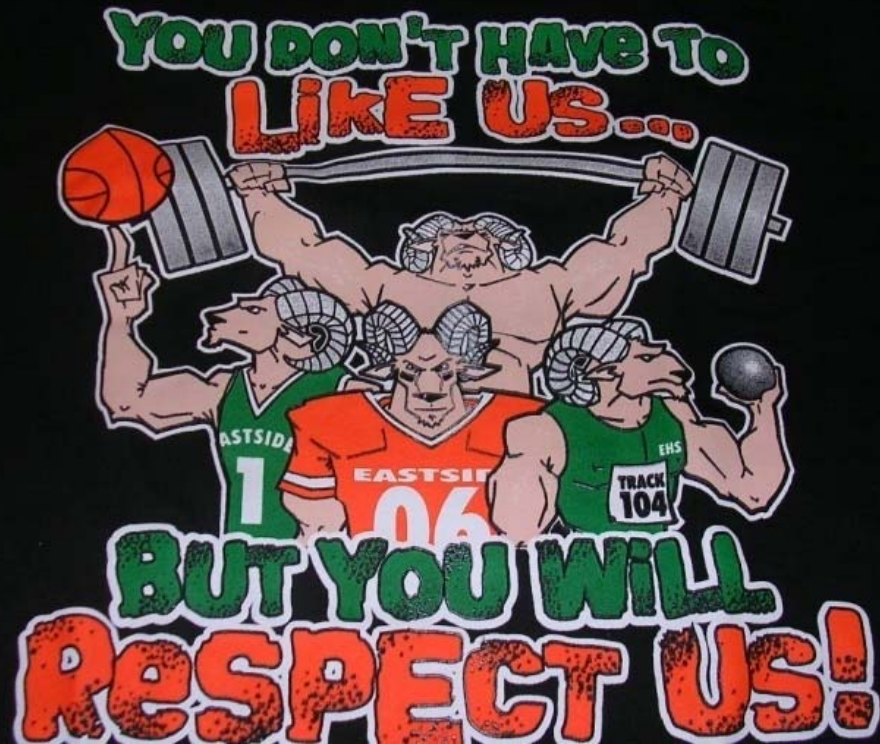


National Institute for Youth Entrepreneurship
9 Students enrolled



Reichert House Ice Cream Shop
Projected 45 students enrolled

Eric Chandler



- Santa Fe College Dual Enrollment Graduate
- Received A.A. Degree 2010
- Currently a Junior at University of Central Florida

Student Activities

- Jujitsu
- SIFE
- Culinary
- Landscaping
- Drumline
- Drama
- Chess Club
- Wilderness Survival
- Young Marines
- Aquatics
- Organized Sports
- Ambassadors
- Career Exploration
- Media Production

