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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
06/01/2015	.	
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The Committee on Health Policy (Bean) recommended the following:

1 **Senate Amendment (with title amendment)**

2

3 Delete everything after the enacting clause

4 and insert:

5 Section 1. The Division of Law Revision and Information is

6 directed to rename part II of chapter 409, Florida Statutes, as

7 "Insurance Affordability Programs" and to incorporate ss.

8 409.72-409.731, Florida Statutes, under this part.

9 Section 2. Section 409.72, Florida Statutes, is created to

10 read:

11 409.72 Short title.—Sections 409.72-409.731 may be cited as

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12 the "Florida Health Insurance Affordability Exchange Program"
13 ("FHIX").
14 Section 3. Section 409.721, Florida Statutes, is created to
15 read:
16 409.721 Program authority.—The Florida Health Insurance
17 Affordability Exchange Program (FHIX) is created within the
18 Agency for Health Care Administration to assist Floridians in
19 purchasing health benefits coverage and gaining access to health
20 services. The products and services offered by FHIX are based on
21 the following principles:
22 (1) FAIR VALUE.—Financial assistance will be rationally
23 allocated regardless of differences in categorical eligibility.
24 (2) CONSUMER CHOICE.—Participants will be offered
25 meaningful choices in the way the participants can redeem the
26 value of the available assistance.
27 (3) SIMPLICITY.—Obtaining assistance will be consumer-
28 friendly, and customer support will be available when needed.
29 (4) PORTABILITY.—Participants can continue to access the
30 FHIX services and products despite changes in their
31 circumstances.
32 (5) EMPLOYMENT.—Assistance will be offered in a way that
33 incentivizes employment.
34 (6) CONSUMER EMPOWERMENT.—Assistance will be offered in a
35 manner that maximizes individual control over available
36 resources.
37 (7) RISK ADJUSTMENT.—The amount of assistance will reflect
38 participants' medical risk.
39 Section 4. Section 409.722, Florida Statutes, is created to
40 read:

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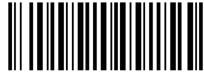
41 409.722 Definitions.—As used in ss. 409.72-409.731, the
42 term:
43 (1) "Agency" means the Agency for Health Care
44 Administration.
45 (2) "Applicant" means an individual who applies for
46 determination of eligibility for health benefits coverage under
47 this part.
48 (3) "Corporation" means Florida Health Choices, Inc., as
49 established under s. 408.910.
50 (4) "Enrollee" means a participant who has been determined
51 eligible for and is receiving health benefits coverage under
52 this part.
53 (5) "Federal exchange" or "exchange" means an insurance
54 platform regulated by the Federal Government which offers tiers
55 of health plans from the least comprehensive plan to the most
56 comprehensive plan.
57 (6) "FHIX marketplace" or "marketplace" means the single,
58 centralized market established under s. 408.910 which
59 facilitates health benefits coverage.
60 (7) "Florida Health Insurance Affordability Exchange
61 Program" or "FHIX" means the program created under ss. 409.72-
62 409.731.
63 (8) "Florida Healthy Kids Corporation" means the entity
64 created under s. 624.91.
65 (9) "Florida Kidcare program" or "Kidcare program" means
66 the health benefits coverage administered through ss. 409.810-
67 409.821.
68 (10) "Health benefits coverage" means the payment of
69 benefits for covered health care services or the availability,

 260258

70 directly or through arrangements with other persons, of covered
71 health care services on a prepaid per capita basis or on a
72 prepaid aggregate fixed-sum basis.
73 (11) "Inactive status" means the enrollment status of a
74 participant previously enrolled in health benefits coverage
75 through FHIX who lost coverage for noncompliance pursuant to s.
76 409.723, but who maintains access to his or her balance in a
77 health savings account or health reimbursement account.
78 (12) "Medicaid" means the medical assistance program
79 authorized by Title XIX of the Social Security Act, and
80 regulations thereunder, and parts III and IV of this chapter, as
81 administered in this state by the agency.
82 (13) "Modified adjusted gross income" means the
83 individual's or household's annual adjusted gross income, as
84 defined in s. 36B(d)(2) of the Internal Revenue Code of 1986,
85 which is used to determine eligibility for FHIX.
86 (14) "Patient Protection and Affordable Care Act" or
87 "Affordable Care Act" means Pub. L. No. 111-148, as amended by
88 the Health Care and Education Reconciliation Act of 2010, Pub.
89 L. No. 111-152, and regulations adopted pursuant to those acts.
90 (15) "Premium credit" means the monthly amount paid by the
91 agency per enrollee in the Florida Health Insurance
92 Affordability Exchange Program toward health benefits coverage.
93 (16) "Qualified alien" means an alien as defined in 8
94 U.S.C. s. 1641(b) or (c).
95 (17) "Resident" means a United States citizen or qualified
96 alien who is domiciled in this state.
97 Section 5. Section 409.723, Florida Statutes, is created to
98 read:

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99 409.723 Participation.—
100 (1) ELIGIBILITY.—To participate in FHIX, an individual must
101 be a resident and meet the following requirements, as
102 applicable:
103 (a) Qualify as a newly eligible enrollee, and be an
104 individual as described in s. 1902(a)(10)(A)(i)(VIII) of the
105 Social Security Act or s. 2001 of the Affordable Care Act and as
106 may be further defined by federal regulation.
107 (b) Meet and maintain the responsibilities under subsection
108 (4).
109 (c) Qualify for participation in the Florida Healthy Kids
110 program under s. 624.91, subject to the implementation of Phase
111 Two under s. 409.727.
112 (2) ENROLLMENT.—To enroll in FHIX, an applicant must submit
113 an application to the department for an eligibility
114 determination.
115 (a) Applications may be submitted online, or by mail,
116 facsimile, or any other method permitted by law or regulation.
117 (b) The department is responsible for any eligibility
118 correspondence and status updates to the participant and other
119 agencies.
120 (c) The department shall review a participant's eligibility
121 at least every 12 months.
122 (d) An application or renewal is deemed complete when the
123 participant has met all the requirements under subsection (4),
124 as applicable.
125 (3) PARTICIPANT RIGHTS.—A participant has all of the
126 following rights:
127 (a) Access to the FHIX marketplace or federal exchange to

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128 select the scope, amount, and type of health care coverage and
129 other services to be purchased.
130 (b) Continuity and portability of coverage to avoid
131 disruption of coverage and other health care services when the
132 participant's economic circumstances change.
133 (c) Retention of applicable unspent credits in the
134 participant's health savings or health reimbursement account
135 following a change in the participant's eligibility status.
136 Credits are valid for a participant in an inactive status for up
137 to 5 years after the participant's status first becomes
138 inactive.
139 (d) Ability to select more than one product or plan on the
140 FHIX marketplace or federal exchange.
141 (e) Choice of at least two health benefits products that
142 meet the requirements of the Affordable Care Act.
143 (4) PARTICIPANT RESPONSIBILITIES.—A participant must:
144 (a) Complete an initial application for health benefits
145 coverage and the annual renewal process.
146 (b) Provide evidence of participation in one or more of the
147 following activities at the levels required under paragraph (c):
148 1. Paid employment.
149 2. On the job training or job placement activities that are
150 validated through registration with CareerSource Florida.
151 3. Educational pursuits.
152
153 A participant who is a disabled adult or the caregiver of a
154 disabled child or adult may submit a request to the department
155 for an exception to the requirements in this paragraph. Such
156 participant shall annually submit to the department a request to

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157 renew the exception. The term “disabled” means any person who
158 has one or more permanent physical or mental impairments that
159 substantially limit his or her ability to perform one or more
160 major life activities of daily living, as defined by the
161 Americans with Disabilities Act, without receiving more than 8
162 hours of assistance per day.
163 (c) Engage in the activities required under paragraph (b)
164 at the following minimum levels:
165 1. For a parent of a child younger than 18 years of age, a
166 minimum of 20 hours weekly.
167 2. For a childless adult, a minimum of 30 hours weekly.
168 (d) Learn and remain informed about the choices available
169 in the FHIX marketplace or the federal exchange and the
170 allowable uses of credits in the individual accounts.
171 (e) Execute a contract with the department which
172 acknowledges that:
173 1. FHIX is not an entitlement and state and federal funding
174 may end at any time;
175 2. Failure to pay required premiums or cost sharing will
176 result in a transition to inactive status; and
177 3. Noncompliance with the participation requirements as
178 established under s. 409.723 will result in a transition to
179 inactive status.
180 (f) Select plans and other products in a timely manner.
181 (g) Comply with program rules and the prohibitions against
182 fraud, as described in s. 414.39.
183 (h) Timely make monthly premium and any other cost-sharing
184 payments.
185 (i) Meet minimum coverage requirements by selecting either

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186 a high-deductible health plan combined with a health savings or
187 a reimbursement account or a combination of plans or products
188 with an actuarial value that meets or exceeds benefits available
189 under the federal exchange.
190 (5) COST SHARING.—
191 (a) Enrollees are assessed monthly premiums based on their
192 modified adjusted gross income. The maximum monthly premium
193 payments are set at the following income levels:
194 1. At or below 22 percent of the federal poverty level: $3.
195 2. Greater than 22 percent, but at or below 50 percent, of
196 the federal poverty level: $8.
197 3. Greater than 50 percent, but at or below 75 percent, of
198 the federal poverty level: $15.
199 4. Greater than 75 percent, but at or below 100 percent, of
200 the federal poverty level: $20.
201 5. Greater than 100 percent of the federal poverty level:
202 $25.
203 (b) Depending on the products and services selected by the
204 enrollee, the enrollee may also incur additional cost sharing,
205 such as copayments, deductibles, or other out-of-pocket costs.
206 (c) An enrollee may be subject to charge for an
207 inappropriate emergency room visit of up to $8 for the first
208 visit and up to $25 for any subsequent visit, based on the
209 enrollee’s benefit plan, to discourage inappropriate use of the
210 emergency room.
211 (d) Cumulative annual cost sharing per enrollee may not
212 exceed 5 percent of an enrollee’s annual modified adjusted gross
213 income.
214 (e) If, after a 30-day grace period, a full premium payment

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215 has not been received, the enrollee shall be transitioned from
216 coverage to inactive status and may not reenroll for a minimum
217 of 6 months, unless a hardship exception has been granted.
218 Enrollees may seek a hardship exception under the Medicaid Fair
219 Hearing Process.
220 Section 6. Section 409.724, Florida Statutes, is created to
221 read:
222 409.724 Available assistance.—
223 (1) PREMIUM CREDITS.—
224 (a) *Standard amount*.—The standard monthly premium credit is
225 equivalent to the applicable risk-adjusted capitation rate paid
226 to Medicaid managed care plans under part IV of this chapter.
227 (b) *Supplemental funding*.—Subject to federal approval,
228 additional resources may be made available to enrollees and
229 incorporated into FHIX.
230 (c) *Savings accounts*.—In addition to the benefits provided
231 under this section, the corporation must offer each enrollee
232 access to an individual account that qualifies as a health
233 reimbursement account or a health savings account.
234 1. Unexpended Funds.—Eligible unexpended funds from the
235 monthly premium credit must be deposited into each enrollee's
236 individual account in a timely manner. Funds deposited into
237 these individual accounts may be used to pay cost-sharing
238 obligations or to purchase other health-related items to the
239 extent permitted under federal and state law.
240 2. Healthy Behaviors.—Enrollees may receive credits to
241 their individual accounts for healthy behaviors, adherence to
242 wellness programs, and other activities that demonstrate
243 compliance with prevention or disease management guidelines.

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244 3. Enrollee contributions.—The enrollee may make deposits
245 to his or her account at any time to supplement the premium
246 credit, to purchase additional FHIX products, or to offset other
247 cost-sharing obligations.
248 4. Third parties.—Third parties, including, but not limited
249 to, an employer or relative, may also make deposits on behalf of
250 the enrollee into the enrollee's FHIX marketplace account. The
251 enrollee may not withdraw any funds as a refund, except those
252 funds the enrollee has deposited into his or her account.
253 (2) CHOICE COUNSELING.—The agency, in consultation with the
254 Florida Healthy Kids Corporation and the corporation, shall
255 develop a choice counseling program for FHIX. The choice
256 counseling program must ensure that participants have
257 information about the FHIX marketplace program, the federal
258 exchange, products, and services and that participants know
259 where and whom to call for questions or to make their plan
260 selections. The choice counseling program must provide
261 culturally sensitive materials and must take into consideration
262 the demographics of the projected population.
263 (3) EDUCATION CAMPAIGN.—The agency, the corporation, and
264 the Florida Healthy Kids Corporation must coordinate in advance
265 of Phase One an ongoing education campaign to inform
266 participants, at a minimum, of the following:
267 (a) How the FHIX marketplace operates and the timeline for
268 enrollment.
269 (b) Plans that are available and how to find information
270 about these plans.
271 (c) Information about other available insurance
272 affordability programs for the participant and his or her

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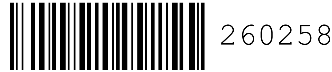
273 family.
274 (d) Information about health benefits coverage, provider
275 networks, and cost sharing for available plans in each region.
276 (e) Information on how to complete the required annual
277 renewal process, including renewal dates and deadlines.
278 (f) Information on how to update eligibility if the
279 participant's data have changed since his or her last renewal or
280 application date.
281 (4) CUSTOMER SUPPORT.—The Florida Healthy Kids Corporation
282 shall provide customer support for FHIX, including, but not
283 limited to, general program information, financial information,
284 and enrollee payments. Customer support must also provide a
285 toll-free telephone number and maintain a website that is
286 available in multiple languages and that meets the needs of the
287 enrollee population.
288 (5) INACTIVE PARTICIPANTS.—The corporation must inform the
289 inactive participant about other insurance affordability
290 programs and electronically refer the participant to the federal
291 exchange or other insurance affordability programs, as
292 appropriate.
293 Section 7. Section 409.725, Florida Statutes, is created to
294 read:
295 409.725 Available products and services.—The FHIX
296 marketplace shall offer the following products and services:
297 (1) Products and services authorized pursuant to s.
298 408.910.
299 (2) Products authorized by the federal exchange.
300 (3) Products authorized by the Florida Healthy Kids
301 Corporation pursuant to s. 624.91.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302 (4) Premium credits for participation in employer-sponsored
303 plans.
304 Section 8. Section 409.726, Florida Statutes, is created to
305 read:
306 409.726 Program accountability.—
307 (1) All managed care plans that participate in FHIX must
308 collect and maintain encounter level data in accordance with the
309 encounter data requirements under s. 409.967(2)(d) and are
310 subject to the accompanying penalties under s. 409.967(2)(h)2.
311 The agency is responsible for the collection and maintenance of
312 the encounter level data.
313 (2) The corporation, in consultation with the agency, shall
314 establish access and network standards for contracts on the FHIX
315 marketplace, shall ensure that contracted plans have sufficient
316 providers to meet enrollee needs, and shall develop quality of
317 coverage and provider standards specific to the adult
318 population.
319 (3) The department shall develop accountability measures
320 and performance standards to be applied to initial and renewal
321 FHIX applications that are submitted online, by mail, by
322 facsimile, or through referrals from a third party. The minimum
323 performance standards are:
324 (a) *Application processing speed.*—Ninety percent of all
325 applications, regardless of the method of submission, must be
326 processed within 45 days.
327 (b) *Application processing speed from online sources.*—
328 Ninety-five percent of all applications received from online
329 sources must be processed within 45 days.
330 (c) *Renewal application processing speed.*—Ninety percent of

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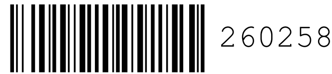
331 all renewals, regardless of the method of submission, must be
332 processed within 45 days.
333 (d) *Renewal application processing speed from online*
334 *sources.*—Ninety-five percent of all applications received from
335 online sources must be processed within 45 days.
336 (4) The agency, the department, and the Florida Healthy
337 Kids Corporation must meet the following standards for their
338 respective roles in the program:
339 (a) Eighty-five percent of calls must be answered in 20
340 seconds or less.
341 (b) All contacts, including, but not limited to, telephone
342 calls, faxed documents and requests, and e-mails, must be
343 handled within 2 business days.
344 (c) Any self-service tools available to participants, such
345 as interactive voice response systems, must be operational 7
346 days a week, 24 hours a day, at least 98 percent of each month.
347 (5) The agency, the department, and the Florida Healthy
348 Kids Corporation shall conduct an annual satisfaction survey to
349 address all measures that require participant input specific to
350 the FHIX marketplace program. The parties may elect to
351 incorporate these elements into the annual report required under
352 subsection (7).
353 (6) The agency and the corporation shall post online
354 monthly enrollment reports for FHIX.
355 (7) Beginning in 2016, an annual report is due no later
356 than July 1 to the Governor, the President of the Senate, and
357 the Speaker of the House of Representatives. The annual report
358 must be coordinated by the agency and the corporation and must
359 include at least the following: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360 (a) Enrollment and application trends and issues.
361 (b) Utilization and cost data.
362 (c) Customer satisfaction.
363 (d) Funding sources in health savings accounts or health
364 reimbursement accounts.
365 (e) Enrollee use of funds in health savings accounts or
366 health reimbursement accounts.
367 (f) Types of products and plans purchased.
368 (g) Movement of enrollees across different insurance
369 affordability programs.
370 (h) Recommendations for program improvement.
371 Section 9. Section 409.727, Florida Statutes, is created to
372 read:
373 409.727 Readiness review and implementation schedule.—The
374 agency, the corporation, the department, and the Florida Healthy
375 Kids Corporation shall begin implementation of FHIX on the
376 effective date of this act, with enrollment for Phase One
377 beginning by January 1, 2016.
378 (1) READINESS REVIEW.—Before implementation of any phase
379 under this part or in any region, the agency shall conduct a
380 readiness review in consultation with the FHIX Workgroup
381 established pursuant to s. 409.729. The agency shall determine,
382 at a minimum, the following readiness milestones:
383 (a) Functional readiness of the service delivery platform.
384 (b) Plan availability and presence of plan choice.
385 (c) Provider network capacity and adequacy of the available
386 plans.
387 (d) Availability of customer support.
388 (e) Other factors critical to the success of FHIX.

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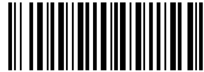
389 (2) PHASE ONE.—The agency, the corporation, and the Florida
390 Healthy Kids Corporation shall coordinate implementation
391 activities to ensure that enrollment begins by January 1, 2016,
392 and is available in all regions by July 1, 2016.
393 (a) Beginning no later than January 1, 2016, and contingent
394 upon federal approval, participants may enroll in health
395 benefits coverage under the FHIX marketplace or the federal
396 exchange, if eligible.
397 (b) To be eligible for enrollment during this phase, a
398 participant must meet the requirements under s. 409.723(1)(a)
399 and (b).
400 (c) An enrollee may select any benefit, service, or product
401 available in the region.
402 (d) The corporation shall notify an enrollee of his or her
403 premium credit amount and how to access the FHIX marketplace
404 selection process or the federal exchange.
405 (e) An enrollee must have a choice of at least two managed
406 care plans in each region which meet or exceed the Affordable
407 Care Act's requirements and which qualify for a premium credit
408 on the FHIX marketplace or federal exchange.
409 (f) Choice counseling and customer service must be provided
410 in accordance with s. 409.724(2) and (4).
411 (3) PHASE TWO.—
412 (a) No later than July 1, 2016, the corporation and the
413 Florida Healthy Kids Corporation shall begin the transition of
414 enrollees under s. 624.91 to the FHIX marketplace.
415 (b) Eligibility during this phase is based on meeting the
416 requirements of s. 409.723(1)(c) and (4).
417 (c) An enrollee may select any available benefit, service,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418 or product available under s. 409.725.
419 (d) A Florida Healthy Kids enrollee who selects a FHIX
420 marketplace plan or federal exchange plan shall be provided a
421 premium credit equivalent to the average capitation rate paid in
422 his or her county of residence under Florida Healthy Kids as of
423 June 30, 2016. The enrollee is responsible for any difference in
424 costs and may use any unexpended funds deposited in his or her
425 savings account under s. 409.724(1)(c) for supplemental benefits
426 on the FHIX marketplace or federal exchange.
427 (e) The corporation shall notify an enrollee of his or her
428 premium credit amount and how to access the FHIX marketplace
429 selection process or federal exchange.
430 (f) Choice counseling and customer service must be provided
431 in accordance with s. 409.724(2) and (4).
432 (g) Enrollees under s. 624.91 must transition to the FHIX
433 marketplace and coverage under s. 409.725 by September 30, 2016.
434 Section 10. Section 409.728, Florida Statutes, is created
435 to read:
436 409.728 Program operation and management.—In order to
437 implement ss. 409.72-409.731:
438 (1) The agency shall do all of the following:
439 (a) Contract with the corporation for the development,
440 implementation, and administration of the Florida Health
441 Insurance Affordability Exchange Program and for the release of
442 any federal, state, or other funds appropriated to the
443 corporation.
444 (b) Provide administrative support to the FHIX Workgroup
445 established pursuant to s. 409.729.
446 (c) Consult with stakeholders that serve low-income

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447 individuals and families during implementation, using a public
448 input process.
449 (d) Timely transmit enrollee information to the
450 corporation.
451 (e) Annually determine the risk-adjusted rate to be paid
452 per month based on historical utilization and spending data for
453 the medical and behavioral health of enrollee population,
454 projected forward, and adjusted to reflect the eligibility
455 category, medical and dental trends, geographic areas, and the
456 clinical risk profile of the enrollees.
457 (f) Transfer funds allocated for premium credits by General
458 Appropriations Act to the corporation.
459 (g) Adopt rules in coordination with the corporation and
460 the Florida Healthy Kids Corporation in order to implement FHIX,
461 including modifying existing rules implementing the Children's
462 Health Insurance Program and adapting adult focused provisions
463 for children to accommodate the seamless transition of Healthy
464 Kids enrollees to FHIX.
465 (2) The department shall, in coordination with the
466 corporation, the agency, and the Florida Healthy Kids
467 Corporation, determine eligibility of applications and
468 application renewals for FHIX in accordance with s. 409.902 and
469 shall transmit eligibility determination information on a timely
470 basis to the agency and corporation.
471 (3) The Florida Healthy Kids Corporation shall do all of
472 the following:
473 (a) Retain its duties and responsibilities under s. 624.91
474 during Phase One of the program.
475 (b) In coordination with the agency and the corporation,

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476 provide customer service for the FHIX marketplace.
477 (c) Transfer funds and provide financial support to the
478 FHIX marketplace, including the collection of monthly cost-
479 sharing payments.
480 (d) Conduct financial reporting related to such activities,
481 in coordination with the corporation and the agency.
482 (e) Coordinate program activities with the agency, the
483 department, and the corporation.
484 (4) Florida Health Choices, Inc., shall do all of the
485 following:
486 (a) Develop and maintain the FHIX marketplace.
487 (b) Implement and administer Phase One and Phase Two of the
488 FHIX marketplace and the ongoing operations of the program.
489 (c) Offer health benefits coverage packages on the FHIX
490 marketplace, including plans compliant with the Affordable Care
491 Act.
492 (d) Offer FHIX enrollees a choice of at least two plans per
493 county at each benefit level which meet the requirements under
494 the Affordable Care Act.
495 (e) Offer the opportunity to participate in the federal
496 exchange.
497 (f) Offer enhanced or customized benefits to FHIX
498 marketplace enrollees.
499 (g) Provide sufficient staff and resources to meet the
500 program needs of enrollees.
501 (h) Provide an opportunity for plans contracted with or
502 previously contracted with the Florida Healthy Kids Corporation
503 under s. 624.91 to participate with FHIX if those plans meet the
504 requirements of the program.

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505 (i) Encourage insurance agents licensed under chapter 626
506 to identify and assist enrollees. This act does not prohibit
507 these agents from receiving usual and customary commissions from
508 insurers and health maintenance organizations that offer plans
509 in the FHIX marketplace.
510 Section 11. Section 409.729, Florida Statutes, is created
511 to read:
512 409.729 Long-term reorganization.—The FHIX Workgroup is
513 created to facilitate the implementation of FHIX and to plan for
514 the reorganization of the state's insurance affordability
515 programs. The FHIX Workgroup consists of two representatives
516 each from the agency, the department, the Florida Healthy Kids
517 Corporation, and the corporation. An additional representative
518 of the agency serves as chair. The FHIX Workgroup must hold its
519 organizational meeting no later than 30 days after the effective
520 date of this act and must meet at least bimonthly. The role of
521 the FHIX Workgroup is to make recommendations to the agency. The
522 responsibilities of the workgroup include, but are not limited
523 to:
524 (1) Developing and presenting a final implementation plan
525 that meets the requirements of this part in a report submitted
526 to the Governor, the President of the Senate, and the Speaker of
527 the House of Representatives no later than November 1, 2015.
528 (2) Reviewing network and access standards for plans and
529 products.
530 (3) Assessing readiness and recommending actions needed to
531 reorganize the state's insurance affordability programs for each
532 phase or region. If a phase or region receives a nonreadiness
533 recommendation, the agency shall notify the Legislature of that

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534 recommendation, the reasons for such a recommendation, and
535 proposed plans for achieving readiness.
536 (4) Recommending any proposed change to the Title XIX-
537 funded or Title XXI-funded programs based on the continued
538 availability and reauthorization of the Title XXI program and
539 its federal funding.
540 (5) Identifying duplication of services by the corporation,
541 the agency, and the Florida Healthy Kids Corporation currently
542 and under FHIX's proposed Phase Two program.
543 (6) Evaluating any fiscal impacts based on the proposed
544 transition plan under Phase Two.
545 (7) Compiling a schedule of impacted contracts, leases, and
546 other assets.
547 (8) Determining staff requirements for Phase Two.
548 Section 12. Section 409.73, Florida Statutes, is created to
549 read:
550 409.73 Legislative Review.—The agency may seek federal
551 approval to implement FHIX as provided in ss. 409.72-409.731.
552 The agency is prohibited from implementing the FHIX waiver
553 without specific legislative approval unless the terms and
554 conditions of the approved waiver are substantially consistent
555 with the statutory requirements for this program.
556 Section 13. Section 409.731, Florida Statutes, is created
557 to read:
558 409.731 Program expiration.—The Florida Health Insurance
559 Affordability Exchange Program expires at the end of the state
560 fiscal year in which any of these conditions occurs:
561 (1) The federal match contribution for the newly eligible
562 under the Affordable Care Act falls below 90 percent.

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563 (2) The federal match contribution falls below the
564 increased Federal Medical Assistance Percentage for medical
565 assistance for newly eligible mandatory individuals as specified
566 in the Affordable Care Act.
567 (3) The federal match for the FHIX program and the Medicaid
568 program are blended under federal law or regulation in such a
569 manner that causes the overall federal contribution to diminish
570 when compared to separate, nonblended federal contributions.
571 Section 14. Section 408.70, Florida Statutes, is repealed.
572 Section 15. Section 408.910, Florida Statutes, is amended
573 to read:
574 408.910 Florida Health Choices Program.—
575 (1) LEGISLATIVE INTENT.—The Legislature finds that a
576 significant number of the residents of this state do not have
577 adequate access to affordable, quality health care. The
578 Legislature further finds that increasing access to affordable,
579 quality health care can be best accomplished by establishing a
580 competitive market for purchasing health insurance and health
581 services. It is therefore the intent of the Legislature to
582 create and expand the Florida Health Choices Program to:
583 (a) Expand opportunities for Floridians to purchase
584 affordable health insurance and health services.
585 (b) Preserve the benefits of employment-sponsored insurance
586 while easing the administrative burden for employers who offer
587 these benefits.
588 (c) Enable individual choice in both the manner and amount
589 of health care purchased.
590 (d) Provide for the purchase of individual, portable health
591 care coverage.

592 (e) Disseminate information to consumers on the price and
593 quality of health services.
594 (f) Sponsor a competitive market that stimulates product
595 innovation, quality improvement, and efficiency in the
596 production and delivery of health services.
597 (2) DEFINITIONS.—As used in this section, the term:
598 (a) “Corporation” means the Florida Health Choices, Inc.,
599 established under this section.
600 (b) “Corporation’s marketplace” means the single,
601 centralized market established by the program that facilitates
602 the purchase of products made available in the marketplace.
603 (c) “Florida Health Insurance Affordability Exchange
604 Program” or “FHIX” is the program created under ss. 409.72-
605 409.731 for low-income, uninsured residents of this state.
606 (d) ~~(c)~~ “Health insurance agent” means an agent licensed
607 under part IV of chapter 626.
608 (e) ~~(d)~~ “Insurer” means an entity licensed under chapter 624
609 which offers an individual health insurance policy or a group
610 health insurance policy, a preferred provider organization as
611 defined in s. 627.6471, an exclusive provider organization as
612 defined in s. 627.6472, ~~or~~ a health maintenance organization
613 licensed under part I of chapter 641, ~~or~~ a prepaid limited
614 health service organization or discount medical plan
615 organization licensed under chapter 636.
616 (f) “Patient Protection and Affordable Care Act” or
617 “Affordable Care Act” means Pub. L. No. 111-148, as further
618 amended by the Health Care and Education Reconciliation Act of
619 2010, Pub. L. No. 111-152, and regulations adopted pursuant to
620 those acts.

621 (g)~~(e)~~ “Program” means the Florida Health Choices Program
622 established by this section.
623 (3) PROGRAM PURPOSE AND COMPONENTS.—The Florida Health
624 Choices Program is created as a single, centralized market for
625 the sale and purchase of various products that enable
626 individuals to pay for health care. These products include, but
627 are not limited to, health insurance plans, health maintenance
628 organization plans, prepaid services, service contracts, and
629 flexible spending accounts. The components of the program
630 include:
631 (a) Enrollment of employers.
632 (b) Administrative services for participating employers,
633 including:
634 1. Assistance in seeking federal approval of cafeteria
635 plans.
636 2. Collection of premiums and other payments.
637 3. Management of individual benefit accounts.
638 4. Distribution of premiums to insurers and payments to
639 other eligible vendors.
640 5. Assistance for participants in complying with reporting
641 requirements.
642 (c) Services to individual participants, including:
643 1. Information about available products and participating
644 vendors.
645 2. Assistance with assessing the benefits and limits of
646 each product, including information necessary to distinguish
647 between policies offering creditable coverage and other products
648 available through the program.
649 3. Account information to assist individual participants

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650 with managing available resources.
651 4. Services that promote healthy behaviors.
652 5. Health benefits coverage information about health
653 insurance plans compliant with the Affordable Care Act.
654 6. Consumer assistance with web-based information services
655 for the Florida Health Insurance Affordability Exchange Program,
656 or ("FHIX").
657 (d) Recruitment of vendors, including insurers, health
658 maintenance organizations, prepaid clinic service providers,
659 provider service networks, and other providers.
660 (e) Certification of vendors to ensure capability,
661 reliability, and validity of offerings.
662 (f) Collection of data, monitoring, assessment, and
663 reporting of vendor performance.
664 (g) Information services for individuals and employers.
665 (h) Program evaluation.
666 (4) ELIGIBILITY AND PARTICIPATION.—Participation in the
667 program is voluntary and shall be available to employers,
668 individuals, vendors, and health insurance agents as specified
669 in this subsection.
670 (a) Employers eligible to enroll in the program include
671 those employers that meet criteria established by the
672 corporation and elect to make their employees eligible through
673 the program.
674 (b) Individuals eligible to participate in the program
675 include:
676 1. Individual employees of enrolled employers.
677 2. Other individuals that meet criteria established by the
678 corporation.

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679 (c) Employers who choose to participate in the program may
680 enroll by complying with the procedures established by the
681 corporation. The procedures must include, but are not limited
682 to:
683 1. Submission of required information.
684 2. Compliance with federal tax requirements for the
685 establishment of a cafeteria plan, pursuant to s. 125 of the
686 Internal Revenue Code, including designation of the employer’s
687 plan as a premium payment plan, a salary reduction plan that has
688 flexible spending arrangements, or a salary reduction plan that
689 has a premium payment and flexible spending arrangements.
690 3. Determination of the employer’s contribution, if any,
691 per employee, provided that such contribution is equal for each
692 eligible employee.
693 4. Establishment of payroll deduction procedures, subject
694 to the agreement of each individual employee who voluntarily
695 participates in the program.
696 5. Designation of the corporation as the third-party
697 administrator for the employer’s health benefit plan.
698 6. Identification of eligible employees.
699 7. Arrangement for periodic payments.
700 8. Employer notification to employees of the intent to
701 transfer from an existing employee health plan to the program at
702 least 90 days before the transition.
703 (d) All eligible vendors who choose to participate and the
704 products and services that the vendors are permitted to sell are
705 as follows:
706 1. Insurers licensed under chapter 624 may sell health
707 insurance policies, limited benefit policies, other risk-bearing

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708 coverage, and other products or services.
709 2. Health maintenance organizations licensed under part I
710 of chapter 641 may sell health maintenance contracts, limited
711 benefit policies, other risk-bearing products, and other
712 products or services.
713 3. Prepaid limited health service organizations may sell
714 products and services as authorized under part I of chapter 636,
715 and discount medical plan organizations may sell products and
716 services as authorized under part II of chapter 636.
717 4. Prepaid health clinic service providers licensed under
718 part II of chapter 641 may sell prepaid service contracts and
719 other arrangements for a specified amount and type of health
720 services or treatments.
721 5. Health care providers, including hospitals and other
722 licensed health facilities, health care clinics, licensed health
723 professionals, pharmacies, and other licensed health care
724 providers, may sell service contracts and arrangements for a
725 specified amount and type of health services or treatments.
726 6. Provider organizations, including service networks,
727 group practices, professional associations, and other
728 incorporated organizations of providers, may sell service
729 contracts and arrangements for a specified amount and type of
730 health services or treatments.
731 7. Corporate entities providing specific health services in
732 accordance with applicable state law may sell service contracts
733 and arrangements for a specified amount and type of health
734 services or treatments.
735
736 A vendor described in subparagraphs 3.-7. may not sell products

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737 that provide risk-bearing coverage unless that vendor is
738 authorized under a certificate of authority issued by the Office
739 of Insurance Regulation and is authorized to provide coverage in
740 the relevant geographic area. Otherwise eligible vendors may be
741 excluded from participating in the program for deceptive or
742 predatory practices, financial insolvency, or failure to comply
743 with the terms of the participation agreement or other standards
744 set by the corporation.
745 (e) Eligible individuals may participate in the program
746 voluntarily. Individuals who join the program may participate by
747 complying with the procedures established by the corporation.
748 These procedures must include, but are not limited to:
749 1. Submission of required information.
750 2. Authorization for payroll deduction, if applicable.
751 3. Compliance with federal tax requirements.
752 4. Arrangements for payment.
753 5. Selection of products and services.
754 (f) Vendors who choose to participate in the program may
755 enroll by complying with the procedures established by the
756 corporation. These procedures may include, but are not limited
757 to:
758 1. Submission of required information, including a complete
759 description of the coverage, services, provider network, payment
760 restrictions, and other requirements of each product offered
761 through the program.
762 2. Execution of an agreement to comply with requirements
763 established by the corporation.
764 3. Execution of an agreement that prohibits refusal to sell
765 any offered product or service to a participant who elects to

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766 buy it.
767 4. Establishment of product prices based on applicable
768 criteria.
769 5. Arrangements for receiving payment for enrolled
770 participants.
771 6. Participation in ongoing reporting processes established
772 by the corporation.
773 7. Compliance with grievance procedures established by the
774 corporation.
775 (g) Health insurance agents licensed under part IV of
776 chapter 626 are eligible to voluntarily participate as buyers'
777 representatives. A buyer's representative acts on behalf of an
778 individual purchasing health insurance and health services
779 through the program by providing information about products and
780 services available through the program and assisting the
781 individual with both the decision and the procedure of selecting
782 specific products. Serving as a buyer's representative does not
783 constitute a conflict of interest with continuing
784 responsibilities as a health insurance agent if the relationship
785 between each agent and any participating vendor is disclosed
786 before advising an individual participant about the products and
787 services available through the program. In order to participate,
788 a health insurance agent shall comply with the procedures
789 established by the corporation, including:
790 1. Completion of training requirements.
791 2. Execution of a participation agreement specifying the
792 terms and conditions of participation.
793 3. Disclosure of any appointments to solicit insurance or
794 procure applications for vendors participating in the program.

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795 4. Arrangements to receive payment from the corporation for
796 services as a buyer’s representative.
797 (5) PRODUCTS.—
798 (a) The products that may be made available for purchase
799 through the program include, but are not limited to:
800 1. Health insurance policies.
801 2. Health maintenance contracts.
802 3. Limited benefit plans.
803 4. Prepaid clinic services.
804 5. Service contracts.
805 6. Arrangements for purchase of specific amounts and types
806 of health services and treatments.
807 7. Flexible spending accounts.
808 (b) Health insurance policies, health maintenance
809 contracts, limited benefit plans, prepaid service contracts, and
810 other contracts for services must ensure the availability of
811 covered services.
812 (c) Products may be offered for multiyear periods provided
813 the price of the product is specified for the entire period or
814 for each separately priced segment of the policy or contract.
815 (d) The corporation shall provide a disclosure form for
816 consumers to acknowledge their understanding of the nature of,
817 and any limitations to, the benefits provided by the products
818 and services being purchased by the consumer.
819 (e) The corporation must determine that making the plan
820 available through the program is in the interest of eligible
821 individuals and eligible employers in the state.
822 (6) PRICING.—Prices for the products and services sold
823 through the program must be transparent to participants and

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824 established by the vendors. The corporation may ~~shall~~ annually
825 assess a surcharge for each premium or price set by a
826 participating vendor. Any ~~The~~ surcharge may not be more than 2.5
827 percent of the price and shall be used to generate funding for
828 administrative services provided by the corporation and payments
829 to buyers' representatives; however, a surcharge may not be
830 assessed for products and services sold in the FHIX marketplace.
831 (7) THE MARKETPLACE PROCESS.—The program shall provide a
832 single, centralized market for purchase of health insurance,
833 health maintenance contracts, and other health products and
834 services. Purchases may be made by participating individuals
835 over the Internet or through the services of a participating
836 health insurance agent. Information about each product and
837 service available through the program shall be made available
838 through printed material and an interactive Internet website.
839 (a) *Marketplace purchasing.*—A participant needing personal
840 assistance to select products and services shall be referred to
841 a participating agent in his or her area.
842 1. ~~(a)~~ Participation in the program may begin at any time
843 during a year after the employer completes enrollment and meets
844 the requirements specified by the corporation pursuant to
845 paragraph (4)(c).
846 2. ~~(b)~~ Initial selection of products and services must be
847 made by an individual participant within the applicable open
848 enrollment period.
849 3. ~~(c)~~ Initial enrollment periods for each product selected
850 by an individual participant must last at least 12 months,
851 unless the individual participant specifically agrees to a
852 different enrollment period.

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853 4. ~~(d)~~ If an individual has selected one or more products
854 and enrolled in those products for at least 12 months or any
855 other period specifically agreed to by the individual
856 participant, changes in selected products and services may only
857 be made during the annual enrollment period established by the
858 corporation.
859 5. ~~(e)~~ The limits established in subparagraphs 2., 3., and
860 4. ~~paragraphs (b)-(d)~~ apply to any risk-bearing product that
861 promises future payment or coverage for a variable amount of
862 benefits or services. The limits do not apply to initiation of
863 flexible spending plans if those plans are not associated with
864 specific high-deductible insurance policies or the use of
865 spending accounts for any products offering individual
866 participants specific amounts and types of health services and
867 treatments at a contracted price.
868 (b) *FHIX marketplace purchasing.*—
869 1. Participation in the FHIX marketplace may begin at any
870 time during the year.
871 2. Initial enrollment periods for certain products selected
872 by an individual enrollee which are noncompliant with the
873 Affordable Care Act may be required to last at least 12 months,
874 unless the individual participant specifically agrees to a
875 different enrollment period.
876 (8) CONSUMER INFORMATION.—The corporation shall:
877 (a) Establish a secure website to facilitate the purchase
878 of products and services by participating individuals. The
879 website must provide information about each product or service
880 available through the program.
881 (b) Inform individuals about other public health care

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882 programs.
883 (9) RISK POOLING.—The program may use methods for pooling
884 the risk of individual participants and preventing selection
885 bias. These methods may include, but are not limited to, a
886 postenrollment risk adjustment of the premium payments to the
887 vendors. The corporation may establish a methodology for
888 assessing the risk of enrolled individual participants based on
889 data reported annually by the vendors about their enrollees.
890 Distribution of payments to the vendors may be adjusted based on
891 the assessed relative risk profile of the enrollees in each
892 risk-bearing product for the most recent period for which data
893 is available.
894 (10) EXEMPTIONS.—
895 (a) Products, other than the products set forth in
896 subparagraphs (4)(d)1.-4., sold as part of the program are not
897 subject to the licensing requirements of the Florida Insurance
898 Code, as defined in s. 624.01 or the mandated offerings or
899 coverages established in part VI of chapter 627 and chapter 641.
900 (b) The corporation may act as an administrator as defined
901 in s. 626.88 but is not required to be certified pursuant to
902 part VII of chapter 626. However, a third-party ~~third party~~
903 administrator used by the corporation must be certified under
904 part VII of chapter 626.
905 (c) Any standard forms, website design, or marketing
906 communication developed by the corporation and used by the
907 corporation, or any vendor that meets the requirements of
908 paragraph (4)(f) is not subject to the Florida Insurance Code,
909 as established in s. 624.01.
910 (11) CORPORATION.—There is created the Florida Health

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911 Choices, Inc., which shall be registered, incorporated,
912 organized, and operated in compliance with part III of chapter
913 112 and chapters 119, 286, and 617. The purpose of the
914 corporation is to administer the program created in this section
915 and to conduct such other business as may further the
916 administration of the program.
917 (a) The corporation shall be governed by a 15-member board
918 of directors consisting of:
919 1. Three ex officio, nonvoting members to include:
920 a. The Secretary of Health Care Administration or a
921 designee with expertise in health care services.
922 b. The Secretary of Management Services or a designee with
923 expertise in state employee benefits.
924 c. The commissioner of the Office of Insurance Regulation
925 or a designee with expertise in insurance regulation.
926 2. Four members appointed by and serving at the pleasure of
927 the Governor.
928 3. Four members appointed by and serving at the pleasure of
929 the President of the Senate.
930 4. Four members appointed by and serving at the pleasure of
931 the Speaker of the House of Representatives.
932 5. Board members may not include insurers, health insurance
933 agents or brokers, health care providers, health maintenance
934 organizations, prepaid service providers, or any other entity,
935 affiliate, or subsidiary of eligible vendors.
936 (b) Members shall be appointed for terms of up to 3 years.
937 Any member is eligible for reappointment. A vacancy on the board
938 shall be filled for the unexpired portion of the term in the
939 same manner as the original appointment.

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940 (c) The board shall select a chief executive officer for
941 the corporation who shall be responsible for the selection of
942 such other staff as may be authorized by the corporation's
943 operating budget as adopted by the board.
944 (d) Board members are entitled to receive, from funds of
945 the corporation, reimbursement for per diem and travel expenses
946 as provided by s. 112.061. No other compensation is authorized.
947 (e) There is no liability on the part of, and no cause of
948 action shall arise against, any member of the board or its
949 employees or agents for any action taken by them in the
950 performance of their powers and duties under this section.
951 (f) The board shall develop and adopt bylaws and other
952 corporate procedures as necessary for the operation of the
953 corporation and carrying out the purposes of this section. The
954 bylaws shall:
955 1. Specify procedures for selection of officers and
956 qualifications for reappointment, provided that no board member
957 shall serve more than 9 consecutive years.
958 2. Require an annual membership meeting that provides an
959 opportunity for input and interaction with individual
960 participants in the program.
961 3. Specify policies and procedures regarding conflicts of
962 interest, including the provisions of part III of chapter 112,
963 which prohibit a member from participating in any decision that
964 would inure to the benefit of the member or the organization
965 that employs the member. The policies and procedures shall also
966 require public disclosure of the interest that prevents the
967 member from participating in a decision on a particular matter.
968 (g) The corporation may exercise all powers granted to it

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969 under chapter 617 necessary to carry out the purposes of this
970 section, including, but not limited to, the power to receive and
971 accept grants, loans, or advances of funds from any public or
972 private agency and to receive and accept from any source
973 contributions of money, property, labor, or any other thing of
974 value to be held, used, and applied for the purposes of this
975 section.
976 (h) The corporation may establish technical advisory panels
977 consisting of interested parties, including consumers, health
978 care providers, individuals with expertise in insurance
979 regulation, and insurers.
980 (i) The corporation shall:
981 1. Determine eligibility of employers, vendors,
982 individuals, and agents in accordance with subsection (4).
983 2. Establish procedures necessary for the operation of the
984 program, including, but not limited to, procedures for
985 application, enrollment, risk assessment, risk adjustment, plan
986 administration, performance monitoring, and consumer education.
987 3. Arrange for collection of contributions from
988 participating employers, third parties, governmental entities,
989 and individuals.
990 4. Arrange for payment of premiums and other appropriate
991 disbursements based on the selections of products and services
992 by the individual participants.
993 5. Establish criteria for disenrollment of participating
994 individuals based on failure to pay the individual’s share of
995 any contribution required to maintain enrollment in selected
996 products.
997 6. Establish criteria for exclusion of vendors pursuant to

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998 paragraph (4)(d).
999 7. Develop and implement a plan for promoting public
1000 awareness of and participation in the program.
1001 8. Secure staff and consultant services necessary to the
1002 operation of the program.
1003 9. Establish policies and procedures regarding
1004 participation in the program for individuals, vendors, health
1005 insurance agents, and employers.
1006 10. Provide for the operation of a toll-free hotline to
1007 respond to requests for assistance.
1008 11. Provide for initial, open, and special enrollment
1009 periods.
1010 12. Evaluate options for employer participation which may
1011 conform to ~~with~~ common insurance practices.
1012 13. Administer the Florida Health Insurance Affordability
1013 Exchange Program in accordance with ss. 409.72-409.731.
1014 14. Coordinate with the Agency for Health Care
1015 Administration, the Department of Children and Families, and the
1016 Florida Healthy Kids Corporation in developing and implementing
1017 the enrollee transition plan.
1018 15. Coordinate with the federal exchange to provide FHIX
1019 enrollees with the option of selecting plans from either the
1020 FHIX marketplace or the federal exchange.
1021 (12) REPORT.—The board of the corporation shall ~~Beginning~~
1022 ~~in the 2009-2010 fiscal year,~~ submit by February 1 an annual
1023 report to the Governor, the President of the Senate, and the
1024 Speaker of the House of Representatives documenting the
1025 corporation’s activities in compliance with the duties
1026 delineated in this section.

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1027 (13) PROGRAM INTEGRITY.—To ensure program integrity and to
1028 safeguard the financial transactions made under the auspices of
1029 the program, the corporation is authorized to establish
1030 qualifying criteria and certification procedures for vendors,
1031 require performance bonds or other guarantees of ability to
1032 complete contractual obligations, monitor the performance of
1033 vendors, and enforce the agreements of the program through
1034 financial penalty or disqualification from the program.
1035 (14) EXEMPTION FROM PUBLIC RECORDS REQUIREMENTS.—
1036 (a) *Definitions.*—For purposes of this subsection, the term:
1037 1. "Buyer's representative" means a participating insurance
1038 agent as described in paragraph (4)(g).
1039 2. "Enrollee" means an employer who is eligible to enroll
1040 in the program pursuant to paragraph (4)(a).
1041 3. "Participant" means an individual who is eligible to
1042 participate in the program pursuant to paragraph (4)(b).
1043 4. "Proprietary confidential business information" means
1044 information, regardless of form or characteristics, that is
1045 owned or controlled by a vendor requesting confidentiality under
1046 this section; that is intended to be and is treated by the
1047 vendor as private in that the disclosure of the information
1048 would cause harm to the business operations of the vendor; that
1049 has not been disclosed unless disclosed pursuant to a statutory
1050 provision, an order of a court or administrative body, or a
1051 private agreement providing that the information may be released
1052 to the public; and that is information concerning:
1053 a. Business plans.
1054 b. Internal auditing controls and reports of internal
1055 auditors.

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1056 c. Reports of external auditors for privately held
1057 companies.
1058 d. Client and customer lists.
1059 e. Potentially patentable material.
1060 f. A trade secret as defined in s. 688.002.
1061 5. “Vendor” means a participating insurer or other provider
1062 of services as described in paragraph (4)(d).
1063 (b) *Public record exemptions.*—
1064 1. Personal identifying information of an enrollee or
1065 participant who has applied for or participates in the Florida
1066 Health Choices Program is confidential and exempt from s.
1067 119.07(1) and s. 24(a), Art. I of the State Constitution.
1068 2. Client and customer lists of a buyer’s representative
1069 held by the corporation are confidential and exempt from s.
1070 119.07(1) and s. 24(a), Art. I of the State Constitution.
1071 3. Proprietary confidential business information held by
1072 the corporation is confidential and exempt from s. 119.07(1) and
1073 s. 24(a), Art. I of the State Constitution.
1074 (c) *Retroactive application.*—The public record exemptions
1075 provided for in paragraph (b) apply to information held by the
1076 corporation before, on, or after the effective date of this
1077 exemption.
1078 (d) *Authorized release.*—
1079 1. Upon request, information made confidential and exempt
1080 pursuant to this subsection shall be disclosed to:
1081 a. Another governmental entity in the performance of its
1082 official duties and responsibilities.
1083 b. Any person who has the written consent of the program
1084 applicant.

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1085 c. The Florida Kidcare program for the purpose of
1086 administering the program authorized in ss. 409.810-409.821.
1087 2. Paragraph (b) does not prohibit a participant’s legal
1088 guardian from obtaining confirmation of coverage, dates of
1089 coverage, the name of the participant’s health plan, and the
1090 amount of premium being paid.
1091 (e) *Penalty.*—A person who knowingly and willfully violates
1092 this subsection commits a misdemeanor of the second degree,
1093 punishable as provided in s. 775.082 or s. 775.083.
1094 (f) *Review and repeal.*—This subsection is subject to the
1095 Open Government Sunset Review Act in accordance with s. 119.15,
1096 and shall stand repealed on October 2, 2016, unless reviewed and
1097 saved from repeal through reenactment by the Legislature.
1098 Section 16. Subsection (2) of section 409.904, Florida
1099 Statutes, is amended to read:
1100 409.904 Optional payments for eligible persons.—The agency
1101 may make payments for medical assistance and related services on
1102 behalf of the following persons who are determined to be
1103 eligible subject to the income, assets, and categorical
1104 eligibility tests set forth in federal and state law. Payment on
1105 behalf of these Medicaid eligible persons is subject to the
1106 availability of moneys and any limitations established by the
1107 General Appropriations Act or chapter 216.
1108 (2) A family, a pregnant woman, a child under age 21, a
1109 person age 65 or over, or a blind or disabled person, who would
1110 be eligible under any group listed in s. 409.903(1), (2), or
1111 (3), except that the income or assets of such family or person
1112 exceed established limitations. For a family or person in one of
1113 these coverage groups, medical expenses are deductible from

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1114 income in accordance with federal requirements in order to make
1115 a determination of eligibility. A family or person eligible
1116 under the coverage known as the "medically needy," is eligible
1117 to receive the same services as other Medicaid recipients, with
1118 the exception of services in skilled nursing facilities and
1119 intermediate care facilities for the developmentally disabled.
1120 Effective July 1, 2016, persons eligible under "medically needy"
1121 shall be limited to children under 21 years of age and pregnant
1122 women. This subsection expires October 1, 2019.
1123 Section 17. Section 624.91, Florida Statutes, is amended to
1124 read:
1125 624.91 The Florida Healthy Kids Corporation Act.—
1126 (1) SHORT TITLE.—This section may be cited as the "William
1127 G. 'Doc' Myers Healthy Kids Corporation Act."
1128 (2) LEGISLATIVE INTENT.—
1129 (a) The Legislature finds that increased access to health
1130 care services could improve children's health and reduce the
1131 incidence and costs of childhood illness and disabilities among
1132 children in this state. Many children do not have comprehensive,
1133 affordable health care services available. It is the intent of
1134 the Legislature that the Florida Healthy Kids Corporation
1135 provide comprehensive health insurance coverage to such
1136 children. The corporation is encouraged to cooperate with any
1137 existing health service programs funded by the public or the
1138 private sector.
1139 (b) It is the intent of the Legislature that the Florida
1140 Healthy Kids Corporation serve as one of several providers of
1141 services to children eligible for medical assistance under Title
1142 XXI of the Social Security Act. Although the corporation may

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1143 serve other children, the Legislature intends the primary
1144 recipients of services provided through the corporation be
1145 school-age children with a family income below 200 percent of
1146 the federal poverty level, who do not qualify for Medicaid. It
1147 is also the intent of the Legislature that state and local
1148 government Florida Healthy Kids funds be used to continue
1149 coverage, subject to specific appropriations in the General
1150 Appropriations Act, to children not eligible for federal
1151 matching funds under Title XXI.
1152 (3) ELIGIBILITY FOR STATE-FUNDED ASSISTANCE.—Only residents
1153 of this state are eligible ~~the following individuals are~~
1154 ~~eligible~~ for state-funded assistance in paying Florida Healthy
1155 Kids premiums pursuant to s. 409.814.~~:~~
1156 ~~(a) Residents of this state who are eligible for the~~
1157 ~~Florida Kidcare program pursuant to s. 409.814.~~
1158 ~~(b) Notwithstanding s. 409.814, legal aliens who are~~
1159 ~~enrolled in the Florida Healthy Kids program as of January 31,~~
1160 ~~2004, who do not qualify for Title XXI federal funds because~~
1161 ~~they are not qualified aliens as defined in s. 409.811.~~
1162 (4) NONENTITLEMENT.—Nothing in this section shall be
1163 construed as providing an individual with an entitlement to
1164 health care services. No cause of action shall arise against the
1165 state, the Florida Healthy Kids Corporation, or a unit of local
1166 government for failure to make health services available under
1167 this section.
1168 (5) CORPORATION AUTHORIZATION, DUTIES, POWERS.—
1169 (a) There is created the Florida Healthy Kids Corporation,
1170 a not-for-profit corporation.
1171 (b) The Florida Healthy Kids Corporation shall:

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1172 1. Arrange for the collection of any individual, family,
1173 ~~local contributions,~~ or employer payment or premium, in an
1174 amount to be determined by the board of directors, to provide
1175 for payment of premiums for comprehensive insurance coverage and
1176 for the actual or estimated administrative expenses.
1177 2. Arrange for the collection of any voluntary
1178 contributions to provide for payment of Florida Kidcare program
1179 or Florida Health Insurance Affordability Exchange Program
1180 (FHIX) premiums ~~for children who are not eligible for medical~~
1181 ~~assistance under Title XIX or Title XXI of the Social Security~~
1182 ~~Act~~.
1183 3. ~~Subject to the provisions of s. 409.8134, accept~~
1184 ~~voluntary supplemental local match contributions that comply~~
1185 ~~with the requirements of Title XXI of the Social Security Act~~
1186 ~~for the purpose of providing additional Florida Kidcare coverage~~
1187 ~~in contributing counties under Title XXI.~~
1188 ~~4.~~ Establish the administrative and accounting procedures
1189 for the operation of the corporation.
1190 4.~~5.~~ Establish, with consultation from appropriate
1191 professional organizations, standards for preventive health
1192 services and providers and comprehensive insurance benefits
1193 appropriate to children, provided that such standards for rural
1194 areas shall not limit primary care providers to board-certified
1195 pediatricians.
1196 5.~~6.~~ Determine eligibility for children seeking to
1197 participate in the Title XXI-funded components of the Florida
1198 Kidcare program consistent with the requirements specified in s.
1199 409.814~~, as well as the non-Title-XXI-eligible children as~~
1200 ~~provided in subsection (3)~~.

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1201 6.~~7.~~ Establish procedures under which ~~providers of local~~
1202 ~~match to,~~ applicants to and participants in the program may have
1203 grievances reviewed by an impartial body and reported to the
1204 board of directors of the corporation.
1205 7.~~8.~~ Establish participation criteria and, if appropriate,
1206 contract with an authorized insurer, health maintenance
1207 organization, or third-party administrator to provide
1208 administrative services to the corporation.
1209 8.~~9.~~ Establish enrollment criteria that include penalties
1210 or waiting periods of 30 days for reinstatement of coverage upon
1211 voluntary cancellation for nonpayment of family or individual
1212 premiums.
1213 9.~~10.~~ Contract with authorized insurers or any provider of
1214 health care services, meeting standards established by the
1215 corporation, for the provision of comprehensive insurance
1216 coverage to participants. Such standards shall include criteria
1217 under which the corporation may contract with more than one
1218 provider of health care services in program sites.
1219 a. Health plans shall be selected through a competitive bid
1220 process. The Florida Healthy Kids Corporation shall purchase
1221 goods and services in the most cost-effective manner consistent
1222 with the delivery of quality medical care.
1223 b. The maximum administrative cost for a Florida Healthy
1224 Kids Corporation contract shall be 15 percent. For health and
1225 dental care contracts, the minimum medical loss ratio for a
1226 Florida Healthy Kids Corporation contract shall be 85 percent.
1227 The calculations must use uniform financial data collected from
1228 all plans in a format established by the corporation and shall
1229 be computed for each plan on a statewide basis. Funds shall be

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1230 classified in a manner consistent with 45 C.F.R. part 158 ~~For~~
1231 ~~dental contracts, the remaining compensation to be paid to the~~
1232 ~~authorized insurer or provider under a Florida Healthy Kids~~
1233 ~~Corporation contract shall be no less than an amount which is 85~~
1234 ~~percent of premium; to the extent any contract provision does~~
1235 ~~not provide for this minimum compensation, this section shall~~
1236 ~~prevail~~.
1237 c. The health plan selection criteria and scoring system,
1238 and the scoring results, shall be available upon request for
1239 inspection after the bids have been awarded.
1240 d. Effective July 1, 2016, health and dental services
1241 contracts of the corporation must transition to the FHIX
1242 marketplace under s. 409.722. Qualifying plans may enroll as
1243 vendors with the FHIX marketplace to maintain continuity of care
1244 for participants.
1245 10.~~11.~~ Establish disenrollment criteria in the event ~~local~~
1246 ~~matching~~ funds are insufficient to cover enrollments.
1247 11.~~12.~~ Develop and implement a plan to publicize the
1248 Florida Kidcare program, the eligibility requirements of the
1249 program, and the procedures for enrollment in the program and to
1250 maintain public awareness of the corporation and the program.
1251 12.~~13.~~ Secure staff necessary to properly administer the
1252 corporation. Staff costs shall be funded from state ~~and local~~
1253 ~~matching funds~~ and such other private or public funds as become
1254 available. The board of directors shall determine the number of
1255 staff members necessary to administer the corporation.
1256 13.~~14.~~ In consultation with the partner agencies, provide a
1257 report on the Florida Kidcare program annually to the Governor,
1258 the Chief Financial Officer, the Commissioner of Education, the

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1259 President of the Senate, the Speaker of the House of
1260 Representatives, and the Minority Leaders of the Senate and the
1261 House of Representatives.
1262 14.~~15.~~ Provide information on a quarterly basis online to
1263 the Legislature and the Governor which compares the costs and
1264 utilization of the full-pay enrolled population and the Title
1265 XXI-subsidized enrolled population in the Florida Kidcare
1266 program. The information, at a minimum, must include:
1267 a. The monthly enrollment and expenditure for full-pay
1268 enrollees in the Medikids and Florida Healthy Kids programs
1269 compared to the Title XXI-subsidized enrolled population; and
1270 b. The costs and utilization by service of the full-pay
1271 enrollees in the Medikids and Florida Healthy Kids programs and
1272 the Title XXI-subsidized enrolled population.
1273 15.~~16.~~ Establish benefit packages that conform to the
1274 provisions of the Florida Kidcare program, as created in ss.
1275 409.810-409.821.
1276 16. Contract with other insurance affordability programs to
1277 provide such services that are consistent with this act.
1278 17. Annually develop performance metrics for the following
1279 focus areas:
1280 a. Administrative functions.
1281 b. Contracting with vendors.
1282 c. Customer service.
1283 d. Enrollee education.
1284 e. Financial services.
1285 f. Program integrity.
1286 (c) Coverage under the corporation’s program is secondary
1287 to any other available private coverage held by, or applicable

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1288 to, the participant child or family member. Insurers under
1289 contract with the corporation are the payors of last resort and
1290 must coordinate benefits with any other third-party payor that
1291 may be liable for the participant’s medical care.
1292 (d) The Florida Healthy Kids Corporation shall be a private
1293 corporation not for profit, organized pursuant to chapter 617,
1294 and shall have all powers necessary to carry out the purposes of
1295 this act, including, but not limited to, the power to receive
1296 and accept grants, loans, or advances of funds from any public
1297 or private agency and to receive and accept from any source
1298 contributions of money, property, labor, or any other thing of
1299 value, to be held, used, and applied for the purposes of this
1300 act.
1301 (6) BOARD OF DIRECTORS AND MANAGEMENT SUPERVISION.—
1302 (a) The Florida Healthy Kids Corporation shall operate
1303 subject to the supervision and approval of a board of directors.
1304 The board chair shall be an appointee designated by the
1305 Governor, and the board shall be ~~chaired by the Chief Financial~~
1306 ~~Officer or her or his designee, and~~ composed of 12 other
1307 members. The Senate shall confirm the designated chair and other
1308 board appointees. The board members shall be appointed ~~selected~~
1309 for 3-year terms. ~~of office as follows:~~
1310 ~~1. The Secretary of Health Care Administration, or his or~~
1311 ~~her designee.~~
1312 ~~2. One member appointed by the Commissioner of Education~~
1313 ~~from the Office of School Health Programs of the Florida~~
1314 ~~Department of Education.~~
1315 ~~3. One member appointed by the Chief Financial Officer from~~
1316 ~~among three members nominated by the Florida Pediatric Society.~~

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1317 ~~4. One member, appointed by the Governor, who represents~~
1318 ~~the Children's Medical Services Program.~~
1319 ~~5. One member appointed by the Chief Financial Officer from~~
1320 ~~among three members nominated by the Florida Hospital~~
1321 ~~Association.~~
1322 ~~6. One member, appointed by the Governor, who is an expert~~
1323 ~~on child health policy.~~
1324 ~~7. One member, appointed by the Chief Financial Officer,~~
1325 ~~from among three members nominated by the Florida Academy of~~
1326 ~~Family Physicians.~~
1327 ~~8. One member, appointed by the Governor, who represents~~
1328 ~~the state Medicaid program.~~
1329 ~~9. One member, appointed by the Chief Financial Officer,~~
1330 ~~from among three members nominated by the Florida Association of~~
1331 ~~Counties.~~
1332 ~~10. The State Health Officer or her or his designee.~~
1333 ~~11. The Secretary of Children and Families, or his or her~~
1334 ~~designee.~~
1335 ~~12. One member, appointed by the Governor, from among three~~
1336 ~~members nominated by the Florida Dental Association.~~
1337 (b) A member of the board of directors shall be appointed
1338 by and serve at the pleasure of the Governor ~~may be removed by~~
1339 ~~the official who appointed that member~~. The board shall appoint
1340 an executive director, who is responsible for other staff
1341 authorized by the board.
1342 (c) Board members are entitled to receive, from funds of
1343 the corporation, reimbursement for per diem and travel expenses
1344 as provided by s. 112.061.
1345 (d) There shall be no liability on the part of, and no

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1346 cause of action shall arise against, any member of the board of
1347 directors, or its employees or agents, for any action they take
1348 in the performance of their powers and duties under this act.
1349 (e) Terms for board members appointed under this act are
1350 effective January 1, 2016.
1351 (7) LICENSING NOT REQUIRED; FISCAL OPERATION.—
1352 (a) The corporation shall not be deemed an insurer. The
1353 officers, directors, and employees of the corporation shall not
1354 be deemed to be agents of an insurer. Neither the corporation
1355 nor any officer, director, or employee of the corporation is
1356 subject to the licensing requirements of the insurance code or
1357 the rules of the Department of Financial Services. However, any
1358 marketing representative utilized and compensated by the
1359 corporation must be appointed as a representative of the
1360 insurers or health services providers with which the corporation
1361 contracts.
1362 (b) The board has complete fiscal control over the
1363 corporation and is responsible for all corporate operations.
1364 (c) The Department of Financial Services shall supervise
1365 any liquidation or dissolution of the corporation and shall
1366 have, with respect to such liquidation or dissolution, all power
1367 granted to it pursuant to the insurance code.
1368 (8) TRANSITION PLANS.—The corporation shall confer with the
1369 Agency for Health Care Administration, the Department of
1370 Children and Families, and Florida Health Choices, Inc., to
1371 develop transition plans for the Florida Health Insurance
1372 Affordability Exchange Program as created under ss. 409.72-
1373 409.731.
1374 Section 18. Section 624.915, Florida Statutes, is repealed.

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1375 Section 19. The Division of Law Revision and Information is
1376 directed to replace the phrase "the effective date of this act"
1377 wherever it occurs in this act with the date the act becomes a
1378 law.
1379 Section 20. If any law amended by this act was also amended
1380 by a law enacted at the 2015 Regular Session of the Legislature,
1381 such laws shall be construed as if they had been enacted at the
1382 same session of the Legislature, and full effect shall be given
1383 to each if possible.
1384 Section 21. This act shall take effect upon becoming a law.
1385
1386 ================= T I T L E A M E N D M E N T ================
1387 And the title is amended as follows:
1388 Delete everything before the enacting clause
1389 and insert:
1390 A bill to be entitled
1391 An act relating to the health insurance affordability
1392 exchange; providing a directive to the Division of Law
1393 Revision and Information; creating s. 409.72, F.S.;
1394 providing a short title; creating s. 409.721, F.S.;
1395 creating the Florida Health Insurance Affordability
1396 Exchange Program (FHIX) within the Agency for Health
1397 Care Administration; providing program authority and
1398 principles; creating s. 409.722, F.S.; defining terms;
1399 creating s. 409.723, F.S.; providing eligibility and
1400 enrollment criteria; providing patient rights and
1401 responsibilities; defining the term "disabled"
1402 providing premium levels; creating s. 409.724, F.S.;
1403 providing for premium credits and choice counseling;

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1404 establishing an education campaign; providing for
1405 customer support and disenrollment; creating s.
1406 409.725, F.S.; providing for available products and
1407 services; creating s. 409.726, F.S.; requiring the
1408 department to develop accountability measures and
1409 performance standards governing the administration of
1410 the program; creating s. 409.727, F.S.; providing for
1411 a readiness review and a two-phase implementation
1412 schedule; creating s. 409.728, F.S.; providing program
1413 operation and management duties; creating s. 409.729,
1414 F.S.; providing for the development of a long-term
1415 reorganization plan and the formation of the FHIX
1416 Workgroup; creating s. 409.73, F.S.; authorizing the
1417 agency to seek federal approval; prohibiting the
1418 agency from implementing the FHIX waiver under certain
1419 circumstances; creating s. 409.731, F.S.; providing
1420 for program expiration; repealing s. 408.70, F.S.,
1421 relating to legislative findings regarding access to
1422 affordable health care; amending s. 408.910, F.S.;
1423 revising legislative intent; redefining terms;
1424 revising the scope of the Florida Health Choices
1425 Program and the pricing of services under the program;
1426 providing requirements for operation of the
1427 marketplace; providing additional duties for the
1428 corporation to perform; requiring an annual report to
1429 the Governor and the Legislature; amending s. 409.904,
1430 F.S.; limiting eligible persons in the Medically Needy
1431 program to those under the age of 21 and pregnant
1432 women, and specifying an effective date; providing an

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1433 expiration date for the program; amending s. 624.91,
1434 F.S.; revising eligibility requirements for state-
1435 funded assistance; revising the duties and powers of
1436 the Florida Healthy Kids Corporation; revising
1437 provisions for the appointment of members of the board
1438 of the Florida Healthy Kids Corporation; requiring
1439 transition plans; repealing s. 624.915, F.S., relating
1440 to the operating fund of the Florida Healthy Kids
1441 Corporation; providing a directive to the Division of
1442 Law Revision and Information; providing for
1443 construction of the act in pari materia with laws
1444 enacted during the 2015 Regular Session of the
1445 Legislature; providing an effective date.