Parris Island, SC

Parris Island, SC

Annual Summer Encampment for Leadership



Request for Quantifiable Outcomes

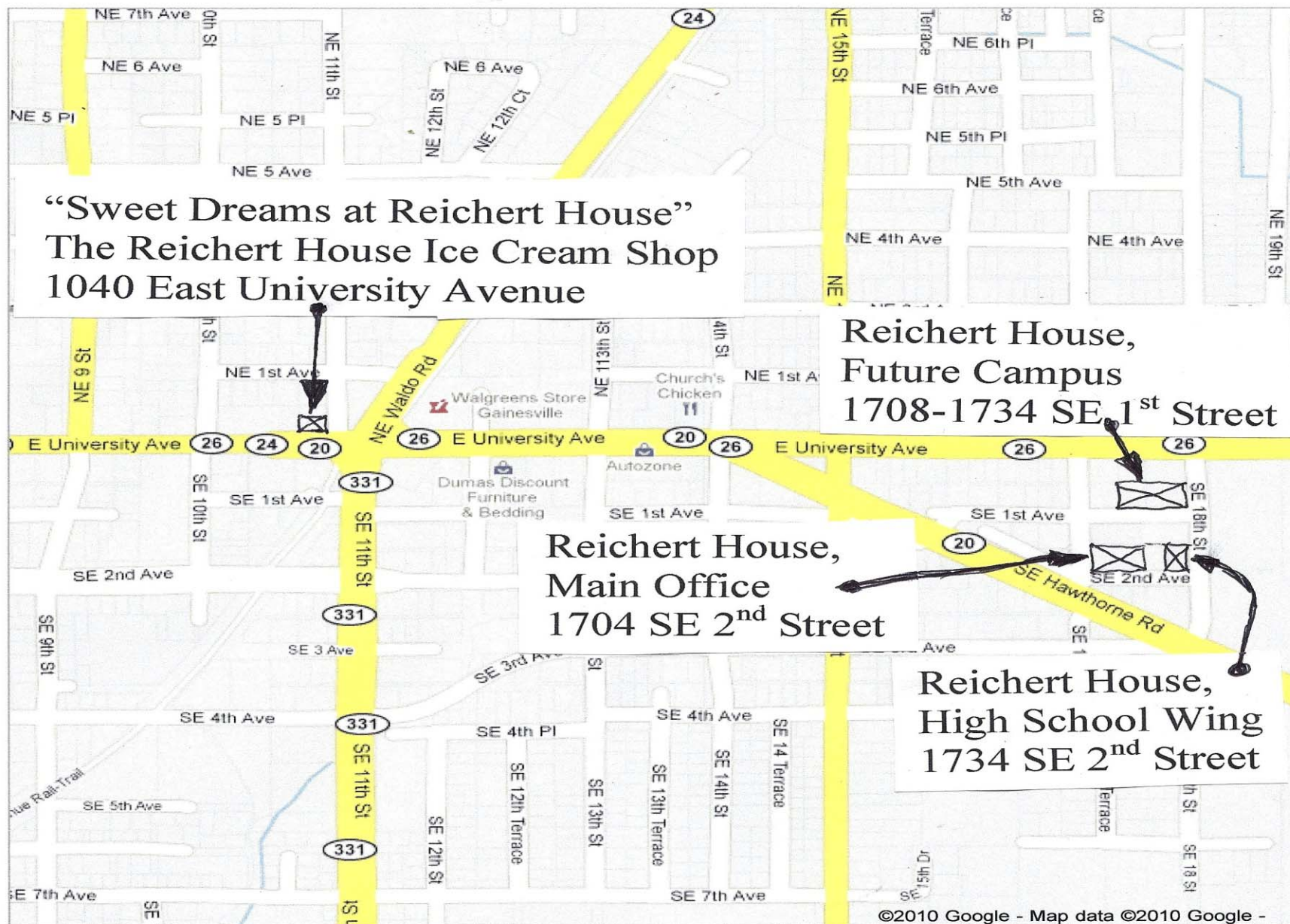
Transition

**Current Scholarship House
serving 3 students**

**Brave Overt Leaders of Distinction
B. O. L. D.**

The residence serves the mission by providing transitional resources such as housing, employment and case follow up, to young men who have graduated high school and still have apparent resource deficiencies, which is critical to low term stabilization. We project this to be a 10 year development project. The model will feature a residential component on the top level that will serve 60 youth, and 6 revenue generating businesses below where many of these students will gain employment experience

Reichert House Presence in East Gainesville



Expansion of Reichert House

Purchase and develop lot between current Reichert House buildings to provide additional classroom space for middle and elementary population.

Estimated Cost= \$500,000

Develop lot at SE 1703 into a non-adjudicated assessment center for at-risk youth and mental health services, along with referral services.

Estimated Cost = \$1 million

Purchase and develop a facility currently being used by our 18-24 population. The facility will offer vocational classes, parental classes, and serve as a community center.

Estimated Cost = \$1 million

Residential Facility

N.E. 1st Avenue

- 60 Bed facility to serve students under the age 18, with classroom space for high school students.

Estimated Cost of Project = 1.3 million



Summary of Request

Expansion for classroom = \$500,000

Non-adjudicated Assessment Center = \$1 million

Expansion of Vocational Program and continuum of care for 18-24 population = \$1 million

60 Bed Residential Facility = \$1.3 million

Annual Operating Cost (\$4,500 x 500 youth)=\$2.25 million

Total = \$6,050,000

Shifting The Fiscal Architecture

“Reclaiming Ohio”

Between 1992 -2009, the state of Ohio reduced the number of youth committed by 42%. For every dollar spent on the program, it saved the state between \$11-\$45.

“Redeploy Illinois”

By reducing the number of youth committed to programs by 25%, over \$18.7 million taxpayers dollars were saved.

“Wisconsin Youth Aids”

Redistributed \$26 million to local counties for community alternative programs. Between 1997 and 2006, commitments fell by 43%.



Taxpayers

NOT



Tax-takers



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Budget, *Chair*
Rules, *Vice Chair*
Agriculture
Banking and Insurance
Budget - Subcommittee on Finance and Tax
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations
Education Pre-K - 12
Rules - Subcommittee on Ethics and Elections

JOINT COMMITTEE:

Legislative Budget Commission, *Chair*

SENATOR JD ALEXANDER

17th District

January 6, 2012

Senator Stephen R. Wise, Chair
Committee on Education Pre-K-12
312 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Senator Wise,

I respectfully request permission to be absent from the Committee on Education Pre-K-12, Monday, January 9, 2012. I will not be able to attend this meeting.

Thank you for your approval in this request.

Sincerely,

A handwritten signature in black ink, appearing to read "JD Alexander".

JD Alexander
Senator, District 17

Xc: Lowell Matthews

A handwritten signature in black ink, appearing to read "Stephen R. Wise #5".

REPLY TO:

- ☐ 201 Central Avenue West, Suite 115, City Hall Complex, Lake Wales, Florida 33853 (863) 679-4847
- ☐ 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5044

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore