



**Report and Recommendations
of the Florida TaxWatch
Government Cost Savings Task Force
for Fiscal Year 2011-12**



December 2010



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Government Cost Savings Task Force

The Florida TaxWatch Government Cost Savings Task Force for FY2011-12

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Government Cost Savings Task Force

The following Florida TaxWatch staff devoted their professional and administrative skills and experience to the Government Cost Savings Task Force for FY2011-12, under the direction of **Dominic M. Calabro, President and CEO**:

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Florida TaxWatch thanks the many dedicated Florida state employees, across state agencies for their tremendous assistance in gathering the critical data, information, and necessary feedback to support this initiative.

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AT&T

Capital Health Plans

Communications International, Inc.

David A. Smith

Dominic & Debbie Calabro

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State Farm Companies and State Farm Companies

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Government Cost Savings Task Force

Table of Contents

Executive Summary

Pg. *i*

Introduction

Pg. *v*

<u>Chapter 1: Pension Reform</u>				
	<i>Report</i>			Pg. 2-18
	<i>Recommendations</i>	Lower Savings Estimate (\$millions)	Upper Savings Estimate (\$millions)	
1)	Eliminate or Reduce DB Plan and Concurrently Increase Utilization of DC Plan	-	-	Pg. 19
A.	Eliminate defined benefit (DB) plan and switch all FRS members to defined contribution (DC) plan	-	\$337.00	
B.	Reduce defined benefit contribution and offer optional matching defined contribution supplement	\$170.00	-	
2)	Require FRS members to contribute to their retirement plans	\$281.00	\$281.00	Pg. 20
3)	Consolidate employee retirement classes into two classes	\$359.00	\$359.00	Pg. 21
4)	Limit Special Risk class membership within law enforcement, firefighters, and corrections officers	\$8.00	\$8.00	Pg. 21
5)	Increase vesting period for FRS Pension Plan from six to 10 years	\$16.00	\$16.00	Pg. 22
6)	Reform the methodology used in calculating average final compensation (AFC)	\$50.00	\$50.00	Pg. 22
A.	Use only base salary earnings when calculating the AFC	-	-	
B.	Place a cap on the AFC so that the five highest earning years do not exceed a certain limit to avoid abuse of the system	-	-	

C.	Increase the number of years used to calculate AFC or use lifetime average salary	-	-	
7)	Increase the normal retirement age (and minimum required years of service accordingly) for “regular” and “special risk administrative support” employee classes	N/A	N/A	Pg. 23
A.	Regular, Senior Management Services, Elected Officers Class Members	-	-	
B.	Special Risk, Special Risk Administrative Support Class Members	-	-	
8)	Tie automatic COLA increase for public pension recipients to inflation with a 3% ceiling	\$135.00	\$135.00	Pg. 24
9)	Eliminate Health Insurance Subsidy (HIS) for FRS members	\$50.00	\$50.00	Pg. 24
10)	Reform or eliminate the Deferred Retirement Option Program (DROP)	-	-	Pg. 25
A.	Reduce annual guaranteed rate of return for DROP participants from 6.5% to 3.0%	N/A	N/A	
B.	Require Governor’s approval to rehire of individuals who have completed DROP	N/A	N/A	
C.	Eliminate HIS for DROP participants and retirees who resume active employment with an FRS employer	\$0.50	\$0.50	
D.	Eliminate DROP	\$10.00	\$10.00	
	Chapter Total:	\$1,079.50	\$1,246.50	

Chapter 2: Justice Reform

	<i>Report</i>			Pg. 29-44
	<i>Recommendations</i>	Lower Savings Estimate (\$millions)	Upper Savings Estimate (\$millions)	
Section I: Big Picture Recommendations				
11)	Create a commission to do a top to bottom review of the criminal justice system and Corrections	N/A	N/A	Pg. 45
12)	Establish an independent oversight body over the Department of Corrections and Department of Juvenile Justice	N/A	N/A	Pg. 46
13)	Develop risk/needs assessment and cost-analysis tools to be used at the time of sentencing (Missouri model).	N/A	N/A	Pg. 47

Section II: Cost-savings Recommendations related to People Convicted of Low-Level Offenses/Short-term Sentences				
14)	Require written justification for state prison sentences given to individuals with low sentencing scores – 44 or less (currently 22 or less)	\$1.60	\$31.40	Pg. 50
15)	Incentivize localities for reducing their rates of state incarceration and increasing local alternatives	\$2.60	\$51.30	Pg. 51
16)	Align Florida's Marijuana and Cocaine Possession Law With Texas and Other Similar States	\$6.70	\$21.20	Pg. 53
17)	Update value thresholds for property felonies	\$0.30	\$0.30	Pg. 54
18)	Amend the driving with a suspended license law to reduce the penalty from felony to misdemeanor when the reason for the suspension is inability to pay a financial obligation	\$0.18	\$0.18	Pg. 55
19)	Expand electronic monitoring as an alternative to state prison sentences.	\$1.14	\$43.78	Pg. 56
20)	Expand adult post-adjudicatory drug courts	N/A	N/A	Pg. 57
Section III: Recommendations relating to Incarceration, Release, Supervision, and Reducing Recidivism				
21)	Institute adult post-incarceration drug courts	N/A	N/A	Pg. 58
22)	Increase the maximum gain-time accrual allowed	\$1.38	\$53.00	Pg. 59
23)	Authorize the possibility of parole for certain elderly offenders	\$0.17	\$2.60	Pg. 60
24)	Expand prison work release programs	\$0.54	\$20.89	Pg. 61
25)	Expand sound prison-based programs that reduce recidivism	N/A	N/A	Pg. 63
A.	Expand Evidence-based Substance Abuse Treatments	-	-	
B.	Expand Evidence-based Mental Health Treatments	-	-	
C.	Expand Evidence-based Literacy, Education, and Vocational Training	-	-	
D.	Expand Life Management Skills Training	-	-	
E.	Expand Faith-and-Character-based Prisons	-	-	
F.	Help Inmates Apply for Medicaid, Social Security Income, and Veterans Benefits Prior to Release	-	-	
26)	Review and revise state-created employment restrictions based on criminal records	N/A	N/A	Pg. 66
27)	Expand the Florida Accountability Initiative for Responsible (FAIR) Probation	N/A	N/A	Pg. 67
28)	Expand Veterans Courts	N/A	N/A	Pg. 68
29)	Reduce Cost of Inmate Hospitalization (in non-DOC hospitals)	N/A	N/A	Pg. 69

Section IV: Recommendations related to Juveniles in the Justice System				
30)	Comprehensively Review and Implement Blueprint Commission Recommendations	N/A	N/A	Pg. 70
31)	Study the Effects of Barring Commitment of Misdemeanants to State Custody	\$30.00	\$30.00	Pg. 71
32)	Expand the Redirection program to avoid custodial care of juveniles	N/A	N/A	Pg. 71
33)	Expand the use of juvenile civil citations	\$44.00	\$139.00	Pg. 72
34)	Increase operational efficiencies and public safety by aligning the average length of stay by delinquents with best practices in residential facilities	N/A	N/A	Pg. 73
Chapter Total:		\$88.61	\$393.65	

Chapter 3: Medicaid Reform				
	Report			Pg. 77-84
	Recommendations	Lower Savings Estimate (\$millions)	Upper Savings Estimate (\$millions)	
35)	Expand Medicaid Managed Care	\$26.00	\$43.00	Pg. 85
36)	Implement Medicaid statewide integrated managed care	N/A	N/A	Pg. 85
37)	Medicaid Patient Centered Medical Home	\$100.00	\$100.00	Pg. 86
38)	Medicaid managed long-term care	\$11.50	\$11.50	Pg. 86
39)	Managed care - Medicare special needs plans (SNPs)	\$22.90	\$22.90	Pg. 87
40)	Reduce Medicaid fraud and abuse	\$42.30	\$42.30	Pg. 88
A.	Managed Care Fraud Controls – enhance fraud and abuse reporting requirements for managed care plans and increase monitoring by the agency.	-	-	
B.	Site Visit Verification – require site visits as a requirement prior to enrollment in the Medicaid program.	-	-	
C.	Criminal and Administrative Sanctions – continue to implement increased criminal and administrative sanctions for providers that have committed Medicaid fraud and abuse.	-	-	
D.	Pre-payment review/Correct Coding Initiative (CCI) – require enhanced prepayment review including the implementation of a comprehensive correct coding initiative to prevent the payment of inappropriate claims.	-	-	

E.	Recovery Audit Contractors (RAC) – implement a post adjudication process that identifies areas for further investigation and the use of recovery audit contractors to investigate and assist the agency in recovering inappropriate payments.	-	-	
F.	Evaluation and Management Codes – require additional review and edits prior to payment of claims for extended and comprehensive coding levels.	-	-	
G.	Additional Surety Bonds – further increase the types of providers that would be required to post a surety bond prior to enrollment in to the Medicaid program.	-	-	
H.	Establish a reward for identifying and/or reporting fraud	-	-	
I.	Implement a moratorium on new home health and durable medical equipment providers	-	-	
J.	Increase use of predictive modeling to identify fraud	-	-	
41)	Alternatives to Medicaid provider rate reductions	-	-	Pg. 90
A.	Medicaid provider assessments	\$71.50	\$71.50	
B.	Medicaid co-payments	\$3.90	\$3.90	
42)	Mitigate the effect of Medicaid provider rate reductions	-	-	Pg. 92
A.	Limit malpractice liability for Medicaid Providers	-	-	
B.	Medicaid Nurse Staffing Requirements	\$13.10	\$13.10	
43)	Medicaid optional services	\$23.90	\$23.90	Pg. 93
44)	Expand nursing home diversion programs	\$290.00	\$397.00	Pg. 94
45)	Enhance eligibility screening for Medicaid applicants	\$11.30	\$11.30	Pg. 94
46)	Conduct durable medical equipment audits	\$5.80	\$5.80	Pg. 96
47)	Medicaid Waiver Program Admin. Support	\$8.80	\$8.80	Pg. 97
48)	Implement a Statewide Managed Incontinence Program Within Florida's Medicaid Program	\$4.50	\$4.50	Pg. 98
	Chapter Total:	\$635.50	\$759.50	

Chapter 4: Healthcare Reform				
	Report			Pg. 100-109
	Recommendations	Lower Savings Estimate (\$millions)	Upper Savings Estimate (\$millions)	
49)	Defined contribution health benefits model	\$86.00	\$239.00	Pg. 110

50)	Provide incentives based on controllable wellness indicators	\$12.00	\$12.00	Pg. 111
51)	Require all classes of employees to pay same premiums for health insurance	\$49.00	\$49.00	Pg. 112
52)	Promote Health Investor HMOs and PPOs (Health Savings Accounts)	N/A	N/A	Pg. 114
53)	Review pharmaceutical purchasing system	\$21.00	\$21.00	Pg. 116
54)	Consolidate and/or outsource pharmaceutical repackaging	\$2.00	\$2.00	Pg. 116
55)	Expand use of Section 340B purchasing for pharmaceuticals	\$1.30	\$2.50	Pg. 117
56)	Implement pre-payment audit system for PBM claims	\$40.00	\$40.00	Pg. 118
57)	Find other funding sources for services to undocumented immigrants in state mental facilities	\$8.00	\$8.00	Pg. 119
58)	Expand the role of Advanced Registered Nurse Practitioners Position Assistants	\$6.00	\$6.00	Pg. 119
	Chapter Total:	\$225.30	\$379.50	

Chapter 5: Procurement Reform

	<i>Report</i>			Pg. 121-129
	<i>Recommendations</i>	Lower Savings Estimate (\$millions)	Upper Savings Estimate (\$millions)	
Section I: Increase Competition				
59)	Remove (more) competitive bidding exemptions	\$2.90	\$2.90	Pg. 130
60)	Require justification for sole source contracting	\$2.00	\$2.00	Pg. 130
Section II: Improve State Term Contracts				
61)	Reduce use of multiple vendors on state term contracts to reduce price through negotiation	N/A	N/A	Pg. 131
62)	Enforce Agency Utilization of State term Contracts	\$3.20	\$3.20	Pg. 132
63)	Make State Term Contracts Available for State-Sponsored Construction Purchases	\$30.00	\$30.00	Pg. 133
64)	Increase the use of state term contracts to achieve economies of scale by require Local School Board to use state term contracts	\$3.20	\$3.20	Pg. 134
65)	Require Citizens Property Insurance Corporation to Comply with Chapter 287 except in emergency situations	\$3.20	\$3.20	Pg. 134

66)	Allow state term contracts to use a “hold-back” percentage of contract value for contingency contracts in lieu of a performance bond	N/A	N/A	Pg. 135
Section III: Improve Oversight and Transparency				
67)	Expand and enhance oversight of agency purchasing (conduct STC compliance auditing)	\$2.00	\$2.00	Pg. 135
68)	Create/maintain Enterprise clearing house of all Agency Term Contracts	N/A	N/A	Pg. 137
69)	Improve Internal Audit Oversight (through OIG)	\$265.00	\$265.00	Pg. 137
70)	Integrate procurement information across the purchasing and accounting systems	N/A	N/A	Pg. 138
Section IV: Improve/Encourage Efficiency in Procurement				
71)	Require purchase of generic equivalent when available for off-the-shelf products	\$305.00	\$305.00	Pg. 139
72)	Design and implement an “E-Mall” system for off-the-shelf commodity purchases	N/A	N/A	Pg. 139
73)	Reduce number of agency procurement officers	N/A	N/A	Pg. 140
74)	Increase penalty for P-card misuse/abuse	\$2.00	\$2.00	Pg. 140
75)	Study/Review the bid challenge process for cost efficiencies	N/A	N/A	Pg. 141
	Chapter Total:	\$618.50	\$618.50	

Chapter 6: Revenue Enhancement				
	<i>Report</i>			Pg. 144
	<i>Recommendations</i>	Lower Savings Estimate (\$millions)	Upper Savings Estimate (\$millions)	
Section I: Maximize State Revenue Collection				
76)	Improve collection of sales tax on remote sales (SSUTA)	\$35.00	\$50.00	Pg. 145
77)	Add Department of Revenue tax auditors to increase tax compliance	\$12.00	\$12.00	Pg. 148
78)	Create a financial incentive to file tax returns electronically	\$8.00	\$16.00	Pg. 150
79)	Implement a cigarette and tobacco audit compliance system	\$27.00	\$69.00	Pg. 150
Section II: Maximizing Federal Revenue				
80)	Reestablish and enhance the Grants Clearinghouse Office within the Governor’s Office	\$200.00	\$200.00	Pg. 151

81)	Use a contingency contract to drawdown federal funds already earned by Florida	\$150.00	\$150.00	Pg. 154
82)	Improve oversight of indirect cost allocation plans	N/A	N/A	Pg. 155
Section III: Generate New State Revenues				
83)	Sell ads on DOT dynamic messaging highway signs	\$75.00	\$75.00	Pg. 155
84)	Charge a fee for automatic notice of government bid opportunities	N/A	N/A	Pg. 156
	Chapter Total:	\$507.00	\$572.00	

Chapter 7: General Government Operations				
	<i>Report</i>			Pg. 159-161
	<i>Recommendations</i>	Lower Savings Estimate (\$millions)	Upper Savings Estimate (\$millions)	
Section I: Utilize Available Guidelines and Benchmarks to Increase Efficiency				
85)	Adjust annual budget appropriations to reduce "fourth quarter dumping"	\$80.00	\$80.00	Pg. 162
86)	Benchmark operating expenses for each state agency	\$149.00	\$149.00	Pg. 162
Section II: Optimize the State Real Estate Portfolio				
87)	Fully utilize state owned space	\$1.00	\$2.50	Pg. 164
88)	Maximize use of leased space	\$1.90	\$1.90	Pg. 165
89)	Increase the use of competitive procurement for leased space	\$1.10	\$4.00	Pg. 166
90)	Consolidate and Co-locate	N/A	N/A	Pg. 168
91)	Lease Renegotiation	N/A	N/A	Pg. 168
92)	Improve the negotiation of tenant improvements and "TI" for private sectors leases	\$1.00	\$3.00	Pg. 169
Section III: Standardize the Business Process				
93)	Standardize sick and annual leave accrual	\$1.80	\$10.10	Pg. 170
94)	Standardize payroll cycle	N/A	N/A	Pg. 171
Section IV: Reduce Cost of Communications				
95)	Expand the use of debit cards to eliminate, to the fullest extent possible, the use of paper checks for state disbursements	\$23.10	\$23.10	Pg. 171
96)	Further increase use of electronic receipts	\$1.00	\$1.50	Pg. 173

97)	Implement a statewide web based mass notification system for messages and general communications	\$0.60	\$0.60	Pg. 174
98)	Create an e-learning based centralized learning academy	\$3.70	\$7.40	Pg. 175
99)	Modernize printing and mailing operations through outsourcing	\$4.70	\$7.00	Pg. 176
Section V: Reduce State Travel Expenditures				
100)	Reduce state travel costs	\$0.60	\$0.60	Pg. 178
101)	Explore potential to consolidate boards and administrative support costs	N/A	N/A	Pg. 178
102)	Expand use of teleconferencing (including online meetings and video conferencing) to reduce state travel expenses	\$7.50	\$19.00	Pg. 178
103)	Consolidate management of small state vehicle fleets	\$0.37	\$1.80	Pg. 180
104)	Increase use of rental vehicles instead of purchased vehicles	\$1.80	\$1.80	Pg. 180
105)	Revise F.S. 286.29 to include rental vehicles	N/A	N/A	Pg. 181
106)	Explore metrics for fleet fuel efficiency and implement a minimum standard	N/A	N/A	Pg. 181
107)	Improve oversight of state air fleet (and non-vehicular fleet)	N/A	N/A	Pg. 182
Section VI: Other				
108)	Increase use of owner controlled insurance programs (OICPs) for construction projects	\$6.30	\$6.30	Pg. 182
109)	Implement managed print services to reduce costs and improve service in state office environments	\$12.00	\$18.00	Pg. 183
110)	Increase state employee parking fees to make the parking system self-sufficient	\$0.75	\$3.60	Pg. 184
111)	Expand use of Department of Corrections land for agriculture and other productive purposes	N/A	N/A	Pg. 185
112)	Form compensation commission to determine actual competitiveness of state compensation with other states, local governments, and private sector (weighing each differently to determine an actual comparison)	N/A	N/A	Pg. 186
113)	Implement fraud deterrent system for child care providers	\$44.40	\$44.40	Pg.186
114)	Require reimbursements of the training costs for certified law enforcement/corrections officers that terminate employment with the state prior to completing two years of service with the state	N/A	N/A	Pg. 187
115)	Implement centralized statewide power monitoring/management for PCs	\$3.10	\$3.10	Pg. 188

116)	Manage and control the use of overtime through the implementation of a statewide integrated time and scheduling system	\$2.30	\$11.50	Pg. 188
117)	Modernization and outsourcing of call centers	\$1.50	\$1.50	Pg. 189
118)	Transition to a four-day workweek	\$4.70	\$5.10	Pg. 191
119)	Implement a web-based volunteer management system for K-12 through higher education	N/A	N/A	Pg. 193
	Chapter Total:	\$354.22	\$406.80	

Chapter 8: Productivity Enhancement and Workforce Optimization				
	Report			Pg. 196-202
	Recommendations	Lower Savings Estimate (\$millions)	Upper Savings Estimate (\$millions)	
120)	Implement "organically grown efficiencies" program	N/A	N/A	Pg. 203
121)	Expand participation in the Prudential - Davis Productivity Awards program and increase replication efforts across state government	N/A	N/A	Pg. 204
122)	Implementation of adaptable Prudential-Davis Productivity Awards Program achievements throughout state government	N/A	N/A	Pg. 204
123)	Expand use of agency savings-sharing program	N/A	N/A	Pg. 204
124)	Require each agency to review size and structure of workforce	N/A	N/A	Pg. 204
125)	Create benchmarks for administrative costs and overhead across agencies	N/A	N/A	Pg. 205
	Chapter Total:	N/A	N/A	

	Lower Savings Estimate (\$millions)	Upper Savings Estimate (\$millions)
Report Total:	\$3,508.63	\$4,376.45



Government Cost Savings Task Force

Executive Summary

As the nation recovers from one of the worst economic recessions in history, Florida continues to battle unprecedented fiscal challenges and budget shortfalls that have made business-as-usual in state government an unsustainable course. In response to this crisis, Florida TaxWatch and leaders from across the state undertook the monumental task of finding innovative solutions to some of the most costly and complex problems facing Florida. Through quantifiable analysis, renowned leadership, and on-the-ground field research, this report presents more than \$4 billion worth of immediately actionable ideas to not only improve the operation of state government, but also revive the prosperity and position of Florida as an economic leader.

In July 2010, Florida TaxWatch brought together the **Government Cost Savings Task Force for FY2011-12**, composed of dozens of community and business leaders along with current and former elected officials, to utilize and apply their acumen and expertise to the problems of state government. The Task Force provides a unique forum to thoroughly examine the operation and cost of government in key areas where efficiency enhancements and policy alterations should be made to reduce waste, contain costs, and improve taxpayer value.

The **Report and Recommendations of the Government Cost Savings Task Force for FY2011-12** provides 124 recommendations worth more than \$4 billion in eight core policy areas that span from pensions to procurement and workforce optimization to health care reform. These recommendations will generate savings to help close the budget gap without compromising core services and programs that Florida's most vulnerable populations rely upon and provide much needed capital reserves for state government.

Each of the eight chapters features a comprehensive report on its policy area that details the specific issues and complexities facing the field as well as up-to-date figures and statistics that illustrate the current situation in Florida. The reports also feature highlights of best practices from states across the nation that have faced and dealt with similar problems. The important area of Education reform will be covered in a separate, forthcoming Florida TaxWatch report.

Pension Reform

In these tough fiscal times, the vulnerability of state and local governments in their pension liability is growing with a mounting burden on the taxpayers to fund it. The Task Force took a tough approach toward investigating and analyzing the increasing costs of the Florida Retirement System (FRS) and state public pension policy to produce ten comprehensive recommendations for reform to align Florida's pension system with other states and the private sector. Recommendations to reform the Defined Benefit pension plan – the system's key cost driver – and the Deterred Retirement Option Program

(DROP) – whose provision cost the state more than \$97 million annually and cost more than \$300 million in “double-dippers” – would save the taxpayers hundreds of millions in the upcoming fiscal year.

Justice Reform

The Task Force gave special attention to the rapidly escalating costs of Florida’s criminal and juvenile justice systems, especially the Department of Corrections. Last year, Florida spent \$2.4 billion on a prison population of more than one hundred thousand – a population that has increased 11.4-fold since 1970. Florida has experienced an exponentially growing prison population that has far outpaced population growth and occurred despite a significant downward trend in national and state crime rates. The widespread use of short state prison sentences, prison incarceration for technical probation violations, and high rates of recidivism have been identified among others as the main drivers of prison population growth in Florida that has cost the state billions without a corresponding increase in public safety or accountability in the system. Injecting accountability mechanisms, redirection programs, and rehabilitation treatment into the justice system would save taxpayers hundreds of millions and enhance public safety.

Medicaid Reform

The rising costs and enrollment of the Medicaid program in Florida presents one of the most challenging fiscal problems facing the state today. As the government’s medical safety net, Florida spent more than \$20 billion on Medicaid this year alone. Medicaid costs are rapidly rising and the state will soon need to finance a steep increase in the federal revenue-sharing contribution rate with the imminent cessation of stimulus funding. Over the next three years, it is projected that the state’s general revenue expenditures for Medicaid will increase by 74.2% while state general revenue collections are expected to grow by only 21.7% during the same period. The number of people receiving Medicaid benefits is also increasing as a result of federal health care legislation and aging baby boomers. At the same time, Medicaid fraud and abuse plagues the state and costs the taxpayers billions. The Task Force report analyzes several areas and ideas to reduce the cost of Medicaid and create a sustainable system including expanding Managed Care; implementing Dual Eligible Managed Care for Special Needs Plans (SNP); reducing Fraud and Abuse; expanding Payment Reform; and evaluating alternatives to Medicaid provider rate reductions.

Healthcare Reform

While the Medicaid program dominates Florida’s overall health expenditures, the provision of health care to public employees is a critical yet expensive responsibility of the state. Unsustainable health care costs have placed a growing burden on the state to finance healthcare-related services, such as prescription drugs, which cost the state more than \$2 billion annually. In FY2008-09, taxpayers contributed more than \$1.3 billion to non-Medicaid health insurance to state employees. With health costs throughout the nation skyrocketing, the state needs to modernize its health insurance system to be more competitive and cost-effective in comparison with other states and the private sector without

cutting core services with reforms to expand auditing, reevaluate purchasing systems, and implement incentive programs.

Procurement Reform

For many years, Florida has attempted to institute uniform procurement rules among state agencies and departments for the purchase of large quantities of goods and services to achieve the best price possible. However, a lack of adherence to and enforcement of these rules and procedures have allowed numerous state purchases to occur without the proper cost-savings safeguards in place, such as the utilization of MyFloridaMarketPlace (MFMP), competitive bidding, or state term contracts. Of the more than \$4.8 billion goods and services purchased by state agencies, only \$1.6 billion was procured through the MFMP system. Furthermore, only 13 percent—or \$507 million— of state contract purchases were negotiated through state term contracts. The current system seems to operate with centralized administration and decentralized execution. While this report does not address the entire situation, these recommendations will help to alleviate this worst-of-both-worlds situation. Enhancement of enforcement, transparency, and linearity in the state’s current procurement processes would not only save taxpayer dollars, but promote a more competitive environment for businesses and provide a higher quality of goods and services for Floridians.

Revenue Enhancement

Florida has a revenue stream that has not been fully accessed. Collection of tax revenues that are rightfully owed to the state will help address the current fiscal challenge. Enhancing tax collection compliance is a crucial component in bringing new revenue to the state without devastating tradeoffs. Collecting just a small portion of the state sales tax owed on internet purchases could yield upwards of \$50 million in the upcoming budget year alone. There are also a considerable amount of federal dollars that Florida is legally eligible to collect but has not applied to do so. Enhanced efforts to collect federal dollars could bring more than \$150 million to Florida, most of it recurring, in FY2011-12. Recommendations for diligent, coordinated programs and efforts have been analyzed by the Task Force that could be implemented in the upcoming budget year to begin collecting tax revenue currently owed to the state immediately.

General Government Reform

Waste and duplication in everyday government operations spans across most state agencies, departments, and related parties due to lack of coordinated policies and proper incentives to be efficient. Over the past three years, state agency discretionary spending on office supplies and travel expenditures has grown, exceeding growth in inflation and full time equivalents (FTEs). In FY2009-2010, state agencies spent more than \$1.9 billion above the 2006 benchmark. To reverse these trends, the Task Force has provided more than 30 recommendations to alter agency policy and programs to promote efficiency without sacrificing quality through the optimization of the state’s real estate

portfolio; standardization of the business process; reduction in the cost of communications and travel; and various other streamlining techniques to reduce the operating cost of government.

Productivity Enhancement and Workforce Optimization

Cost-savings and efficiencies cannot be achieved without a productive and diligent workforce implementing and enforcing the types of ideas made in this report. Incentivizing productivity and innovation is a key ingredient to a well-functioning, lean government that is responsive to its citizens. Incentive programs that reward superior employee performance and innovation – such as the Prudential-Davis Productivity Awards – can lead to greater cost-savings when their achievements and ideas are adapted across state agencies. To further increase the productivity of government, the size, structure, and functioning of the bureaucracy needs to be assessed through employee-manager ratios and benchmarked administrative and overhead costs across state agencies. This chapter outlines state entities, most notably the Florida Lottery and the Department of Financial Services, that have taken diligent steps to reduce the employee-manager ratio and ‘right-size’ the workforce that has generated several millions in savings to the state.

Overall, this report has been presented with the hope of enhancing the operation of government, improving taxpayer value, and promoting a better Florida for tomorrow through the implementation of these 124 recommendations. The Task Force recognizes that each elected official must serve broad and varied constituents, and would like to remind the readers of this report that all involved in this effort also represent the families and businesses of this state – friends and neighbors who use the available services and resources of this great state. As these services are vital to the families, businesses, and communities of Florida, it is even more imperative that smart, discrete, and judicious revisions and reductions be made to the state budget to create a more financially sound and modern government under which each family, business, and community may prosper. The cost-saving recommendations made in this report are intended to help be the means to this end.



Government Cost Savings Task Force

Introduction

The 2011 Florida Legislature is facing yet another in a series of tough fiscal years with a multi-billion dollar projected budget shortfall. This year, Florida faces new challenges while continuing to solve the problems of yesterday. The imminent cessation of extended stimulus funding and generous federal match contributions pose the threat of further shortfalls; recent federal health care legislation is projected to dramatically increase the state's Medicaid enrollment; and significant financial obligations are coming due, such as the unemployment compensation fund whose first payment will be made in September 2011.

In order to assist the state's elected officials address the continuing fiscal crisis, and for the benefit of Florida's taxpayers, citizens, and visitors, the *Florida TaxWatch Government Cost Savings Task Force for FY 2011-12* has provided 125 well-researched recommendations aimed at achieving significant cost-savings and cost-containment in several areas of state government. Only by looking closely at the base budget, reducing unnecessary spending, increasing efficiency, maximizing current revenues, and revisiting problematic programs and policies can the state get its fiscal house in order.

The *Report and Recommendations of the Government Cost Savings Task Force for FY2011-12* is the product of more than 40 concerned Floridians, on behalf of all of Florida's taxpayers, working for six months to find constructive, pragmatic, principled cost-savings and judicious spending reductions with special emphasis on key areas where implementation would not only improve efficiency, but also promote effective, sound fiscal policy without jeopardizing critical services for Floridians.

The recommendations of the Task Force for FY2011-12 are built upon previous cost-savings efforts by more specifically concentrating its analysis on key areas that are ripe for reform including criminal justice, pensions, procurement, and health care. The recommendations are grouped into eight chapters, all of which include a comprehensive report that identifies the key issues and problems currently facing each policy area.

The total estimated savings for all 125 recommendations are **\$3.5 billion - \$4.4 billion in FY 2011-12**. These estimates are based on the best available data and assumptions made by the Task Force and experts in the public and private sectors. While the Task Force believes full implementation should produce similar actual savings, the focus should be on the substance of the cost savings ideas, not the estimates.

Florida TaxWatch has already shared the preliminary recommendations of its Government Cost Saving Task Force for FY2011-12 with legislative committees, state agencies, and the executive

office. We look forward to working with the Legislature and the incoming Administration of Governor Rick Scott to implement many of these recommendations for realized cost-savings in the upcoming fiscal year.

This report builds on the success of previous Florida TaxWatch efforts that have generated more than \$3 billion in cost savings since the publication of the first cost-savings report in January 2009. Last year, the Government Cost Savings Task Force for FY2010-11 published 88 specific recommendations worth \$3.2 billion that targeted reducing state government operating expenditures, increasing productivity, and maximizing state revenue collections in the report titled the *Report and Recommendations of the Florida TaxWatch Government Cost Savings Task Force to Save More Than \$3 Billion*.

At the close of the FY2010-11 legislative session, twenty-seven, or more than one third, of the recommendations made by the Task Force were enacted by the Legislature. According to published estimates, the recommendations implemented in legislation or as part of the FY 2010-11 Budget are worth more than \$1.1 billion in cost-savings to the state.

Among the enacted FY2010-11 recommendations:

Class Size Amendment – The Legislature sent a proposed constitutional amendment to the voters to change the 2002 class size amendment to provide greater flexibility to school districts and save approximately \$350 million. Under the current amendment, individual class sizes would be limited to 18 students through third grade, 22 students in grades fourth through eight, and 25 students in high school. The rewrite would soften the standard by limiting the school wide average class size to those totals, but allows individual classes to go as high as 21, 27, and 30 students, respectively. This Florida TaxWatch supported amendment went voters in November 2010 and failed to receive the 60% support threshold.

Florida Tax Credit Scholarship – SB 2126 expanded the Florida Tax Credit Scholarship, a program that gives businesses a tax credit in exchange for paying for a scholarship. The bill added new tax sources that are available for the credit and increased the total amount of scholarship money that can be awarded. It expanded the income eligibility for students and increased the per-student award gradually. It also added important accountability provisions for private schools. Florida TaxWatch research on the scholarship program was cited several times on the floor. That research has found that in addition to increasing school choice, the savings from reducing the number of public school students will more than offset the tax credits.

Cap Bright Futures Scholarships – The Legislature reduced the future cost of Bright Futures, through steps including increasing test score requirements to qualify for the program, reducing the number of credits covered, and reducing the time of utilizing the award from 7 years to 5 years.

Reduce Exemptions from Competitive Bidding – SB 2386 removed certain types of services from the list of services exempted from competitive bidding requirements, including auditing services, academic program reviews, health services, and Medicaid services.

Increase use of electronic payment disbursements and receipts – SB 2386 directed all agencies and the judicial branch to use electronic payment disbursement and receipts for all state payments where possible.

Improve Enforcement of the Preferred Pricing Clause – SB 2386 required each state agency to review its contracts to determine if each contractor complies with the applicable preferred pricing clause. Contracts, which include a preferred-pricing clause and were executed, renewed, extended, or modified on or after July 1, 2010, must require an affidavit by the contractor attesting that the contract is in compliance with the preferred pricing clause.

Renegotiate Non-Client-Service Contracts – SB 2386 required each state agency to review and renegotiate existing contracts renewals to reduce contract payments by 3 percent.

Ensure only eligible dependents receive health insurance – SB 2374 directed the Division of State Group Insurance to competitively procure dependent eligibility verification services. Based on information from the Department of Management Services and the experience of other states, Florida TaxWatch estimates such an eligibility audit could save as much as \$30 million.

Reduce Corporate Filing Fees but Stop Waiving Late Penalties – HB 5505 removed a provision that results in the Department of State routinely waiving the supplemental corporate late fee, making the fee mandatory. It is estimated to bring in an additional \$16.8 million for the new budget.

Reducing Medicaid Fraud – SB 1484 included a major fraud reduction initiative – the Medicaid and Public Assistance Fraud Strike Force Act. The bill added additional staff to the Chief Financial Officer’s (CFO) office and created a Fraud Strike Force to pursue Medicaid and public assistance fraud. It directed the state to enter into a contract with third-party vendors to provide a real time, front-end database to decrease inaccurate payment to Medicaid providers and improve the overall efficiency of the Medicaid claims-processing system. It also required a thorough review of the state’s fraud processes.

Tax Amnesty – HB 5801 created a three-month Tax Amnesty program from July through September 2010. This amnesty provides taxpayers the opportunity to pay overdue taxes without late penalties, with reduced interest charges, and with avoidance of criminal prosecution. The Revenue Estimating Conference estimated it would bring in \$82.9 million.

Adding Department of Revenue Tax Auditors to Increase Tax Compliance – HB 5801 also provided 25 new auditors to the Department of Revenue (DOR).

Reducing Textbook Costs – HB 5101 required that instructional materials adopted after 2012-13 be adopted in an electronic format.

Reducing office supply costs – The budget implementing bill (HB 5103) provided for office supplies to be competitively procured through a multiple vendor state term contract.

Automated Verification System of Child Care Providers – The Task Force recommended a point-of-sale verification system, rather than the current self-reporting system, to verify attendance and cut down of fraudulent child care claims. SB 2014 required the Agency for Workforce Innovation, which houses the state’s subsidized child care program, to establish a single statewide information system to track child attendance, among other things.

Reducing Pension Costs – HB 1307 reduced the Florida Retirement System contribution rate for administrative costs that is paid by employers. This is estimated to save the state \$4.2 million.

Financial Institution Data Match – HB 7157 allows DOR to do electronic data matching with financial institutions for those taxpayers that already have tax liens in the public record for matching and recovery of funds owed to the State of Florida. Any financial records obtained may be disclosed only for the purpose of enforcing the tax laws.

Require All State Employees to Contribute to their Health Insurance – While most state employees contribute to the cost of their health insurance, more than 25,000 employees, including legislators, do not. The Legislature eliminated the free health care coverage by requiring them to pay \$100 a year for individual coverage and \$360 a year for family coverage.

Increase the Number of Lottery Selling Points – Both the House and Senate budgets provide authority to acquire up to 500 additional ticket terminals to increase the size of the retail network. The budgets also provide \$3.9 million to purchase 750 automated vending machines.

Expand the Redirection Program – The Legislature added \$1.6 million to the Redirection Program in conference to maintain the expansion that was funded last year. Also, the Agency for Health Care Administration was given authority to seek a waiver to provide mental health services to juveniles in the program.

Maximize Lease Space – The budget contained proviso that holds Master Lease Space Improvement Funds in reserve until the Department of Management Services provides a report detailing the projects and their justification.

Promote Alternatives to Incarceration and Reduce Recidivism – The budget authorized the Department of Corrections to contract to implement a risk/needs analysis pilot program to focus treatment and services on those most likely to re-offend and to determine alternatives to incarceration for low risk inmates.

Promote Alternatives to Incarceration – The budget also provided funding for pilot programs for offenders who would be sentenced to prison but could be diverted to other programs. The budget authorized the Department of Juvenile Justice to contract for services to divert youth from secure detention to alternative community based services.

Outsource Recovery of Aberrant Medicaid Claims – The Senate budget authorized contracting out on a contingency basis for post-audit claims analyses to identify and recover Medicaid overpayments.

Purchasing – The budget required a business case plan for the competitive solicitation of the state purchasing system, MyFloridaMarketPlace, by July 1, 2010. Upon approval of the business case plan by the Legislative Budget Commission, a contract will be competitively solicited.

Most importantly, the work of the Government Cost Savings Task Force builds upon the 31-year-old mission and successful track record of Florida TaxWatch to improve taxpayer value, citizen understanding, and government accountability. This mission has never been more vital as Florida must solve complex structural problems to create a more prosperous and sustainable economic environment. Now is the time to enact reforms that will save taxpayer dollars this fiscal year and beyond through increasing efficiency, reducing fraud, and enacting smarter ways to stretch available revenues as far as possible without further cutting core services for Florida's most vulnerable. Our elected officials and policy makers have a challenging and difficult job – and it is hoped that work of this Task Force will help chart a path for a leaner, more efficient government in Florida.

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Government Cost Savings Task Force

Chapter 1: Pension Reform

Report	p. 2-18
Recommendations	p. 19
<ol style="list-style-type: none"> 1. Eliminate or reduce defined benefit (DB) plan and increase use of defined contribution (DC) plan <ol style="list-style-type: none"> A. Eliminate defined benefit (DB) plan and switch all FRS members to defined contribution (DC) plan B. Reduce defined benefit contribution and offer optional matching defined contribution supplement 2. Require FRS members to contribute to their retirement plans 3. Consolidate employee retirement classes into two classes 4. Limit Special Risk class membership within law enforcement, firefighters, and corrections officers 5. Increase vesting period for FRS Pension Plan from six to 10 years 6. Reform the methodology used in calculating average final compensation (AFC) <ol style="list-style-type: none"> A. Use only base salary earnings when calculating the AFC B. Place a cap on the AFC so that the five highest earning years do not exceed a certain limit to avoid abuse of the system C. Increase the number of years used to calculate AFC or use lifetime average salary 7. Increase the normal retirement age (and minimum required years of service accordingly) for “regular” and “special risk administrative support” employee classes <ol style="list-style-type: none"> A. Regular, Senior Management Services, Elected Officers Class Members B. Special Risk, Special Risk Administrative Support Class members 8. Tie automatic COLA increase for public pension recipients to inflation with a 3% ceiling 9. Eliminate Health Insurance Subsidy (HIS) for FRS members 10. Reform or eliminate the Deferred Retirement Option Program (DROP) <ol style="list-style-type: none"> A. Reduce annual guaranteed rate of return for DROP participants from 6.5% to 3.0% B. Require Governor’s approval to rehire individuals who have completed DROP C. Eliminate HIS for DROP participants and retiree who resume active employment with FRS employer D. Eliminate DROP 	

Introduction

These trying economic and fiscal times demand the highest scrutiny of government expenses and extraordinary efforts to find cost efficiencies, yet Florida has overlooked one area that is ripe for reform: the Florida Retirement System (FRS). In its current form, the system is unsustainable and presents a growing fiscal burden on state and local governments. Over the past decade, the state has spent more than \$5 billion to maintain the existing retirement system. During this uniquely challenging fiscal time, the need to make significant improvements to the FRS cannot be ignored.

While the provision of retirement, disability, or death benefits is important to maintain competitiveness as an employer, benefits offered by the FRS are more generous than those offered by non-public sector employers (e.g. the private and non-profit sectors). Generally, compared with the private sector, state and local government employees are able to retire at an earlier age and with no required contribution towards their pensions. These benefits are provided in addition to Social Security retirement payments, which most state and local government employees are eligible to collect because of contributions made by the public employer on their behalf (in the form of federal payroll taxes).¹ Florida state government employees are also not required to contribute toward their retirement and many do not share in the risk if the system experiences low investment returns (if the employee chooses to participate in the defined benefit plan).

In order to successfully provide core programs and services to Floridians, state and local governments cannot continue to utilize the current mechanism to determine and fund employee retirement benefits. This section thoroughly examines the FRS, analyzes areas in need of modernization, discusses successful reform efforts around the country, and recommends cost-saving reform options to create a more efficient and competitive retirement system for state and local government in Florida.

Defined Benefits Drive the Cost of Public Retirement in Florida

At present, state and local government employees have the option to participate in either of two retirement programs offered through the FRS: the defined benefit (DB) plan or the defined contribution (DC) plan.² The receivable benefits earned through DC plans (e.g. 401(k) or 403(b) plans) are based on the fixed annual dollar contributions placed into each participant's personalized investment portfolio and the associated investment returns.³ DB plans, however,

¹ Many public employers in other states do not participate in Social Security and therefore the employees are ineligible; however, Florida participates.

² The DB plan is officially referred to as the Pension Plan and the DC plan is officially called the Public Employee Optional Retirement Plan (PEORP) by the FRS. Additionally, FRS employees have the ability to do a one-time shift from DB to DC or vice versa.

³ 26 U.S.C. 414(i) defines DC plans as the following: "...plan which provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant's account, and any income,

statutorily obligate employers to pay specified benefits based on annually revised employer contributions. The high cost of public employee retirement in Florida is driven by the DB plan, which places the responsibility of paying set pensions on state and local government employers, regardless of investment performance.

In order to meet their long-term benefit obligations, state and local governments must make significant contributions on behalf of each DB plan member. Employees are not required to match any portion of the contributions made towards their retirement, placing the entire cost of funding the FRS on employers, and ultimately taxpayers.

According to the Bureau of Labor Statistics (BLS) National Survey, as of March 2009, 78% of all state and local governments required their employees to contribute to their DB plans and of those that have DC plans, 58% required employee contributions. This places Florida’s state and local government employers among a minority that do not require any employee contribution.⁴

Although the state incurs the cost of associated contributions, the DC plan alleviates the fiscal impact of the costly DB plan as it removes the state’s obligation for paying future retirement benefits for those employees that select DC membership. **Figure 1** shows that the majority of FRS employees, however, opt for DB plan membership.

Figure 1: A Majority of Active FRS Members Opt for DB Membership (As of June 30, 2009)

<i>Plan</i>	<i>Number of FTEs</i>	<i>Average Salary</i>
Defined Benefit	572,887	\$41,763.09
Defined Contribution	95,529	\$40,429.02

Source: Data provided by the Florida Division of Retirement

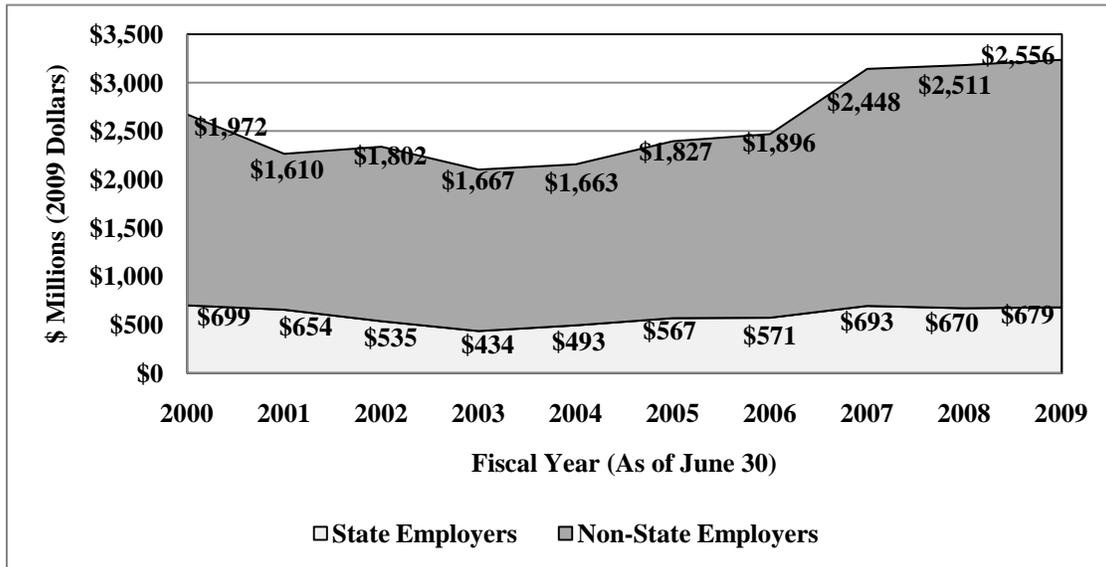
All retirement contributions made by employers on behalf of DB and DC plan members are initially pooled into a common savings account called the *Florida Retirement System Clearing Trust Fund*. The contributions made on behalf of DB plan members are then forwarded for deposit into the *Florida Retirement System Trust Fund* whose assets are aggregately invested and managed by an oversight panel called the State Board of Administration. While benefit payments are not directly linked to the market performance of the Trust Fund, as will be subsequently explained, investment returns play a vital role in the assets available to pay owed benefits.

After initially being placed into the FRS Clearing Trust Fund, DC plan contributions are removed and placed into an individual account where they are managed with input from the recipient. **Figure 2** chronicles the total contributions made by employers into the FRS Trust Fund for both DB and DC members as of the end of each fiscal year between 2000 and 2007.

expenses, gains and losses, and any forfeitures of accounts of other participants which may be allocated to such participant’s account.”

⁴ U.S. Bureau of Labor Statistics, *National Compensation Survey* (NCS), available at www.bls.gov/ncs/home.html.

**Figure 2: Total Employer Contributions Are Rising
(FY 2000 – FY 2009 Inflation Adjusted)**



Source: Florida Division of Retirement Annual Reports

Employers aggregately spend billions of dollars each year to maintain the FRS defined benefit plan. During the final seven years of the observation period, the real value⁵ of employer contributions into the FRS Trust Fund continuously increased, although there was a slight decline in the real value of the state’s contribution between 2007 and 2008.⁶ Even as Florida’s General Revenue collections declined by 22% during the last four years of observation and the number of active FRS members shrank by 2.25% during the final year, the state’s retirement contributions increased by 26%.⁷

Annual contributions made towards the FRS Trust Fund are actuarially determined for each fiscal year. To establish annual contributions, actuaries use several factors to estimate total future benefit obligations, including: employees’ life expectancies, payroll growth, and the assumed rate of return on investments. Once the amount of total contributions needed to meet all projected future benefits is determined, this figure is disaggregated for employers as a specified percentage of each of their respective employees’ monthly salaries to form *contribution rates*.⁸

The contribution rates are only necessary to cover the long-term obligations of the DB plan; however, DC plan contribution rates are set to be reflective of the established DB rates so that

⁵ Using Consumer Price Index provided by the Bureau of Labor Statistics

⁶ Nominally, total contributions have continuously increased during the period of observation.

⁷ In 2009, the state contributed approximately \$679 million to the FRS, while non-state sources (i.e. local governments and school districts) contributed a combined \$2.6 billion. The disparity in contributions between state and non-state employers is because non-state members constitute a much larger portion of the FRS. As of June 30, 2009, there were 668,416 total employees participating in the FRS, of which 116,001 (17.4%) were state employees.

⁸ Florida Division of Retirement Bureau of Enrollment and Contributions

the decision of employees to join one plan over the other is not influenced by disparities in contribution. Hence, the DC plan would be cheaper if its contributions were not tied to the DB plan. At the end of this section, Florida TaxWatch offers ideas for decoupling the contributions of the two plans.

Contribution rates vary by employee class designation. **Figure 3** disaggregates the blended contribution rates for both retirement plans by employee class. The featured contribution rates include a 1.11% rate made from each employee’s salary towards a health insurance subsidy (HIS) which retired members are also provided; these contributions are placed into the HIS Trust Fund.

Figure 3: Blended Contribution Rates by Class and Retirement Plan Type for Both Retirement Plans (As of July 1, 2010)⁹

<i>Class</i>	<i>Contribution Rate (%)</i>	<i>Percentage of FRS Employees (%)</i>	<i>Average Weighted Salary</i>
Regular	10.77	87.17	\$39,297.23
Special Risk Admin. Support	13.24	0.01	\$44,973.76
Senior Management Services (SMS)	14.57	1.16	\$81,203.98
Governor/Lt. Gov./Cabinet/Legislators/State Attorneys/Public Defenders	16.34	0.03	\$48,612.08
Elected County/City/Special District Officers	18.64	0.19	\$44,548.42
Judicial	21.79	0.13	\$138,887.98
Special Risk	23.25	11.32	\$53,894.94

Source: Florida Division of Retirement

As the table shows, employee classes with higher average salaries receive a greater contribution towards retirement making the current system regressive, especially in the case of DC plan membership where contributions are directly linked to future retirement benefits.

Considering that the average cost of retirement to private employers is only about 5% of an employee’s wage,¹⁰ even the lowest contribution rate is more than double that of the private

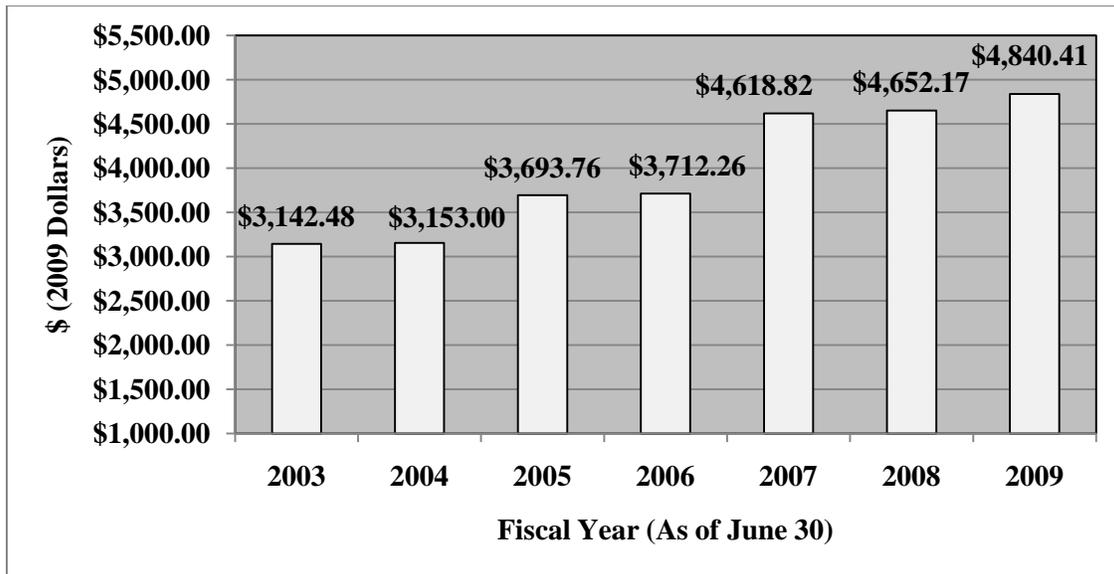
⁹ Florida Division of Retirement: https://www.rol.frs.state.fl.us/forms/ir10-142_rates_only.pdf. These rates include a 1.11% Health Insurance Fee, and a .03% administrative fee.

¹⁰ Data provided by National Compensation Survey (NCS) of the U.S. Department of Labor Bureau of Labor Statistics.

sector average. Additionally, other state and local government systems that allow their members to collect Social Security only offer a median 8% employer contribution.¹¹

Figure 4 further illustrates that the average real value of state and local government contribution per working employee in the FRS grew continuously during the previous seven years.¹²

Figure 4: Average Employer Contribution per Worker (Inflation Adjusted)



Source: Florida Division of Retirement Annual Reports

In every aspect, Florida state and local government employers contribute too much towards retirement.

The assumptions used by actuaries to keep the FRS Trust Fund functional and solvent are a crucial part in determining the amount of assets available to pay benefits and how much should be contributed each year. Additionally, contribution rates must be approved by the state legislature. Legislators may choose to enact contribution rates that are below those actuarially determined to cover the *normal cost*¹³ of the DB plan. Unrealistic assumptions and the implementation of contribution rates that are below what is actuarially recommended can result in assets that are insufficient to fund actual benefits owed, adding to the future costs of the system.

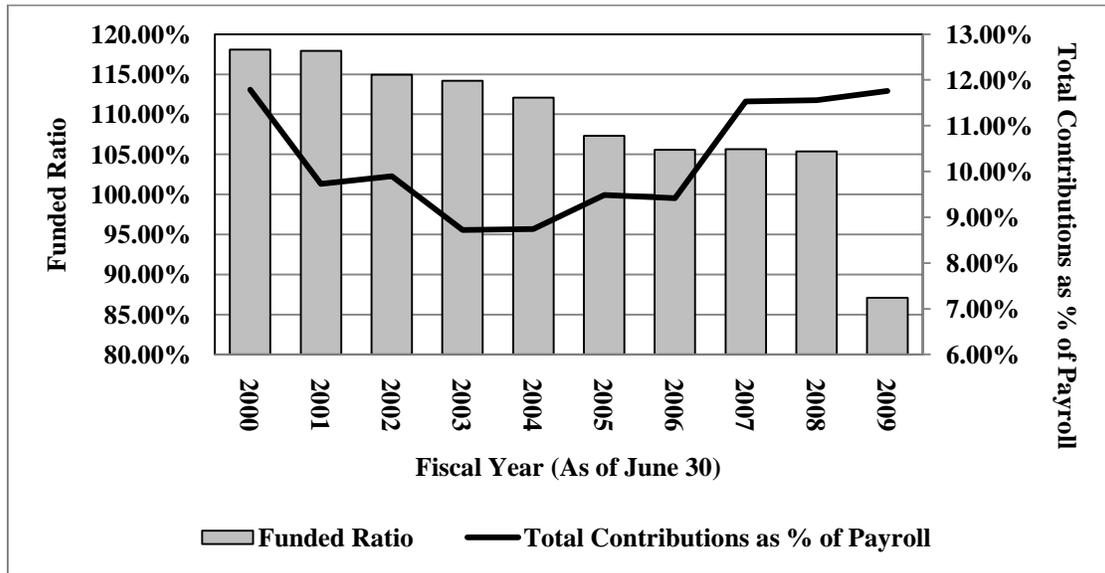
¹¹ Munnell, Alicia; Golub-Sass, Alex; Haverstick, Kelly; and Wiles, Gregory. "Why Have Some States Introduced Defined Contribution Plans?" *Center for Retirement Research at Boston College*. January 3, 2008.

¹²The per employee contribution was established by dividing the total contributions made to the FRS Trust Fund during a given fiscal year with the number of active employees in the system as of June 30 of that respective year. While this number for employees only offers a snapshot of the total employees in the system in a given year, **Figure 3** is intended to serve as a benchmark for the increase in employer contributions.

¹³ Cost of fully funding all future benefits owed to current members in the FRS.

In FY 2008-09, the FRS Pension Plan’s total liabilities passed total assets for the first time in more than 10 years. As of July 2010, the FRS Pension Plan was estimated to be 87% funded. Even though the unfunded liability in the FRS only recently appeared, the assets-to-liabilities-ratio (also known as the funded ratio) has experienced a steady decline during the past decade.

Figure 5: The Decline in the Funded Ratio (As of June 30th of each year)



Source: Department of Management Services

Figure 5 shows that the funded ratio declined during the previous decade, while contributions as a percentage of the total payroll rose after 2003. The recent economic downturn pushed the FRS Trust Fund into a hole as investments cumulatively lost 13% (\$27 billion) in fair value between FY 2007-08 and FY 2008-09;¹⁴ however, the steady decline in the funded ratio of the FRS Trust Fund over the past decade has been fueled by several factors.

During the early 2000s, the legislature kept contribution rates below the actuarially determined rates because the FRS Trust Fund was experiencing a surplus and positive investment returns. In 2001, the legislature also voted to increase benefit payments by 12% for certain members of the “Special Risk” class.¹⁵

The decision to underfund the FRS Trust Fund during more sound economic times has resulted in the need for more taxpayer dollars to be expended during a period of poorer financial health for the state in order to prevent the unfunded liability of the FRS Trust Fund from widening. These growing costs need to be reined in or the FRS could become an even greater fiscal burden for the state.

¹⁴ Florida Department of Management Services, Division of Retirement. *The Florida Retirement System Pension Plan and Other State-Administered Systems Annual Report July 1, 2008- June 30 2009*, available at www.rol.frs.state.fl.us/forms/2008-09_Annual_Report.pdf

¹⁵ Ibid.

If all of the assets in the FRS Trust Fund disappeared due to poor investment decisions and flawed assumptions, the responsibility of paying owed retirement benefits would still remain with employers. This means that without proper adjustments and adequate long-term recovery in investment losses, closing the gap in the FRS Trust Fund will fall on backs of taxpayers. Further deterioration in the market could deplete the assets of the FRS forcing lawmakers to raise taxes on the rest of Florida’s labor force to fund the DB plans of government retirees.

Most importantly, paying outstanding benefit obligations takes statutory precedent over the funding of any other government function in the budgetary process. This means that prior to allocating tax revenue dollars to any other public services; state and local governments are required by law to meet their pension benefit, even if that leaves no money for other important programs.

The bottom line is that the expensive contributions needed to maintain the FRS Trust Fund are a direct function of the benefits promised to FRS members. The following segment expounds the benefits side of the FRS to provide a better idea of how tax dollars placed into the system are distributed.

Generous Benefits Make the System Expensive

The high cost necessary to sustain the Florida Retirement System is a function of a combination of features that make the FRS expensive for employers, including: a generous annual benefit formula, a relatively low retirement age, and high annual cost of living adjustments. In extreme cases, state and local retirees have been able to collect in excess of \$400,000 in lump sum pension benefit in addition to annual benefit payments of more than \$100,000.¹⁶ Reducing the fiscal burden on state and local governments could be accomplished by adjusting elements factored into final benefits. Simply modifying

Focus: Private versus Public Sector Compensation

Defined benefit plans have become less frequent in the private sector as they are generally very costly and have forced many businesses to go bankrupt. According to the Pension Benefit Guaranty Corporation (PBGC), which insures private sector pension plans, approximately 4,000 companies since 1974 have filed for “distressed” termination of their defined benefit plans because they could no longer stay in business and fund their pension obligations. Additionally, approximately 172,000 companies during the same period discontinued defined benefit pension plans through “standard” termination to cut operating expenses. In 1980, 84% of private sector employees were covered by defined benefit pension plans. By 2009, however, only 21% of private industry workers had access to defined benefit pension plans. Despite this fact, 84% of state and local government employees, including those in Florida, still have access to defined benefit plans according to the Bureau of Labor Statistics (BLS).

Historically, state and local governments have provided more generous benefit packages than the private sector. A frequent validation for higher benefits received by public employees generally centers around the perception that state and local government wages are on average lower than those paid to private workers, and that providing greater benefits ensures that state and local governments are able to compete with the private market for high-quality employees. This argument falls apart at the root, however, when examining data provided by the Bureau of Labor Statistics (BLS).

(Continued on next page...)

¹⁶http://articles.orlandosentinel.com/2009-11-18/news/os-seminole-college-mcgee-retires-for-month-111809_1_retirement-benefits-lump-sum-mcgee

contributions without adjusting benefit calculations will only widen the gap between assets and liabilities in the FRS Trust Fund.

Breaking Down the Annual Benefit Formula

The annual pension benefit received by a vested member, an employee who has served the minimum time necessary to retain benefits at retirement, is calculated retrospectively and is based on that member's years of service, average final compensation (AFC), and accrual rate. **Figure 6** shows how these variables are used to calculate annual benefits:

**Figure 6:
Annual Benefit Formula**

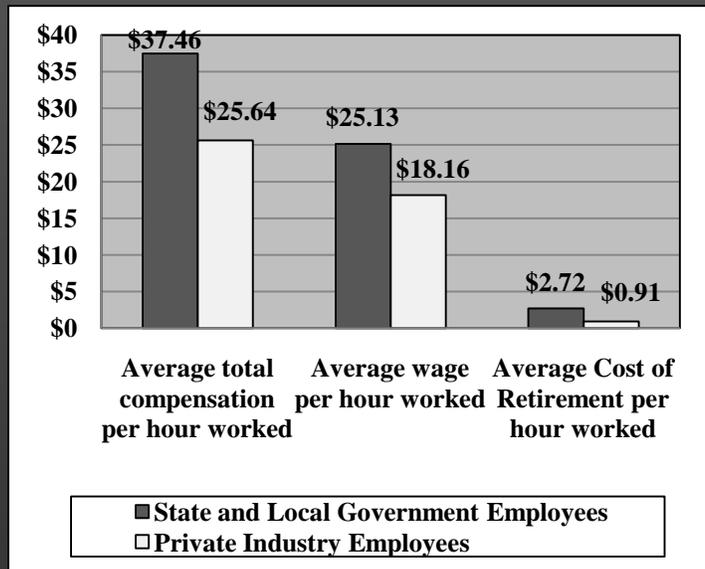
$$\text{Yearly Retirement Benefit} = \text{Accrual Rate} * \text{Years of Service} * \text{AFC}$$

The accrual rate is a multiplier used to determine each member's total benefits and varies between 1.60% and 3.33% depending on employee classification and years of service at retirement. Member classes with higher average salaries tend to have higher multipliers. For example, the Regular class members with an average salary of \$41,804 have an accrual rate of 1.60% to 1.68%, while Judges with an average

As **Figure A** shows, state and local government employees in the United States earned nearly \$7 more in hourly wages during the period between 2004 and 2009 than their counterparts in the private sector. Further, state and local government employees cost employers almost \$2 more in hourly retirement contributions.

The disparity in private and public sector compensation is also present when looking at Florida level data. The average annual salaries of active FRS members as of June 30, 2009 was more than \$2,000 above the state average annual salary of \$39,440 for all sectors as documented by the Bureau of Labor Statistics National Compensation Survey in May 2009. As mentioned in this section, active FRS members also receive annual retirement contributions that are more than double the national private sector average.

Figure A: National average salaries and cost of retirement benefits by state and local government and private employers between 2004 and 2009



Source: U.S. Department of Labor Bureau of Labor Statistics

The bottom line is that state and local governments aggregately spend considerably more on employee compensation than the private sector and have mechanisms in place that *guarantee* very generous retirement benefits.

The fact is that private companies use market signals to determine compensation and other input costs or else they risk going out of business. For Florida to continue to function successfully in the long-term, taking a cue from the private companies is a means to solving current fiscal problems.

salary of \$138,826 are given a flat accrual rate of 3.33%.¹⁷ Thus the system is especially generous to those with the highest salaries.

The AFC is the average of the five highest earning fiscal years (also referred to as the “High Five” years) which tend to be during a member’s final years of service and include over time and any unused annual leave accrued (not to exceed 480 hours).¹⁸ As a result, giving the most senior employees overtime and saving unused leave during the final years have been identified as common methods to inflate the AFC.¹⁹ This practice is especially common among local government “Special Risk” employees. Thus, including these certain non-state employees in the FRS inflates the contributions that must be made to keep the system afloat; effectively draining taxpayer dollars.

The final component of the benefits formula is the years of service. To attain full benefits, vested Regular, SMS, Elected, and Judges’ class members must have 30 years of service, while Special Risk and Special Risk Administrative Support members need 25 years (or reach their respective minimum retirement ages). Additionally, Regular and Special Risk Administrative Support class participants receive a .03% increase in their accrual rates for every year that they serve beyond the minimum, although this increase in the accrual value for each additional year is capped at three years past the normal retirement date. Aside from reaching the minimum years of service necessary to attain full pension benefits, vested members can also fully retire if they reach the relatively low retirement age.

Low Minimum Retirement Age

The current system allows most individuals to retire normally at age 62 (or with 30 years of service), and, in the case of certain “special risk” employees, as early as age 55 (or with 25 years of service) with unreduced benefits. The “normal” retirement age, the age at which an individual is able to receive social security benefits in the U.S., was originally set at 65; however, in 1983, the normal retirement age was increased incrementally for persons born after 1938 through 1960 until it reaches 67. The original retirement age of 65 was set during a period when life expectancies were lower, yet the state still currently allows its employees to retire at the age of 62 (or age 55) with full benefits. This also applies to the minimum years of service required to obtain full retirement benefits. As of June 30, 2009 the average time of service worked by beneficiaries in the FRS was approximately 21 years. As the average life expectancy increases, the average work life should be adjusted accordingly.

¹⁷ Based on data provided by the Florida Division of Retirement

¹⁸ Section 121.021(24), Fl. Stat.

¹⁹ Pew Center for the States, “The Trillion Dollar Gap,” *The Pew Charitable Trusts - Non Profit Organization Serving the Public*, February 18, 2010; available at http://downloads.pewcenteronthestates.org/The_Trillion_Dollar_Gap_final.pdf.

Ungrounded Cost of Living Adjustments

Along with the components of the annual benefit formula, an additional cost-raising determinant is factored into annual benefits received by annuitants. Each year the FRS adds a Cost of Living Adjustment (COLA) to compensate for inflation. In 1980, the automatic increase in the annual COLA provided to all beneficiaries in the FRS was limited to 3% of current benefits, but not more than the annual increase in the Consumer Price Index (CPI). In 1987, the COLA was established at 3%, regardless of the CPI.

Unlike Florida, most public pension plans tie post-retirement increases in benefits to CPI.²⁰ Likewise, Federal Social Security is based on CPI-W-Urban Wage Earners and Clerical Workers. For the period August 2008 – August 2009, the national CPI was -1.9 percent and the CPI-W for Miami-Ft. Lauderdale was -2.5 percent. Additionally, the national inflation rate during the previous 10 years was only 2.7%.²¹ Capping the automatic annual cost of living adjustment (COLA) increase to the lesser of CPI or 3% would produce significant long-term savings while bringing Florida in line with other state pension plans and public benefits. The purpose of COLAs is to keep pace with inflation, not to exceed it.

Other Post-Employment Benefits

The largest post-employment benefit provided to all FRS members, aside from pensions, is the Health Insurance Subsidy (HIS). FRS employers spent an additional \$308 million on health insurance subsidies for retirees in Fiscal Year 2009-10. Retirees receive \$5 per month for each year of service with a cap of \$150 per month in total health benefits. State retirees are already given the option to buy-in to the state's health insurance plan at a rate set by the state, a figure that is significantly lower than these individuals would find in the private market. In FY 2009-10, Florida aggregately charged \$67 million less to FRS retirees in health premiums than the cost of services provided to the state. Additionally, those retirees who are above the age of 65 also receive Medicare payments. Tacking on HIS contributions to this already generous implicit subsidy is superfluous and constitutes even greater costs for the state. Furthermore, most private sector employers (approximately 85%) do not offer post-retirement health benefits beyond what is statutorily mandated by COBRA, let alone similar subsidies.²²

²⁰ Based on the results of a Public Funds Survey of 102 public retirement systems that administer pension and other benefits for 12.8 million active public employees and 5.9 million retirees and other annuitants, and that hold more than \$2.1 trillion in trust for these participants and represent more than 85% of the nation's total public retirement system community. The survey is sponsored by the National Association of State Retirement Administrators and the National Council on Teacher Retirement.

²¹ Data provided by the U.S. Department of Labor Bureau of Labor Statistics.

²² Department of Labor Bureau of Labor Statistics National Compensation Survey of health-related benefits, conducted March 2010.

<http://www.bls.gov/ncs/ebs/benefits/2010/ownership/private/table39a.htm>

The Deferred Retirement Option Program Increases the Cost of the FRS

Originally intended as an early retirement incentive to bring employment costs down, the Deferred Retirement Option Program (DROP) actually costs millions of taxpayer dollars annually to sustain. The program allows FRS members to officially “retire,” but continue to work as an active employee while accumulating pension benefits in an escrow account for up to an additional five to eight years. DROP participants receive a brazen 6.5% guaranteed annual interest rate return on their deferred pension payments in addition to the COLAs that all DB annuitants are provided. Even if the FRS Trust Fund experiences a decline in investment earnings, as it has during the recent recession, the FRS is statutorily obligated to pay this rate of return. Furthermore, the FRS provides additional retirement contributions on behalf of DROP participants during their enrollment in the program.

Together, these features make DROP an extremely expensive program. **Figure 7** breaks down the added cost of funding DROP by employee class.

Figure 7: DROP Costs FRS Employers More to Fund²³

Employee Class Upon Entering DROP	Total Contribution		
	<i>With DROP</i>	<i>Without DROP</i>	<i>Net Difference</i>
<i>Judicial</i>	\$3,382,623.89	\$5,560,177.48	-\$2,177,553.59
<i>Legislature, Gov., Cabinet, State Attorneys</i>	\$385,263.60	\$741,541.24	-\$356,277.64
<i>Local Elected Officers</i>	\$1,145,062.36	\$2,484,106.39	-\$1,339,044.03
<i>Regular Class</i>	\$299,974,931.85	\$179,506,673.22	\$120,468,258.63
<i>SMS</i>	\$10,601,438.63	\$12,698,484.54	-\$2,097,045.91
<i>Special Risk Admin. Support</i>	\$79,413.45	\$123,809.00	-\$44,395.56
<i>Special Risk</i>	\$36,084,329.71	\$53,344,397.73	-\$17,260,068.02
Total	\$351,653,063.47	\$254,459,189.60	\$97,193,873.88

Retirement contributions made on a member’s behalf once he or she enters DROP are reset at a new standard rate regardless of previous employee classification. In 2010, the contribution rate for DROP participants was set at 12.25% of an employee’s salary.²⁴ FRS employers paid \$97

²³ Calculations based on data provided by the Florida Division of Retirement and from the following DMS actuarial memo dated 1/15/10: *Study to Revise Florida Retirement System (FRS) Funding Valuation to Incorporate Deferred Retirement Option Program (DROP) Participation in Each Membership Class in Developing the Contribution Rates for the Various Classes of Membership*

²⁴ Benefits for DROP members are calculated using the same formula as for other members and use the assigned accrual rate of their last class designation as an active member.

million in FY 2008-09 to fund DROP including the *normal cost* (as previously mentioned, the cost necessary to pay future owed benefits) and the *unfunded liability cost*, the additional contribution needed to cover any unfunded liability in the system. The state's portion of the added cost was more than \$10 million.

Additionally, many of these individuals return to the system as active employees after having completed DROP. This entitles them to directly receive regular pension benefits, access to the deferred benefits accrued while enrolled in DROP, and additional retirement contributions as percentages of their salaries. The phenomenon of state retirees receiving pension benefit payouts while actively working is called "double-dipping". These individuals also collect HIS payments in conjunction to receiving regular employee health benefits. As of June, 2010, there were 9,669 double-dippers in Florida of which a notable portion were previously enrolled in DROP. The practice of double-dipping makes the cost of maintaining DROP even higher. In 2007, the cost double-dippers to the FRS was over \$300 million.²⁵

While retaining a talented and experienced workforce is important to ensure the transfer of knowledge needed to perform fundamental functions of government, the cost of DROP is too high for the state to afford.

Reforms in Other States

The recent economic downturn has exposed the vulnerability of state and local government defined benefit plans across the U.S. According to the Center for State and Local Government Excellence, the aggregate funded ratio of 126 sample state and local government retirement plans fell from 84% to 78% between 2008 and 2009. The mounting strain on state budgets, exacerbated by the recession, has prompted many states to enact cost-savings legislation of their pension plans.

During the previous three years, a successive number of states have implemented reforms of their retirement systems. The pension reforms instituted in other states highlight possible avenues for reform in Florida's own retirement system. Prior to introducing cost-savings recommendations for the FRS, this report presents some of the most relevant and timely reforms in other states.

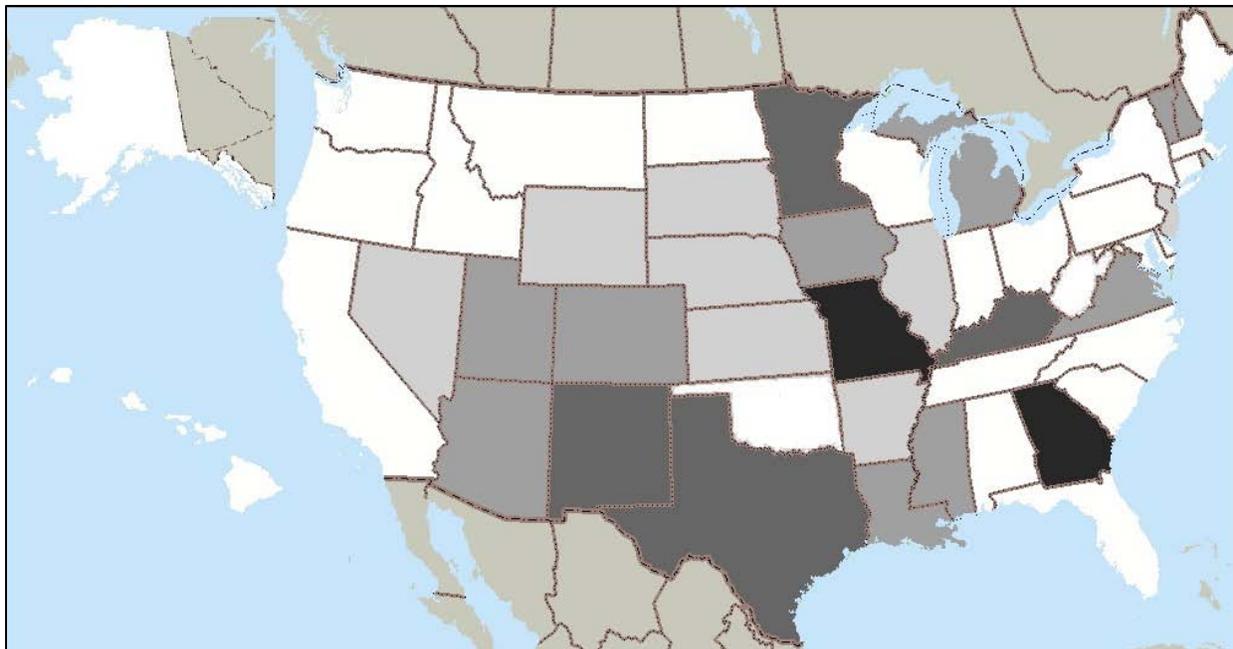
Figure 8 highlights states that have implemented any relevant cost savings measures during the past three years. The counted cost-savings include: raising retirement age to 65 years or above, increasing the vesting period to 10 years,²⁶ requiring employees to contribute to their retirement where they were previously not required/ increasing the employee contribution of existing contributory systems, or adjusting factors in the benefit calculation formula to make benefits more competitive (including capping or reducing COLAs). Additionally, some states have

²⁵ <http://www.naplesnews.com/news/2008/mar/29/hundreds-school-state-workers-draw-pension-top-sal/>

²⁶ Some states increased the minimum retirement age and/or vesting periods, but these new thresholds are still below 65 years and 10 years, respectively; thus, such reforms were excluded in this analysis.

multiple retirement systems; as long as an applicable reform was implemented in at least one of such a state's systems then it was included in the analysis.

Figure 8: Cost-savings Pension Reforms Implemented by States between 2008 and 2010²⁷



The darkest shade indicates states that implemented all four of the relevant reforms, while the lightest shade indicates states that implemented at least one of the reforms. The two shades in between the latter two indicate states that implemented three and two of the counted reforms, respectively. The color white indicates that none of the applicable reforms was executed during the observed three-year period.

Altogether, six states increased the retirement age in at least one of their systems to 65 years and at least eight increased the vesting period in one system to 10 years. At least 21 states made previously non-contributory systems contributory or increased contributions in already contributory systems, and another 20 states made some adjustments to benefits or the benefit formula to make pensions more competitive with the private sector.²⁸

Highlight of Relevant Reforms in Other States

²⁷ Assembled from annual pension legislation updates provided by the NCSL and state retirement system reports

²⁸ In certain cases an increase in employee contributions was accompanied by a concurrent increase in employer contributions or benefits.

Arkansas: In 2009, Arkansas capped the AFC used in the pension benefit formula in the state's Teachers Retirement System at the largest of either 120% of the next highest earning year or an additional \$5,000.²⁹

Colorado: In 2010, Colorado reduced the COLA used by the Public Employees' Retirement Association (PERA) to the lesser of 2% or inflation. Inflation will be calculated using 2009 as a base. As a result of this reform, the COLA in 2010 was zero percent. During the same year, the employee contribution will also be increased by 2.5% of annual salary.³⁰

Georgia: In 2009, Georgia implemented a hybrid pension system by offering a defined contribution plan for the first time. Under this plan, new employees (hired after January 1, 2009) in the Georgia Employee Retirement System are automatically enrolled in defined benefit plans that reduce retirement benefits by half, but they have the option to simultaneously enroll in a defined contribution plan. For those individuals who choose to participate in the defined contribution plan, the state provides a 100% match for the first 1% that an employee puts into the plan of his or her own salary. The state provides an additional 50% match for each additional match that an employee decides to place into the defined contribution plan. The total state match is 3% of salary, based on an employee contribution of 5%. Concurrently, this new pension plan reduces the defined benefit accrual rate from 1% to 2%. Additionally, Georgia eliminated post-retirement benefit increases for new employees participating in the defined benefit plan.³¹

Illinois: In 2010, Illinois raised the normal retirement age and vesting period for new state employees in the Illinois State Retirement Systems (SRS) from age 60 with eight years of service to age 67 with 10 years of service. The state also replaced automatic 3% COLA increases with adjustments that are half of annual increases in the CPI with a cap of 3%. Further, the state increased the AFC from the highest four of the last 10 years with the highest eight of the last ten years.³²

Iowa: Iowa has made several changes to the Iowa Public Employees' Retirement System (IPERS) during previous years. In 2010, the state increased the normal retirement age for individuals not vested by July 1, 2012 in the IPERS from 55 to 65 years. Concurrently, the state doubled the early retirement penalty from three to 6% of annual benefits for each year prior to reaching normal retirement eligibility. Additionally, the vesting period was increased from four to seven years. In 2010, Iowa increased the number of years used to calculate the AFC from three to five years for employees in the Iowa Public Employees' Retirement System (IPERS) for

²⁹ Snell, Robert. "2009 Enacted Pension Legislation." *National Conference of State Legislatures*, August 17, 2009; available at www.ncsl.org/default.aspx?tabid=17594.

³⁰ Colorado Public Employees Retirement System. Senate Bill 10-001; available at www.copera.org/pera/about/legislation/SB10-001.stm

³¹ ERSGA - GSEPS Home - *Employees' Retirement System of Georgia*, www.ers.ga.gov/plans/ers/gseps/gsepsmain.aspx

³² Ibid.

all employees not vested as of July 1, 2012. In 2007, the state placed a cap on the AFC, where its calculated value could not exceed 121% of the fourth highest earning year. A control year outside of the five used to calculate the AFC will continue to be used to maintain a cap.³³

Kansas: All members of the Kansas Public Employees Retirement System hired after July 1, 2009 will contribute 6% of their annual salaries towards retirement as opposed to the 4% contribution made by employees who were hired prior to that date.³⁴

Kentucky: In 2008, Kentucky legislators reduced benefits and increased contributions in their own and judges' retirement plans. The retirement contribution required by legislators increased from 5% to 6% and the COLA cap was reduced from 5% to 1.5%. For personnel in the state's category equivalent to the FRS's "Special Risk" class, the annual accrual rate was reduced from a flat 2.5% to a rate that fluctuates from 1.3% to 2.5% depending on years of service. Similar accrual rates reductions and contribution increases were made in retirement plans for teachers and university professors.³⁵

Louisiana: In 2010, legislation was passed increasing the contribution rates for new state police officers by 1%, new school employees by .5%, and judges and some "special risk" members by 1.5%. Additionally, the accrual rates and AFC for certain employees were increased by the new legislation.³⁶

Minnesota: In 1989, Minnesota increased its retirement age from 65 to 66 in its three retirement systems, saving approximately \$650 million during the subsequent 20 years.³⁷ In 2010, Minnesota passed legislation that increased the vesting period for members of the Correctional plan from three to 10 years, with 50% vesting after five years. The state also passed legislation in 2006 that increased employee and employer contribution in its three systems gradually over a four year period (.25% to 1% annual employer increase, .25% to .70% annual employee increase), with the final increase made on July 1, 2010. As a result of legislation in 2010, the employee contribution rate in the State Patrol Plan will jump by 2% after July 1, 2011. Additionally, 2010 legislation reduced the accrual rate for Correctional Plan members from 2.4 to 2.2%.³⁸

³³ Ibid.

³⁴ Kansas Public Employees Retirement System Membership Handbook; available at <http://www.kpers.org/membershipguidekpers.pdf>

³⁵ Snell, Robert. "2008 Enacted Pension Legislation." *National Conference of State Legislatures*, July 31, 2008; available at <http://www.ncsl.org/default.aspx?tabid=13313>

³⁶ Snell, Robert. "2010 Pension and Retirement Enacted Legislation," *National Conference of States Legislatures*, July 19, 2010; available at www.ncsl.org/?tabid=20836.

³⁷ Pew Center for the States, "The Trillion Dollar Gap," *The Pew Charitable Trusts - Non Profit Organization Serving the Public*, February 18, 2010; available at http://downloads.pewcenteronthestates.org/The_Trillion_Dollar_Gap_final.pdf.

³⁸ Ibid.

Missouri: In July 2010, Missouri's governor signed a pension reform bill that is expected to save the state approximately \$662 million during the next 10 years. The new law will impact all employees who enter the Missouri Employees' Retirement System (MOSERS) on or after January 1, 2011. Among the most significant provisions of the bill is a required 4% contribution from employees; the plan for current employees is non-contributory. Additionally, the vesting period for new employees is raised from five to ten years. Lastly, the law increases the normal retirement eligibility for an individual to receive unreduced benefits to age 67 or to at least 55 if the sum of the retiree's age and credited years of service equal 90. This is a significant increase from the comparable requirements of current employees, as the normal retirement age for those individuals hired after July 1, 2000 is 62 or at least 48 if the retiree's age and years of credited years of service sum to 80.³⁹

Michigan: In 2010, the state required members of Michigan Public School Employees' Retirement System (MPERS) to contribute 3% of their annual compensation towards retirement and automatically enrolls public school employees' in hybrid DB/DC pension plan. These changes are expected to save MPERS employers \$3.1 billion over a 10-year period (including upfront costs of an early retirement incentive package).

Nevada: In 2009, Nevada legislators made some crucial adjustments to benefits provided to new members of the state's Public Employees Retirement System as of January 1, 2010. The accrual rate, which is uniform for all classes, was reduced from 2.67% to 2.5%. Additionally, the retirement age for employees who have vested 10 years increased from 60 to 62.⁴⁰

New Hampshire: As of June 30, 2009, the employee contribution rate for members of the New Hampshire Retirement System was raised from 5% to 7%. In 2008, the state also placed a cap of \$120,000 on annual retirement benefits.

New Jersey: In 2010, the New Jersey Legislature passed reforms of its numerous retirement systems, including reducing the accrual rate for new members of the Teachers' Pension and Annuity Fund and Public Employees' Retirement System from 1.82% to 1.67%.

New Mexico: In 2009, the state increased the employee contribution rate by 1.5% of salary for members of the Public Employees Retirement System and increased the normal retirement eligibility to age 67 or 30 years of service.

Texas: In 2009, Texas instituted several cost-savings reforms of its numerous retirement systems. Perhaps most significantly, the state instituted an employee contribution rate of .5% of salary for law enforcement officers, a group that was previously not required to make their own

³⁹ Hook, Brian R., "New state workers to start paying into pension system next year." *Missouri Watchdog*. July 19, 2010; available at <http://missouri.watchdog.org/886/new-state-workers-to-start-paying-into-pension-system-next-year/>.

⁴⁰ Pew Center for the States, "The Trillion Dollar Gap - The Pew Charitable Trusts," *The Pew Charitable Trusts - Non Profit Organization Serving the Public*. February 18, 2010; available at http://downloads.pewcenteronthestates.org/The_Trillion_Dollar_Gap_final.pdf.

contributions. For the Employee Retirement System, the employee contribution rate was increased from 6.00% to 6.45% of salary. Finally, the state also increased its normal retirement eligibility to age 65 with 10 years of vested service; up from age 60 with 5 years of vesting.

Utah: The state will close the defined benefit plan to Utah State Retirement System members hired after July 1, 2011. Instead, new employees entering the SRS will choose whether to participate in a defined contribution plan or a hybrid retirement plan. The hybrid plan will consist of both defined benefit and defined contribution elements. Employers will contribute up to 10% of a member's compensation into the defined benefit portion. The current defined benefit plan is non-contributory with an employer contribution rate of 14.22% in 2010. The new hybrid plan will require employees to contribute the remaining portion of the actuarially required amount. Additionally, employers will contribute up to 10% (minus the % contribution made towards the defined benefit portion) to each member's defined contribution plan. Participants of the hybrid plan will be eligible for unreduced benefits upon either reaching the age of 65 with four years of service or at any age upon reaching 35 years of service. Members will have full control of their investments in the defined contribution plan after four years. Annual COLA increases for defined benefit payments will be tied to CPI with a cap of 2.5%.⁴¹

Vermont: In 2010, the employee contribution in the Teachers Retirement System was raised by nearly 1.5% and by .5% for certain members of the Municipal Retirement System. Additionally the minimum retirement age in the Teachers Retirement System was raised from 62 to 65 or where the sum of age and years of service equals at least 90.

Virginia: In 2010, legislation was passed requiring state employees in the Virginia Retirement System to contribute 5% of "creditable compensation" towards retirement.⁴²

Wyoming: Effective September 1, 2010, the employee contribution rate for all current and future employees in the state retirement plan was increased from 5.57% to 7% of salary.

Conclusion

The escalating costs of the Florida Retirement System necessitate consideration of significant reforms. Momentum for reform of public retirement systems is taking hold in an increasing number of states and cities across the country, all of which serve as a blueprint for potential initiatives and measures that could be implemented to improve and modernize Florida's retirement system. Providing an overly generous public employee benefits funded by taxpayers is a practice that Florida can no longer afford. Based on research and analysis of these state and local initiatives and reforms, Florida TaxWatch offers twelve cost-savings recommendations based on practices that have been successfully implemented to achieve cost savings in other states and would well be suited to Florida.

⁴¹ Snell, Robert. "2010 Pension and Retirement Enacted Legislation," *National Conference of States Legislatures*, July 19, 2010; available at www.ncsl.org/?tabid=20836.

⁴² Ibid.

Pension Reform Recommendations

1. Eliminate or Reduce DB Plan and Concurrently Increase Utilization of DC Plan

A. Eliminate defined benefit (DB) plan and switch all FRS members to defined contribution (DC) plan

Florida's defined contribution plan is currently an option for state and local government employees in the FRS and removes the state's obligation from paying predetermined retirement benefits. Switching all FRS members to a defined contribution plan and eliminating the defined benefit plan would save the state significant funds as contributions would no longer be determined by the necessary amount needed to cover future pension payments. Most private companies now only offer defined contribution retirement option and two states, Alaska and Michigan, have mandatory inclusion in DC plans for their public employees, although no state has currently eliminated their DB plans.⁴³

It should be acknowledged that two states, Nebraska and West Virginia, completely abandoned their defined contribution plans because they produced lower returns than their defined benefit plans; however, DC plans can also produce higher returns and thus higher benefits than DB plans.⁴⁴

Studies have found that the median rates of return between DB and 401(k) plans in the U.S. private sector from 1988 to 2004, DB plans aggregately earned only 1% more on investment during the observed period.⁴⁵

Research has also found that DC plans increase administrative costs for employers, as more control by plan holders entails the need for increased education and guidance on how to allocate investments.⁴⁶ Further, the problem and costs of keeping the FRS Trust Fund fully funded would be completely eliminated from the termination of the FRS DB plan.

Using FY 2008-09 data, **if all active members were switched to DC plans and state contributions were standardized at 5% for all employees the FRS could have saved \$1.8**

⁴³ Munnell, Alicia; Golub-Sass, Alex; Haverstick, Kelly; and Wiles, Gregory. "Why Have Some States Introduced Defined Contribution Plans?" *Center for Retirement Research at Boston College*. January 3, 2008.

⁴⁴ Madden, Ed and Vaughn, Linda. "FRS Defined Contribution Plan Costs Are Typically More Predictable; the Fiscal Impact of Requiring New Employees to Enroll in the Plan Is Influenced by Many Factors." *The Florida Legislature's Office of Program Policy Analysis and Government Accountability*. Report 10-29. March 2010. Available at www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1029rpt.pdf.

⁴⁵ Munnell, Alicia; Golub-Sass, Alex; Haverstick, Kelly; and Wiles, Gregory. "Why Have Some States Introduced Defined Contribution Plans?" *Center for Retirement Research at Boston College*. January 3, 2008.

⁴⁶ Madden, Ed and Vaughn, Linda. "FRS Defined Contribution Plan Costs Are Typically More Predictable; the Fiscal Impact of Requiring New Employees to Enroll in the Plan Is Influenced by Many Factors." *The Florida Legislature's Office of Program Policy Analysis and Government Accountability*. Report 10-29. March 2010. Available at www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1029rpt.pdf.

billion, of which the state's portion would have been \$337 million (savings calculations do not include costs associated with transferring all members to DC plans).

Recommendation: *The legislature should close the DB plan for all active members of the FRS and switch them to a DC plan.*

B. Reduce defined benefit contribution and offer optional matching defined contribution supplement

Currently the risk associated with investment loss in the defined benefit plan is borne by the state. Florida could implement a hybrid pension system where current contributions made by the employer into the defined benefit plan are reduced by half. Employees are then required to make contribution into a separate defined contribution plan (example: 401(k)). This reduction in the employers' contribution should be accompanied by an appropriate reduction in annual defined benefits; however the portion contributed by the employee into a separate plan can make up some of the difference. Additionally the state could match employee contributions as was done in the recently implemented "hybrid pension" model in Georgia. **Using FY 2008-09 figures, a 25% percent reduction in FRS contributions towards retirement as a result of implementing such a program could have saved the state \$169.75 million.**

Recommendation: *The legislature should implement a "hybrid pension" plan for all active members in which current defined benefits for active members are reduced by half; however, the option to concurrently join a matching DC plan is offered.*

2. Require FRS members to contribute to their retirement plans

Modifying the FRS pension fund to require newly hired employees contribute to their DB or DC plans would dramatically reduce state and local government contribution requirements.

Most other state-sponsored defined benefit programs require an employee match, with the average amount being 5% of the employee's average salary.⁴⁷ **Using FY 2008-09 contribution figures, if employees were required to make an equivalent match on their respective employers' retirement contributions, the system could have saved as much as \$1.59 billion, of which the state's savings would have been approximately \$281 million.**

For both plans, employee contributions would be reimbursed upon termination if the employee does not meet the associated vesting requirements.

Recommendation: *The legislature should require that all active FRS members contribute at least of half of their employers current contributions to their respective retirement plans.*

⁴⁷ Based on the results of a Public Funds Survey of 102 public retirement systems that administer pension and other benefits for 12.8 million active public employees and 5.9 million retirees and other annuitants, and that hold more than \$2.1 trillion in trust for these participants and represent more than 85% of the nation's total public retirement system community. The survey is sponsored by the National Association of State Retirement Administrators and the National Council on Teacher Retirement.

3. Consolidate employee retirement classes into two classes

As previously mentioned, “Regular” and “Special Risk Administrative Support” class members have accrual rates of 1.6%, which are incrementally increased by .03% for each additional year of service over the respective minimum retirement age or minimum years of service.⁴⁸ The accrual rate, however, cannot exceed 1.68%. “Senior Management Service” class members receive a flat accrual rate of 2.00%. Judges currently have a higher accrual rate than other members of the “Elected Officers” class. The accrual rate for judges is 3.33%, while other elected officials have accrual rates of 3.00%. Additionally, the accrual rate for “Special Risk” class members is currently 3.00% and 2.00% for service prior to September 30, 1974,

A cost-savings recommendation made in OPPAGA’s January 2010 report⁴⁹, proposes a consolidation of state employees into two categories. Employees who are currently members of the regular, elected officers, and SMS classes would compose the first category. Employees who are currently in the special risk class and certain members of special risk support services classes would be in the second category. This recommendation would return to the employee class structure that was present during the formation of the FRS. The accrual rates could be standardized at 1.60% and 2.00% for class 1 and class 2, respectively.

OPPAGA estimates that implementing a similar measure could save the state and local governments a combined \$359 million, annually.

Recommendation: The legislature should consolidate employee classes into two classes based on the model that was present during the creation of the FRS.

4. Limit Special Risk class membership within law enforcement, firefighters, and corrections officers

In the *Report and Final Recommendations of the Florida TaxWatch Government Cost Savings Task Force to Save More Than \$3 Billion*, one of the key recommendations was to reevaluate who is considered “special risk” for pension benefits. OPPAGA made its own cost-savings recommendation in January 2010, to limit participation in the special risk class to only law enforcement, firefighters, and corrections officers. According to the study released by OPPAGA⁵⁰, these three groups comprised the original membership of the special risk class during the creation of the FRS in 1970. Current Florida statutes (*151.051; Fla. St.*) allow for other individuals who may not be exposed to the same level of risk to be included in this classification (e.g. crime lab technicians, public health nutrition consultants). According to both

⁴⁸ Age 62 or 30 years of service for “Regular” class members; Age 55 or 25 years of service for “Special Risk Admin. Support” class members

⁴⁹ Madden, Ed and Vaughn, Linda. "Several Options Are Available for Modifying the Florida Retirement System’s Class Structure to Reduce System Costs. ." *The Florida Legislature’s Office of Program Policy Analysis and Government Accountability*. Report 10-15. January 2010. Available at www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1029rpt.pdf.

⁵⁰ Ibid.

Florida TaxWatch and OPPAGA research, a **10% reclassification of special risk class members to regular class could save more than \$40 million of which approximately \$8 million would be realized by the state.**

Recommendation: *The legislature should amend 151.051; Fla. St. to redefine positions that are considered “Special Risk.”*

5. Increase vesting period for FRS Pension Plan from six to 10 years

As of June 30, 2008 there were 476,031 vested FRS members (nearly 70% of total employees with FRS membership) entitled to benefits upon termination.⁵¹ If the vesting period was increased from six to 10 years, significant savings could be realized by the state of Florida. Many other states, such as Georgia⁵² and Alabama,⁵³ have 10-year vesting periods, thus increasing this period to 10 years would not be out of line with already existing policies in neighboring states.

In FY 2008-09, approximately 5,322 vested employees were terminated from state employment alone. Of these terminated employees, approximately 1,315 employees would not have been eligible to keep their FRS retirement benefits had the vesting period been at least 10 years. Assuming these figures are applicable for FY 2010-11 and beyond, **the state would save an estimated \$16 million annually from increasing the vesting period for members.** The Legislature should amend current statutes to increase the length of the vesting period for current members of the FRS Pension Plan from six to 10 years.

Recommendation: *The legislature should increase the vesting period from six to 10 years.*

6. Reform the methodology used in calculating average final compensation (AFC)

The AFC is a key component of the formula used to calculate average benefits owed and making adjustments to how it is calculated could mean significant cost savings for the state. **A 1% reduction in the average AFC at retirement of current beneficiaries would have reduced the FRS’s benefit obligation by nearly \$50 million for FY 2008-09.**⁵⁴ The following options can be used to reform how the average final compensation is calculated:

A. Use only base salary earnings when calculating the AFC

The AFC (average of the five highest earning fiscal years) used to determine the final benefit currently includes overtime and up to 500 hours of accrued annual leave in the calculation.

⁵¹ Department of Management Services, Division of Retirement Services, "The Florida Retirement System Pension Plan and Other State-Administered Systems Annual Report," Fiscal Year 2007-08.

⁵² "Explanation of Benefits", Employees Retirement System of Georgia, 2009; www.ers.ga.gov/plans/ers/formspubs/ERS_Handbook_06302009.pdf

⁵³ Employee Retirement System, State of Alabama, 2008; www.rsa-al.gov/ERS/Active%20Members/Vesting.pdf

⁵⁴ Calculated from data provided by the Florida Division of Retirement. *The Florida Retirement System Pension Plan and Other State-Administered Systems Annual Report July 1, 2008- June 30 2009*, available at www.rol.frs.state.fl.us/forms/2008-09_Annual_Report.pdf.

Removing all non-base salary earnings from the final benefit calculation could result in significant cost-savings for the state. A similar measure was undertaken in Iowa prior to the onslaught of the Great Recession. Iowa, with a more than 80% funded retirement system, removed bonuses and certain expense allowances from the final salary calculation.

B. Place a cap on the AFC so that the five highest earning years do not exceed a certain limit to avoid abuse of the system

The AFC is the average of the five highest earning fiscal years for each retired member of the FRS and is a key component of the final benefit calculation. In Iowa, the average final salary is computed from the three highest earning fiscal years, but this calculation is not allowed to be greater than 121% of the fourth highest earning fiscal year. Likewise, Legislation passed in Arkansas limited the AFC from 120% of the next highest earning year. Placing a similar cap on the AFC in for Florida retirees could represent significant savings in Florida.

C. Increase the number of years used to calculate AFC or use lifetime average salary

Increasing the number of years used in calculating the AFC or simply using the lifetime average salary in calculating the final benefits is an additional measure that can save taxpayer dollars. Most private pensions use lifetime average salaries when calculating payable pension benefits.

Recommendation: *The legislature should make one or more of the following modifications to the Average Final Compensation formula: use only base salary in calculation, institute a cap that the AFC cannot exceed, and/or increase the number of years used in the calculation or use lifetime average salary.*

7. Increase the normal retirement age (and minimum required years of service accordingly) for “regular” and “special risk administrative support” employee classes

As previously presented, many states have raised retirement ages in recent years to achieve cost savings. For example, Minnesota increased the public employee retirement age in 1989 from 65 to 66 years, saving approximately \$650 million during the subsequent 20 years. Significant savings could be achieved for Florida by increasing the normal retirement age at accordingly for each of the following employee classes:

A. Regular, Senior Management Services, Elected Officers Class Members

Currently, fully vested Regular, Senior Management Services and Elected Officers class members can retire with unreduced benefits at the age of 62 or with 30 years of credited service. The state could increase the normal retirement age for regular class members from 62 to 65; and increase the minimum years of service required for receiving full retirement benefits from 30 to 33 years.

B. Special Risk, Special Risk Administrative Support Class members

Currently, fully vested Special Risk and Special Risk Administrative Support class members can retire with unreduced benefits at the age of 55 or with 25 years of credited service. The state could increase the normal retirement age for special risk administrative support class members from 55 to 58; and increase the minimum years of service required for full retirement benefits from 25 to 28 years.

Recommendation: *The legislature should increase the retirement age (and required years of service) by three years for all employee classes in the FRS.*

8. Tie automatic COLA increase for public pension recipients to inflation with a 3% ceiling

Modifying the pension benefit COLA formula to the methodology used prior to 1987, where COLA increases were tied to inflation but were not allowed to exceed 3% **would reduce the amount of benefits paid to retirees by state and local governments by \$135 million in FY 2011-12.** A reduction in the present value of future benefits calculations would allow state and local governments to reduce future contributions to the pension plan.

It may, however, not be possible to modify the COLA formula for current annuitants because of contract laws, which would reduce the immediate savings estimation. Similarly, it might not be possible to modify the formula for state employees whose retirement benefits have already vested, which would have less effect on immediate savings. On the other hand, it is possible to modify the formula for employees whose benefits have not yet vested, and certainly possible to modify it for new employees not yet hired, which will have some effect on the actuarial valuation of the immediate contribution and will provide savings for taxpayers.

Recommendation: *The Legislature should seek an expert legal opinion on the possibility of modifying Chapter 121, Fl. Statutes, to limit automatic annual COLA formula to the lower of 3% or CPI, and should modify the law according to the opinion.*

9. Eliminate Health Insurance Subsidy (HIS) for FRS members

As mentioned, the FRS provides an annual contribution of 1.11% of each active employee's salary to cover HIS for future beneficiaries. In some cases HIS is provided to retirees who reenter the system as full-time employees and thus receive health care coverage.

Since state retiree health insurance, Medicare and various private options are already available to cover health costs for FRS beneficiaries, eliminating the HIS should be considered as a viable option to create cost-savings in the system; at a minimum it should be removed for those employees who were formerly retired but have reentered the system and receive health insurance coverage. **Eliminating HIS would result in an additional \$308 million saving for FRS employers, of which the state's share would be nearly \$50 million.**

Recommendation: *The legislature should eliminate the Health Insurance Subsidy provided to retired FRS members; at a minimum for those employees who return to employment after retirement.*

10. Reform or eliminate the Deferred Retirement Option Program (DROP)

DROP is currently an expensive program to maintain for the state with no tangible evidence of added value. Most states do not have such a program and some states have even eliminated their DROP program. The Arizona Legislature eradicated a DROP program in 2006⁵⁵ after an impact study revealed it significantly increases the contributions needed to maintain it,⁵⁶ although the state does still maintain a DROP for its Public Safety Personnel Retirement System. The following recommendations could be implemented to achieve cost savings in the administration of DROP:

A. Reduce annual guaranteed rate of return for DROP participants from 6.5% to 3.0%

As previously mentioned, DROP participants are currently guaranteed an annual rate of return of 6.5% on contributions made by employers on their behalf. This guaranteed return is offered on top of the COLA already received by DB beneficiaries, including DROP participants. Limiting this guaranteed interest earning to 3.0% will provide significant cost savings and reduce the liability faced by FRS employers. As a comparison, Oklahoma only provides a 2% guaranteed rate of return to DROP participants in its state retirement system.

Recommendation: *The legislature should reduce the annual guaranteed rate of return for DROP participants from 6.5% to 3.0%*

B. Require Governor's approval to rehire individuals who have completed DROP

Although only a limited portion of DROP participants and retirees do so, those individuals who have completed the program currently have the ability to resume full or part-time employment with any employer. This creates the problem of “double-dipping”, a practice whereby rehired employees receive both retirement contributions as a percentage of salary and owed retirement benefits, simultaneously. Limiting the ability of retirees to return to an FRS employer as an active member to only those individuals who provide a defined justification and approval from the Governor and/or the respective employer would reduce this problem. In 2009, the state legislature passed a bill that increased the waiting period from one to six months before retirees can resume employment (including DROP) for an FRS employer. Although this is a step in the right direction, ensuring that retirees return to the system only under the most permissible

⁵⁵ 56th Comprehensive Annual Financial Report of the Arizona State Retirement System
www.azasrs.gov/content/pdf/financials/2009_CAFR.pdf

⁵⁶ Pew Center for the States, “The Trillion Dollar Gap,” *The Pew Charitable Trusts - Non Profit Organization Serving the Public*, February 18, 2010; available at
http://downloads.pewcenteronthestates.org/The_Trillion_Dollar_Gap_final.pdf.

circumstances is the most effective way to mitigate the costs of double-dipping, while ensuring that irreplaceable knowledge is available to perform needed functions.

Recommendation: *The legislature should prohibit the rehiring of individuals who have completed DROP unless granted approval by the Governor.*

C. Eliminate HIS for DROP participants and retirees who resume active employment with an FRS employer

Currently, retirees and former DROP participants who return to the FRS as active employees receive both HIS payouts and active employee healthcare coverage. Eliminating redundant HIS payouts for these individuals who are already covered by state health insurance through their respective employers would save the state considerable funds. **For every 1% reduction in HIS contributions the state could save \$500,000.**

Recommendation: *The legislature should eliminate HIS for DROP participants and retirees who resume active employment with an FRS employer.*

D. Eliminate DROP

In FY 2008-09, state and local government employers contributed approximately \$97 million to fund DROP retirement plans, of which approximately \$10 million was spent by the state. If the program was completely eliminated and current DROP participants were provided contributions at rates of their respective employee classes these extra costs would be removed. **Eliminating DROP would have saved the state \$10 million in FY 2008-09.**

Recommendation: *The legislature should eliminate the DROP program.*

Government Cost Savings Task Force

Chapter 2: Criminal and Juvenile Justice Reform

Report.....p. 29 - 44

Recommendations.....p. 45

Section I: Big Picture Recommendations

- 11. Create a commission to do a top-to-bottom review of the Criminal Justice System and Corrections**
- 12. Establish an independent oversight body over the Departments of Corrections and Juvenile Justice**
- 13. Develop risk / needs assessment and cost-analysis tools to be used at the time of sentencing (Missouri model)**

Section II: Recommendations Related to Sentencing People Convicted of Low-level/Short-term Sentences

- 14. Require written justification for state prison sentences given to individuals with low sentencing scores – 44 or less (currently 22 or less)**
- 15. Incentivize localities for reducing their rates of state incarceration and increasing local alternatives**
- 16. Align Florida’s marijuana and cocaine possession laws with Texas and other similar states**
- 17. Update value thresholds for property felonies**
- 18. Amend the driving with a suspended license law to reduce the penalty from felony to misdemeanor when the reason for the suspension is inability to pay a financial obligation**
- 19. Expand electronic monitoring as an alternative to state prison sentences**
- 20. Expand adult post-adjudicatory drug courts**

Section III: Recommendations Related Incarceration, Release, Supervision, and Reducing Recidivism

- 21. Institute adult post-incarceration drug courts**
- 22. Increase the maximum gain time accrual allowed**
- 23. Authorize the possibility of parole for certain elderly offenders**
- 24. Expand prison work release programs**

- 25. Expand evidence-based prison-based programs that reduce recidivism**
 - A. Expand evidence-based substance abuse treatment**
 - B. Expand evidence-based mental health treatment**
 - C. Expand evidence-based literacy, education and vocational training**
 - D. Expand life management skills training**
 - E. Expand faith- and character-based prisons**
 - F. Apply inmates for Medicaid, SSI, and VA benefits prior to release**
- 26. Review and revise state-created employment restrictions based on criminal records**
- 27. Expand the Florida Accountability Initiative for Responsible (FAIR) Probation**
- 28. Expand Veterans Courts**
- 29. Reduce costs of inmate hospitalization (in non-DOC hospitals)**

Section IV: Recommendations Related to Juvenile in the Justice System

- 30. Comprehensively review and implement Blueprint Commission recommendations**
- 31. Study the effects of barring commitment of misdemeanants to state custody**
- 32. Expand the Redirection program to avoid custodial care of juveniles**
- 33. Expand the use of juvenile civil citations**
- 34. Increase operational efficiencies and public safety by aligning the average length of stay by delinquents with best practices in residential facilities**

Introduction

For the last year, Florida TaxWatch and the Government Cost Savings Task Force have given special attention to the rising costs of Florida's criminal justice system, especially the state Department of Corrections.

With a prison population of over a hundred thousand costing taxpayers \$2.4 billion this year, we can no longer afford the broken policy choices that have led to this out of control growth without making our communities any safer or offenders more accountable.

We recognize that a myriad of factors are driving these rising costs and thus a multi-pronged approach is essential. It is not enough to home in on reducing recidivism through new prisoner reentry strategies. It is not enough to reform probation and reduce the number of people sent to prison on technical probation violations. It is not enough to address the growing share of the prison population doing very short-term sentences. It is not enough to look at sentence length or scale back some crimes from felonies to misdemeanors. And it is not enough to revisit our release policies.

Furthermore, Florida spent more \$400 million on the Department of Juvenile Justice in FY2010-11. In total, the FY 2010-11 Florida state budget appropriated more than \$2.7 billion to the Departments of Corrections and Juvenile Justice and authorized more than 34,000 FTEs.

All of these policies – and many more – must be addressed if we are to succeed in saving tax dollars, improving public safety and holding offenders more accountable.

We know that the 24 cost-saving recommendations set forth here do not exhaust all the possibilities. That is why Florida needs the contributions that an expert, data-driven criminal justice and corrections commission could add to the deliberations about justice reform. And that is why creating such a body is our first recommendation.

Background – Florida's stunning corrections growth

Over the last forty years, Florida, like states across the nation, made a series of policy decisions that have driven a dramatic increase in its prison population, which reached 102,440 inmates on September 30, 2010,⁵⁷ up from 33,681 on June 30, 1988.⁵⁸ Inevitably, the costs associated with incarceration have increased just as dramatically. In 1988, the Corrections budget was \$502 million; in FY2010-11 it had jumped to nearly \$2.4 billion.

The growth in the prison population is not attributable to Florida's overall population growth. From 1970 through 2009, Florida experienced significant growth – a 2.7-fold growth in its population. But during that same period, the prisons grew *11.4-fold*.

⁵⁷ Criminal Justice Estimating Conference, 10/19/09, Office of Economic and Demographic Research, The Florida Legislature

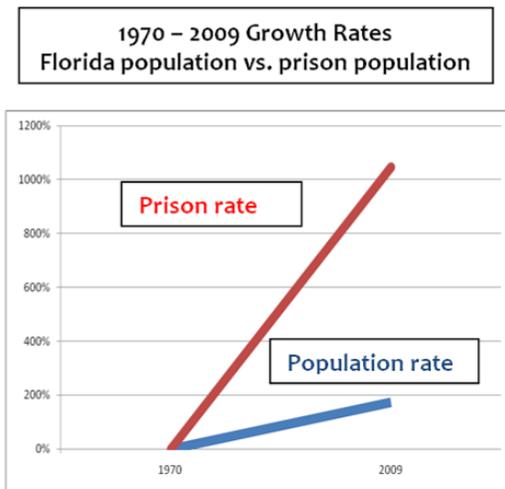
⁵⁸ Florida Department of Corrections. Available at: www.dc.state.fl.us/oth/timeline/1988-1990.html (last retrieved December 6, 2010).

Figure 9

Florida Population growth and prison population growth						
	1970	1980	1990	2000	2009	
Florida Population	6,791,418	9,746,961	12,938,071	15,982,824	18,537,969	
Percent Increase		1970-1980	1980-1990	1990-2000	2000-2009	1970-2009
		43.5	32.7	23.5	15.9	172.9
FL Prison Population	8793	19722	46223	71223	100894	
Percent Increase		1970-1980	1980-1990	1990-2000	2000-2009	1970-2009
		124.3	134.3	54.1	41.7	1047.4

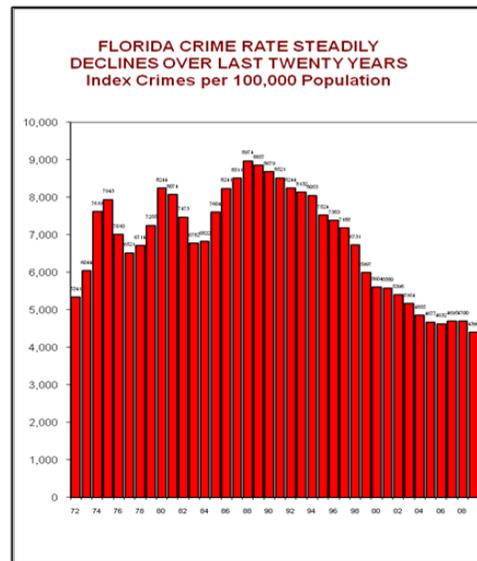
Crime rates do not explain the growth either. Crime rates fluctuated up and down during the seventies and eighties, but starting in 1988, the crime rate has declined steadily each year but one. The crime rate certainly did not increase more than 11-fold as the prison population has.

Figure 10



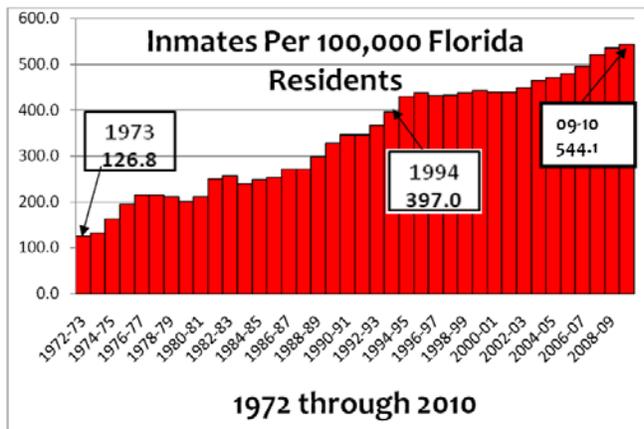
Sources: Legislative Committee on Intergovernmental Relations (LCIR) and Office of Economic and Demographic Research

Figure 11



Source: Office of Economic and Demographic Research

Figure 12



The increase in the prison population was achieved by increasing the *rate* of incarceration. Policy choices dictated that result. The rate of incarceration is the percent of people that Florida locks up in prison. It has jumped from .13 percent to .54 percent. Forty years ago the rate of incarceration was one quarter of what it is today.

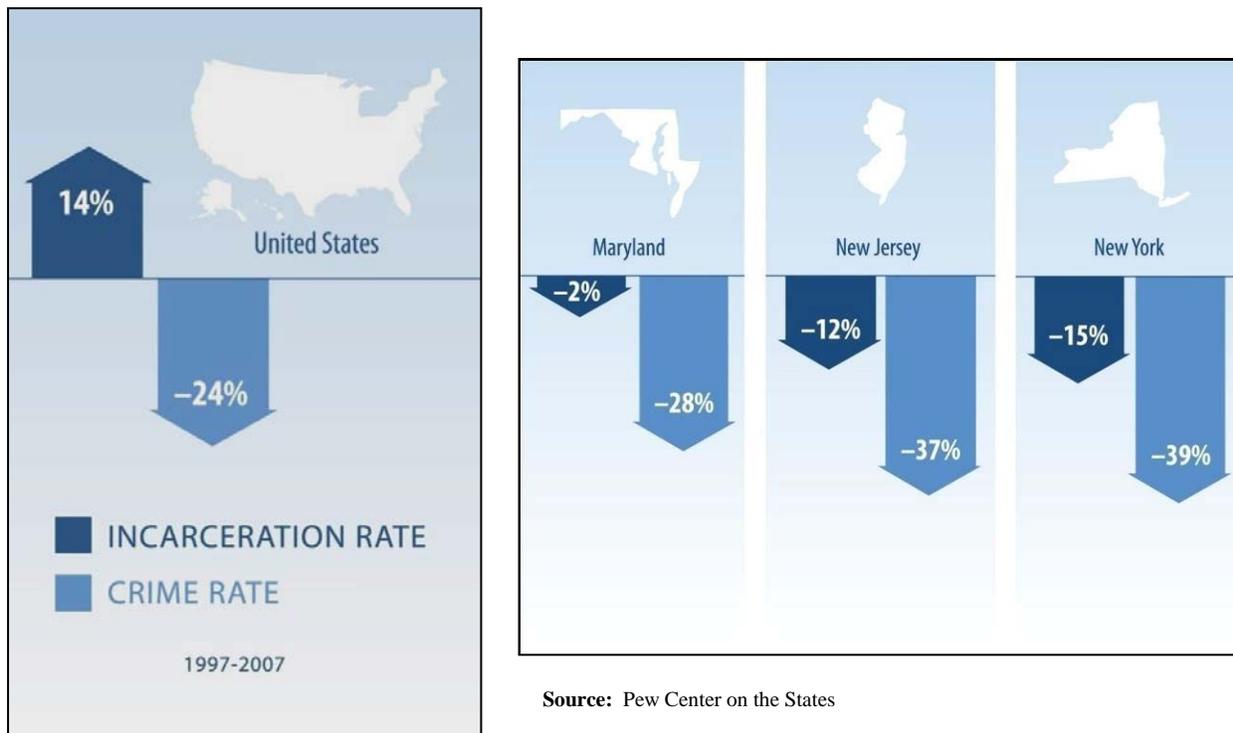
If Florida incarcerated people today at the same rate as in FY1972-73 (126.8 per 100,000), the prison population would be 23,848, at a cost of \$446 million instead of the \$2.4 billion Florida spent in FY2009-10.

It is tempting to credit the decline in crime to the increase in the rate of incarceration. Some have tried hard to make such a case, but research shows that while some decrease in crime is attributable to incarcerating dangerous criminals, after a point, increased rates of incarceration offer diminishing returns and a negative benefit-to-cost ratio. This is especially true when we increasingly incarcerate people for nonviolent drug offenses and other low-level crimes.⁵⁹

The Vera Institute for Justice examined the key studies on this issue and found that; **“Analysts are nearly unanimous in their conclusion that continued growth in incarceration will prevent considerably fewer, if any, crimes – and at substantially greater cost to taxpayers.”**⁶⁰

Indeed, several states are finding that they can decrease their crime rates while simultaneously decreasing their incarceration rates, as demonstrated in **Figure 13**.

Figure 13

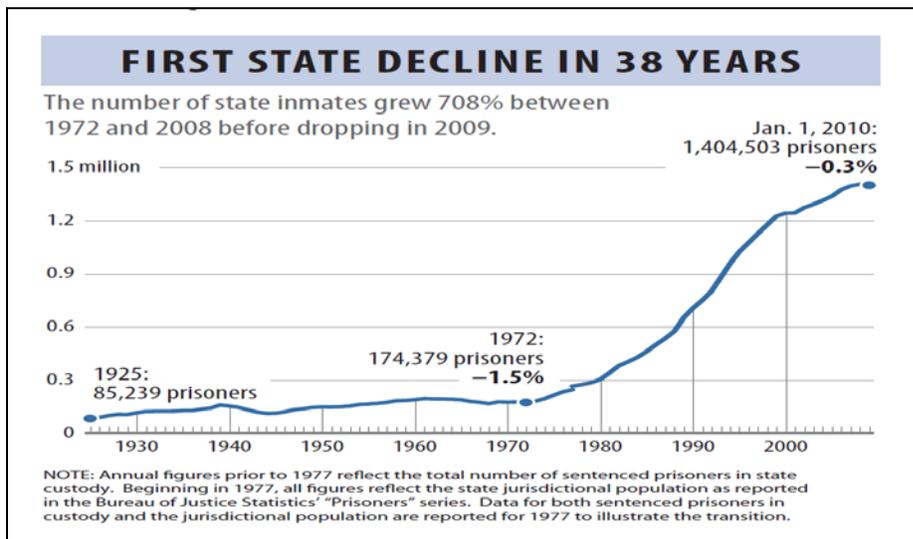


How has this been achieved? By data-driven strategies designed both to improve public safety and save taxpayers money.

⁵⁹ Pew Center on the States, Public Safety Performance Project, *One in 31: The Long Reach of American Corrections*, March 2009, at 17-21.

⁶⁰ Stemen, Don, *Reconsidering Incarceration, New Directions for Reducing Crime*, Vera Institute of Justice, January 2007.

Figure 14



Source:
Pew Center on
the States

States are now reexamining and revising the policy choices that led to such spectacular prison growth. As a result, in 2009, the United States prison population declined for the first time in 38 years.⁶¹ Twenty-six states reduced their prison rolls in 2009, including some of the toughest on crime states such as Texas, Mississippi and South Carolina, which have enacted reforms to stem the tide of growing prison populations.

Unfortunately, Florida was not among them. While modest policy changes over the last couple of years have caused Florida's prison admissions to decline (by 5.6 percent in FY2009-10 over the previous year, and by 5.3 percent in FY2008-09 – after increases in each of the previous 11 years), Florida's prison population nonetheless grew by 1,527 inmates in 2009, making it the state with the second largest uptick in its prison population last year.⁶² And on October 19, 2010, the Legislature's Criminal Justice Estimating Conference predicts that Florida's prisons will continue to grow – reaching 109,178 by FY2015-16.

The four main drivers of prison population growth

The policy changes Florida has made over the last thirty years are still very much being felt. Reviewing patterns of growth over the past thirty years, the Florida TaxWatch Government Cost Savings Task Force has identified four primary drivers of growth:

- **The elimination of parole and the adoption of policies lengthening both sentences and the period of incarceration**
- **Widespread use of very short state prison sentences in lieu of community-based alternatives (e.g., jail, probation, treatment, electronic monitoring)**
- **State prison incarceration for technical probation violations**
- **Recidivism – people *returning* to prison for new crimes or violations**

⁶¹ Pew Center on the States, *Prison Count 2010*, April 2010.

⁶² Pennsylvania had the largest increase.

Florida's policy changes affected both sentencing and the period of actual incarceration in cases both of people convicted of minor nonviolent offenses (who after 1998 could be sent to prison for any felony) and those convicted of serious violent offenses (whose sentences were lengthened).

The elimination of parole and the adoption of policies lengthening sentences and incarceration have driven prison growth.

Parole was eliminated in 1983, which, in 1980, had been the method of release for 62% of the state's prisoners. In eliminating parole, Florida followed the national "truth in sentencing" trend. Instead of the state evaluating whether an individual is appropriate for release under supervision, the majority of prisoners are not assessed for readiness or fitness. Nor are they supervised upon release.

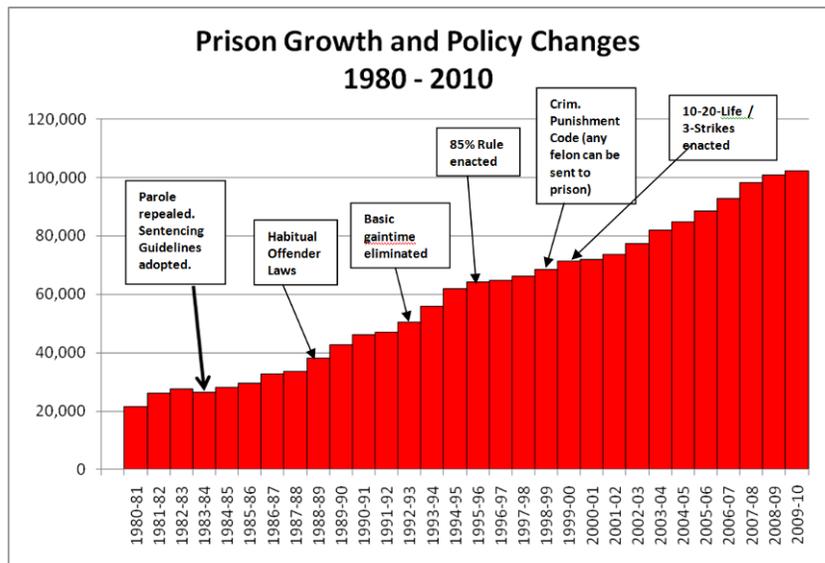
In FY2009-10, 64 percent of prisoners (23,909) were released upon the expiration of their sentence, completely reversing the practice prior to 1983.

Approximately 5,000 are still eligible for parole; they were sentenced before 1983. But in FY 2008-9, 0.1 percent -- just 42 of the **37,391** inmates released -- were paroled.⁶³

When parole was eliminated, basic gain time (which reduced the number of days of incarceration without regard to the inmate's conduct) came to be used as a tool in the eighties and early nineties to reduce prison overcrowding.

In 1995, in response to the use of gain time simply to decrease overcrowding and the resulting relatively low percentage of sentenced time actually served, and in response to certain high profile crimes, the Legislature enacted a law [944.275 (4)(b)(3), F.S.] requiring prisoners to serve 85 percent of their sentences and eliminated basic (non-merit) gain time, though it preserved incentive gain time.

Figure 16



Source: Florida Office of Economic and Demographic Research

⁶³ Florida Dept. of Corrections Annual Report, 2008-09.

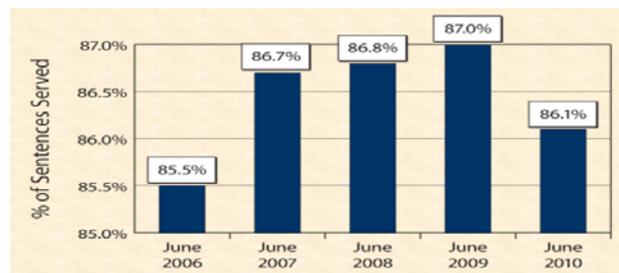
With the elimination of basic gain time and the restrictions placed on incentive gain time (based on good conduct) pursuant to the law mandating serving 85 percent of one’s sentence, inmates began serving significantly higher percentages of their sentences.

Figure 17

**Time Served is Lengthening:
Truth in Sentencing (85% rule – Gain-time slashed)**

In 1995, the Legislature enacted a requirement that individuals sentenced to prison must serve a minimum of 85% of their court-imposed sentence. Since imposition of 85% requirement, average time served in state prison has increased.

Average time served
FY 1994-95
27.3 months
FY 2008-00
35.5 months



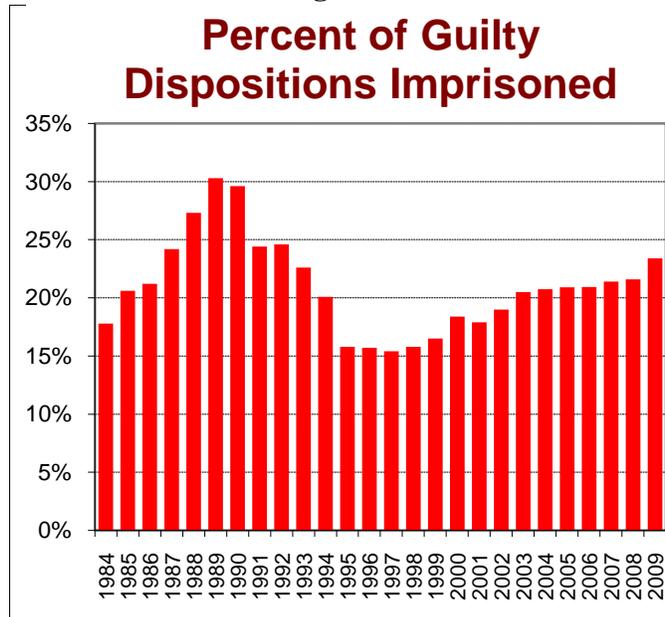
Incentive gain-time is limited to up to 10 days per month. When the inmate's tentative release date becomes equivalent to the 85% minimum service date, the inmate is prohibited from earning further gain-time awards.

In 1995, the Legislature also reduced the sentencing discretion of judges by creating presumptive minimum sentences through the establishment of sentencing guidelines, which were modified in 1994, and then again in 1995, 1996 and 1997, each time increasing the penalties. In 1998, the guidelines were prospectively repealed and replaced by the Criminal Punishment Code [921.002, et seq., F.S.] which maintains the basic structure of presumptive minimum sentences, while preserving upward discretion.

The Criminal Punishment Code allows a judge to sentence any person convicted of a felony to prison, whereas under the repealed Guidelines, people convicted of low-level felonies and without much in the way of a criminal history could not be sentenced to prison.

Figure 18

Percent of Guilty Dispositions Imprisoned



Source: Florida Office of Economic and Demographic Research

Presumptive sentencing generally serves to increase the percentage of people who are convicted being sent to prison, as has happened in Florida.

In 1999, the Legislature also increased the instances in which longer sentences and life sentences could be meted out. The law, officially 3-10-20-Life but colloquially called 10-20-Life, mandates stiff sentences for gun crimes. Incarceration under this law has increased by more than 145% since 2000, the first year of implementation.

Figure 19: Incarceration under 3-10-20-Life

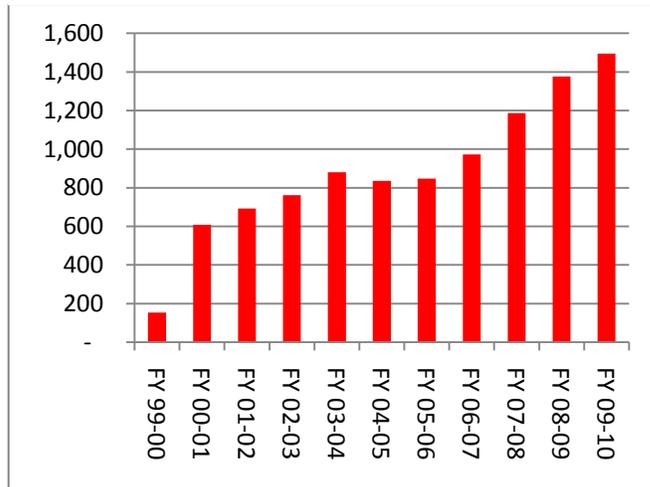
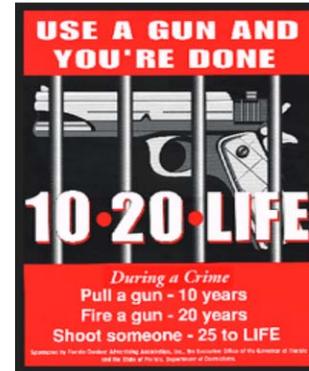


Figure 20

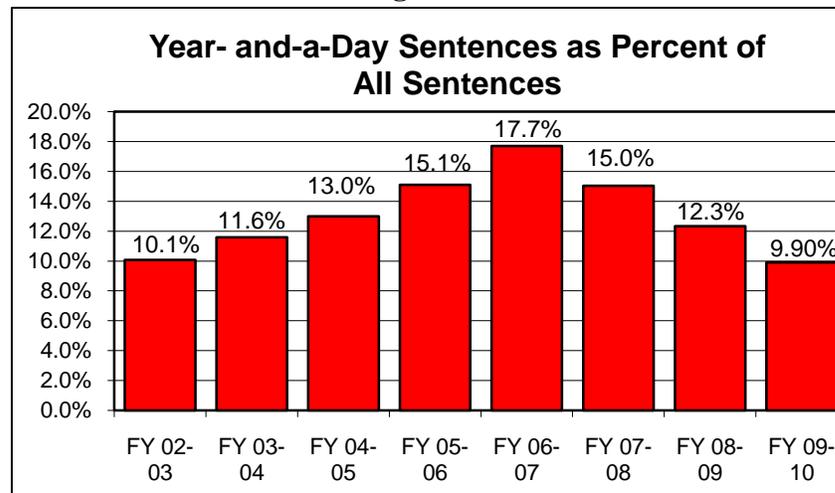


Source:
Florida Office of Economic and Demographic Research

Widespread use of very short sentences drives growth.

While stiffer sentences for serious crimes became the norm over the last few decades, another trend emerged as well. When judges were given the discretion to sentence people to prison who were convicted of the very least serious felonies (and as increasing numbers of felonies were created), that discretion came to be exercised in many counties to hand out sentences just long enough (one year and a day) that it would be served in state prisons (at state cost) rather than in local jails or community alternatives (at county cost). Such sentencing varies widely among the counties.

Figure 21



Source: Florida Office of Economic and Demographic Research

Clearly, the practice of year and a day sentences is not as widespread as just a few years ago, but the wide variations in its use are as prevalent as ever.

Figure 22

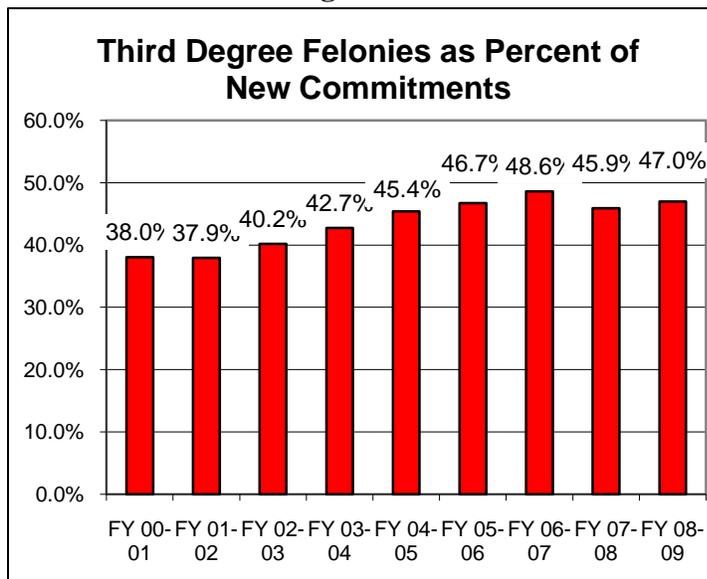
New Commitments and Change in New Commitments by County

Counties Decreasing Use of Year and A Day Sentences				
County	FY 2007-08	FY 2008-09	Change	Change %
Hillsborough	3,846	3,090	(756)	-19.7%
Broward	3,734	3,170	(564)	-15.1%
Polk	2,429	2,049	(381)	-15.7%
Pinellas	2,674	2,310	(364)	-13.6%
Alachua	821	634	(187)	-22.8%
Marion	1,349	1,173	(177)	-13.1%
Miami-Dade	2,575	2,449	(126)	-4.9%
Seminole	478	363	(115)	-24.1%
Bay	1,146	1,039	(107)	-9.3%
Volusia	1,157	1,054	(103)	-8.9%
Okaloosa	519	426	(94)	-18.0%
Sub-total	20,729	17,756	(2,973)	-14.3%
Counties Increasing Use of Year and A Day Sentences				
Santa Rosa	239	321	82	34.3%
Pasco	782	864	83	10.6%
Martin	340	439	98	28.9%
Escambia	1,136	1,275	138	12.2%
Brevard	1,194	1,340	145	12.2%
Saint Lucie	720	959	239	33.1%
Orange	1,649	2,025	376	22.8%
Duval	1,694	2,113	419	24.7%
Sub-total	7,754	9,335	1,581	20.4%
All other counties	12,008	11,641	(367)	-3.1%
Total	40,491	38,732	(1,759)	-4.3%

Source:
Florida Office of
Economic and
Demographic
Research

What is also apparent from analysis of the data is that there is no correlation among the counties regarding their relative population sizes, crime rates, felony filings, and prison admissions. For example, Miami-Dade County, with the largest population and the most felony filings sends *fewer* people to prison than Broward or Hillsborough County.

Figure 23



Source: Florida Office of Economic and demographic Research

Contrary to common wisdom (and common sense), the majority of prison inmates have not been sentenced for serious or violent offenses.

In fact, Chart X shows that an increasing high percentage of Florida inmates are serving prison sentences for non-violent third-degree felonies (which is the lowest level of felony in Florida), which is largely due to the discretion granted to judges in 1995 to sentences such low level offenders to

state incarceration (instead of jail sentences of less than 365 days). This situation also contributes to the growing share of inmates sentenced to short stents in prison.

Further contributing to the large share of short sentences is the percent of prisoners sentenced for crimes denominated “other.”

Over the past thirteen years, the share of violent offenses accounting for prison admissions decreased by 28 percent. During that same period, the share of admissions for “other” offenses, i.e., offenses that are nonviolent, are not property crimes, and are not drug crimes increased by 189 percent.⁶⁴

One of the “other” offenses is driving with a suspended license -- the charge that landed a 78-year-old grandmother in the Broward County jail for 15 days in January 2010.⁶⁵

Figure 24

	Time period		Percent		Change	Percent Change
	FY 2008-09	FY 2009-10	FY 2008-09	FY 2009-10		
	Drive with license suspended/revoked	1,311	769	31.6%		
Felony DUI (3rd or 4th conviction)	462	350	11.1%	10.9%	(112)	-24.2%
Fleeing/eluding LEO offenses	1,072	918	25.8%	28.6%	(154)	-14.4%
Sex offender registration offenses	567	512	13.7%	15.9%	(55)	-9.7%
Remainder of offenses in "Other" category	741	666	17.8%	20.7%	(75)	-10.1%
Total	4,153	3,215	100.0%	100.0%	(938)	-22.6%

Some efforts have been made to address this problem, and fewer offenders were committed for “other” offenses in FY2009-10 than in FY2008-09, but even so 3,215 people were sentenced in FY 2009-10 to prison for “other” offenses, including 769 (accounting for 24% of all “other” offenses) for driving with a suspended or revoked license.

A final factor driving growth for low-level crimes – here drug and property offenses – is that the core definitions have not been revised in many years. When the dollar threshold making it a third-degree felony to steal \$300 in property was enacted, and when possession of less than an ounce of marijuana was made a felony, judges could not sentence most first-time third-degree felony offenders to prison.

⁶⁴ Florida Dept. of Corrections Annual Reports, 1995-96 and 2007-08.

⁶⁵ Christensen, Dan, “Hallandale Beach grandma sent to jail -- and forgotten,” *Miami Herald*, January 12, 2010.

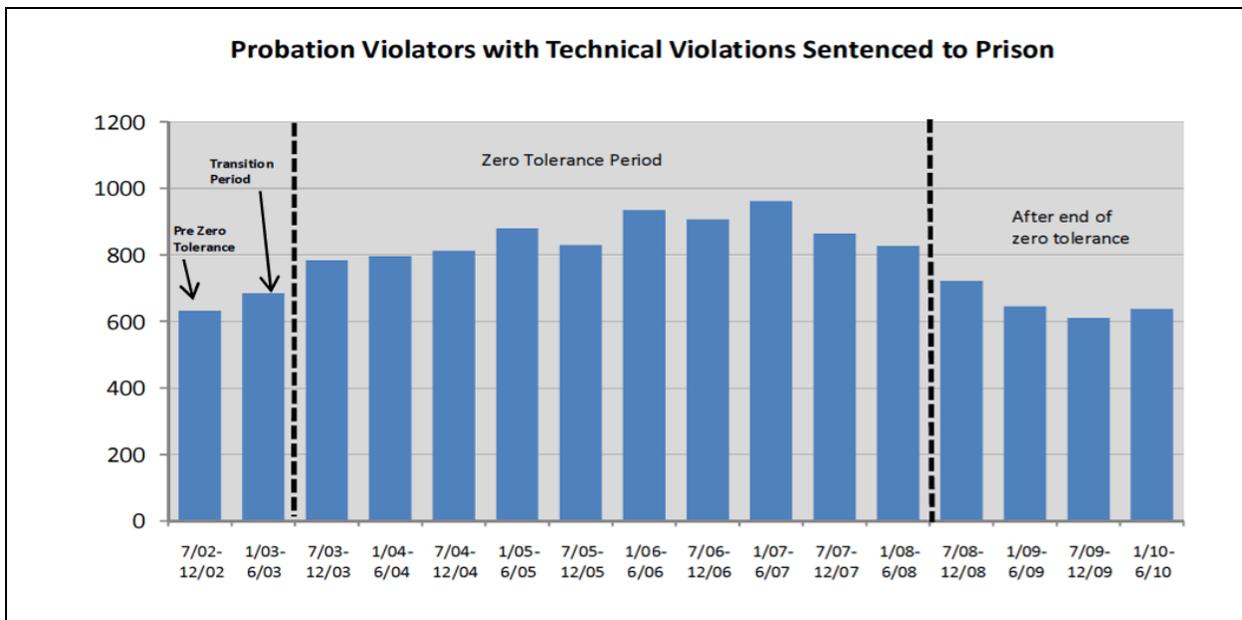
Incarcerating people for technical probation violations drives growth, too

The terms of probation are set by the court at sentencing and typically include: reporting to the probation officer; permitting home visits by the probation officer; obtaining and maintaining employment; abiding by travel restrictions; paying restitution, fines and child support; complying with restrictions on living arrangements, associations, and contact with the victim; and submitting to required drug testing. Violating any of these terms can result in a technical probation violation, which can result in the implementation of a prison sentence by a judge.

Under the Criminal Punishment Code, judges have retained a measure of discretion in sentencing those convicted of low-level offenses (e.g., third-degree felonies) and may sentence those with fewer than 44 points on the required score sheet to a non-prison sentence. Often, this means placing the individual on probation. If the person sentenced to supervision violates the terms of supervision, the offender can be sent to prison *at the discretion of a judge*.

In 2003, the DOC implemented a “zero tolerance” approach to probation violations in the wake of a couple of high profile crimes committed by individuals under state supervision. Although the zero tolerance policy has since been rescinded and a more flexible approach relying on a judge’s discretion has been implemented, probation violations and subsequent revocations are still driving growth. In fact, in FY 2009-10, 7,479 people were sent to prison not for committing a new crime but for technical probation violations.

Figure 25

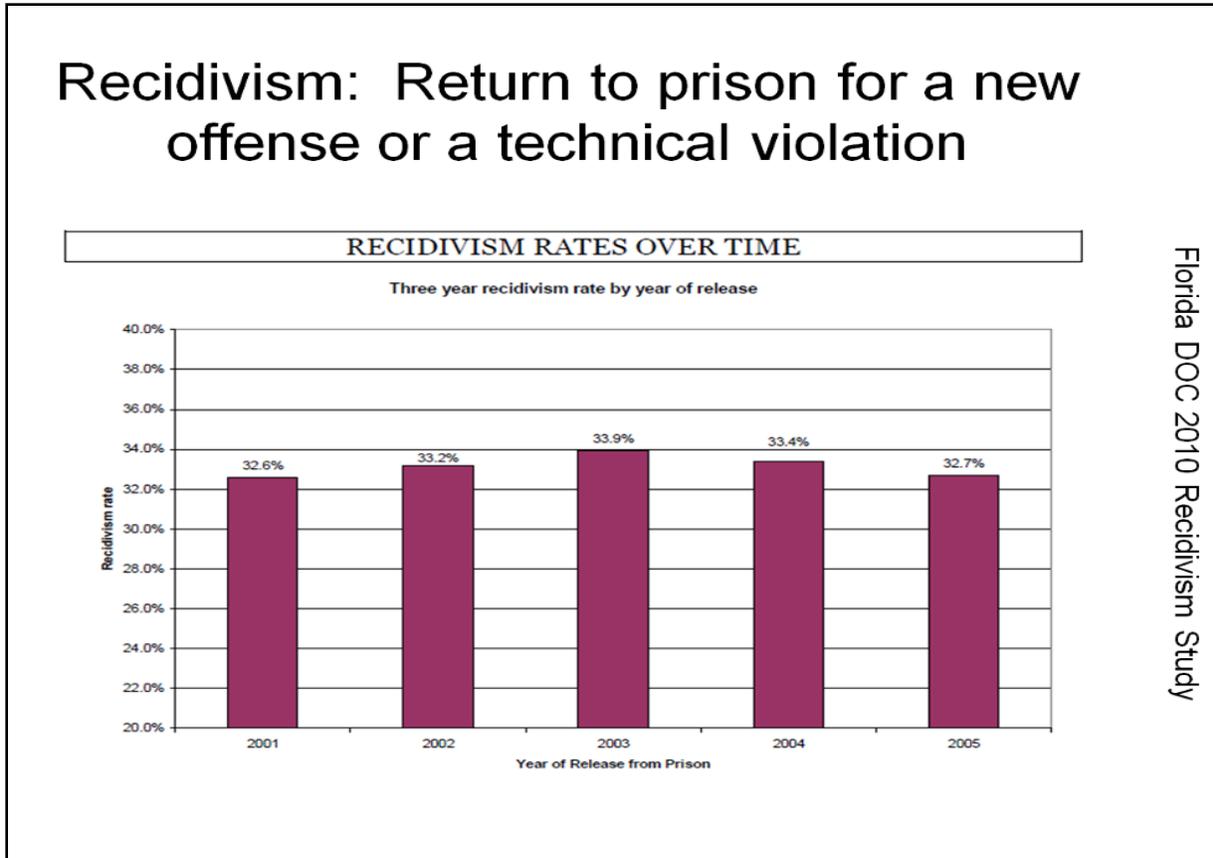


Finally, recidivism drives growth

While the Department of Corrections has revised its mission statement to include “reentry” [defined as “to protect the public safety, to ensure the safety of Department personnel, and to provide proper care and supervision of all offenders under our jurisdiction while assisting, as

appropriate, their re-entry into society”], and has committed to focusing on reducing recidivism, **recidivism (as measured by returning to prison for a new crime or a probation violation) continues to drive prison growth.**

Figure 26



Other important issues in the growth of the criminal justice system

In addition to the four main drivers of prison population, people with mental illnesses in the criminal justice system raise important challenges because they are poorly addressed by the current system and add to the overall population levels. Likewise, the lack of intervention programs for juvenile delinquents and the failure of the current system to deter those delinquents from becoming tomorrow’s prison inmates will continue to result in a more costly corrections system for Florida’s taxpayers.

People with mental illnesses involved in the criminal justice system

Approximately 125,000 people experiencing serious mental illnesses (e.g., schizophrenia, bipolar disorder, major depression) are arrested and booked into Florida jails annually. On any given day, there are nearly 18,000 state prison inmates, 15,000 local jail detainees, and 40,000 individuals under correctional supervision in communities around the state who suffer from

serious mental illnesses. Although about half of these individuals are charged with low-level, non-violent offenses, many languish in prisons, jails and state-funded forensic treatment facilities for months or years because more cost effective placement alternatives do not exist.

Figure 27

Population on June 30th	Total prison population	Number of inmates with mental illnesses	Inmates with mental illness as a percentage of total inmate population
1996	64,333	6,777	10.5%
2009	100,894	17,957	17.8%
Growth:	56.8%	165.0%	69.0%

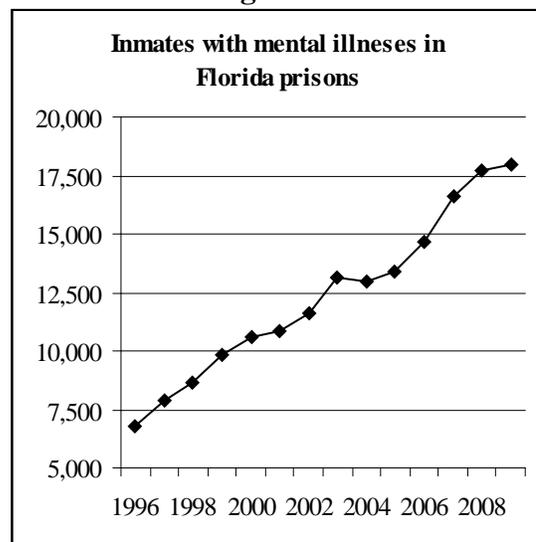
People with mental illnesses represent the fastest growing sub-population within Florida’s prison system. Between 1996 and 2009, the overall inmate population in Florida prisons increased by 57 percent, but the number of inmates suffering from mental illness increased almost three times more over the same period.⁶⁶

Expand evidence-based mental health treatment.

Florida currently spends exorbitant amounts of money to provide mental health treatment services in prisons and other institutional settings; however the policies and practices that drive this investment are based on an outdated system of care that does little to prevent individuals from becoming involved in the justice system or to break cycles of crime and recidivism. In addition, the current system of care fails to account for the unique treatment needs and life experiences of people with justice system involvement.

Over the past several years, a task force convened by the Supreme Court of Florida has been working with leaders from all three branches of government, as well as the state’s leading experts on mental health and criminal justice, to address issues relating to the disproportionate representation of people with mental illnesses involved in the justice system. This body developed a report titled “Transforming Florida’s Mental Health System,” which details comprehensive recommendations for planning, leadership, financing, and service development. The recommendations made target evidence-based and sustainable approaches to treatment and service delivery that will help divert people with mental illnesses from the justice system into

Figure 28



⁶⁶ From 1996 – 2009 (the same time period), the number of prison inmates receiving ongoing mental health treatment in state prison increased by 165 percent. It is important to note that at least some of the increase in the number of people with mental health problems in prison is due to an increase in assessments and diagnosis of such conditions.

more appropriate community-based treatment and support services, while at the same time helping to ensure public safety. The report also outlines steps to begin shifting investment of state dollars from costly, deep-end services provided in institutional settings into more effective, efficient, and sustainable front-end services provided in the community. The Community Mental Health and Substance Abuse Treatment and Crime Reduction Act, which would implement many of the task force's recommendations, has been considered during past legislative sessions.

Recently, the Florida Senate released an interim project report reviewing preliminary outcomes of a pilot program implemented in Miami-Dade County which is based on recommendations made by the Supreme Court task force and targeted toward diversion of individuals from state forensic hospitals into community-based treatment and support services. The report identifies key systems level features necessary to ensure continuity of care and to effectively divert people away from the justice system including cross systems collaboration, effective communication, and leadership. In addition, the report identifies essential treatment elements necessary to ensure successful outcomes among justice system-involved individuals. Based on the early success of the program in Miami-Dade County, the Senate report suggests that the legislature may wish to expand the pilot program to other communities around the state. In addition, the Senate report recommends authorizing county court judges to order involuntary outpatient treatment as a condition of release for defendants re-entering the community who meet statutory criteria.

Florida's juvenile justice system – criminalizing youth instead of offenses

In Florida, prevention, diversion and progressive sanctions policies have resulted in safely implementing a significant reduction in commitments to DJJ between FY2005-06 and FY2009-10.⁶⁷ More than \$85 million was saved in FY2008-09 alone as a result of these policies. These outcomes are notable, but reform was long overdue in Florida. In 2006, Florida incarcerated children at a rate 50% higher than the national average.

Recently, much work has been done focused on improving Florida's juvenile justice system. One important example of the progress toward a smarter juvenile justice system is the creation of the Florida Department of Juvenile Justice's Blueprint Commission. The 25-member Blueprint Commission addressed key concerns in the juvenile justice system such as repeat offenders, overrepresentation of minorities, and a growing female population.

In January 2008, the Blueprint Commission published *Getting Smart About Juvenile Justice*, which focuses rehabilitating youth offenders and reducing the use of restrictive sanctions for low-risk and misdemeanor offenders while reserving those restrictive sanctions for serious and habitual offenders. The report offers numerous suggestions for reforming Florida's juvenile justice system in ways that will rehabilitate and improve the lives of juvenile offenders, increase

⁶⁷ From FY2005-06 to FY 2009-10, the number of DJJ commitments decreased by 28%. During the same period the overall crime rate also fell, which undoubtedly accounts for some portion of the decrease.

public safety, and produce significant savings for the state. Some of the recommendations have been implemented, but many have not yet been.

In spite of determined efforts and substantial progress over the past five years, there is still significant room for improvement.

Florida has adopted a practice of criminalizing youth offenders instead of criminalizing the offenses. From 2000 to 2008, the average length of stay for juveniles in residential facilities increased by 30%, a trend that cost nearly \$20 million last year alone.⁶⁸ Not only is the average length of stay too long, the number of incarcerated youth is too high.

DJJ continues to incarcerate large numbers of relatively low-risk youth. Nearly half (44%) of all children admitted to DJJ facilities in FY2008-09 were committed for misdemeanors and violations of probation.

Florida will spend more than \$50 million on children committed to non-secure residential facilities on misdemeanors and probation violations this year. Most of these youth are housed in large, congregate-care detention centers awaiting court hearings and are held in custody at costs ranging from \$100 to more than \$300 per day.

Few of these youth offenders are confined for serious offenses. Most are charged with non-violent property or drug crimes and 40% of all children are committed for technical violations of probation or misdemeanors, including non-violent property offenses and public order violations.

Reforms, such as prevention, intervention, diversion, and treatment, cost less than commitment. They are also better at holding youth accountable and reducing recidivism. While Florida must continue to incarcerate youth who pose serious risks to public safety, detention and incarceration of young people should be an option of last resort.

Tools such as risk assessment and sentencing guidelines let jurisdictions distinguish between youth who pose risks to public safety and those who would be better and more cost effectively served in less-restrictive settings.

Many juvenile justice systems have embraced community-based alternatives to institutionalization. These systems improve the life chances of juveniles in the justice system and reduce unwarranted costs while enhancing public safety.

Getting smart on crime requires efficient and effective use of limited resources in prevention, diversion, and intervention programs, especially when it comes to juvenile justice.

Conclusion

As we have seen, Florida's 11.4-fold rate of prison population growth is simply unsustainable. There are more effective, less costly policy choices we can make to protect and improve public

⁶⁸ Analysis by the Southern Poverty Law Center (unpublished report).

safety. The recommendations below address each of the policy choices that have led to these drivers of prison growth:

- **The elimination of parole and the adoption of policies lengthening sentences and incarceration**
- **Widespread use of very short sentences**
- **Incarcerating people for technical probation violations**
- **Recidivism – people *returning* to prison for new crimes or violations**
- **The lack of alternatives for people with mental illnesses**
- **The juvenile justice’s failure to rehabilitate system (i.e., criminalizing youth instead of offenses)**

Justice Reform Recommendations

Section I: Big Picture Recommendations

The first four recommendations will not result in immediate (i.e., July 1, 2011) cost savings, but are essential to long-term cost containment and the improvement of public safety.

11. Create a commission to do a top-to-bottom review of the Criminal Justice System and Corrections

Florida has not conducted a comprehensive review of the laws and policies that have been driving its prison growth, nor does it have an entity charged with the responsibility of doing so.

Senate Bill 2000, passed in 2008 (Chapter No. 2008-54), established the Correctional Policy Advisory Council, which was to evaluate “correctional policies, justice reinvestment initiatives, and laws affecting or applicable to corrections, and for the purpose of making findings and recommendations on changes to such policy, reinvestment initiatives, and laws,” and to advise the Legislature and Governor on such matters. Members were appointed but the Council never met; and the enabling legislation provides that the Council shall be abolished on July 1, 2011.

Such a body, but expanded in both scope and membership, is essential to the deliberative process necessary for meaningful, sustainable, cost-effective justice reforms. Virtually every state that has made the substantive policy changes that have succeeded in reducing the size of their corrections population has accomplished this through a bipartisan deliberative body engaging all three branches of government. Indeed, the Pew Center on the States’ Public Safety Performance Project requires such a cooperative effort for it to provide technical assistance in identifying the key drivers of prison growth and developing a menu of options to reverse the trend.

While this report contains many recommendations that can save tax dollars and improve public safety, we know it does not address all of the possibilities. Florida needs the contributions that such a deliberative body could add to justice reform.

Recommendation: *The Governor, with the bipartisan, bicameral cooperation of the legislature and judiciary, create a commission composed of members of the executive, legislative and judicial branches along with experts in criminology, sentencing, corrections, veterans affairs, mental health, substance abuse, reentry, and community supervision to do a top-to-bottom data-driven assessment of Florida’s corrections and criminal justice system with a focus on cost-effective ways to improve public safety while slowing prison growth. This commission should be required to produce comprehensive, actionable reforms in time for consideration by the legislature in 2012.*

12. Establish an independent oversight body over the Departments of Corrections and Juvenile Justice

As the bipartisan Commission on Safety and Abuse in America's Prisons found in 2006, "All public institutions, from hospitals to schools, need and benefit from strong oversight. Citizens demand it because they understand what is at stake if these institutions fail. Prisons and jails should be no exception. They are directly responsible for the health and safety of millions of people every year, and what happens in correctional facilities has a significant impact on the health and safety of our communities. Corrections leaders work hard to oversee their own institutions and hold themselves accountable, but their vital efforts are not sufficient and cannot substitute for external forms of oversight."

As the March 2010 Florida TaxWatch report⁶⁹ and *Florida Trend* reported in July 2009, the critical component of any such oversight is the entity's independence. Under current law, the Corrections and Juvenile Justice inspectors general are appointed by the agency's secretary and may be removed without cause by the secretary. Indeed, in 2003, the Secretary of DOC fired the Inspector General who was uncovering the misconduct of a DOC employee who was a friend of the Secretary. Later, both the Secretary and the employee who was being investigated were indicted and incarcerated by the federal government – but by then, correctional oversight had already been compromised.

No scandal involving the Florida DOC inspector general's office has emerged since that time, but structurally, with the IG responsible to no one but the Secretary and able to be fired at will, there simply is not the independence needed. Nor is there adequate transparency. The IG's very brief annual report (most of it lays out its duties and authority rather than what has been accomplished) provides data on the number and types of investigation, but nothing whatever about their disposition, except how many cases are referred for prosecution.

There are a number of models for independent corrections oversight. California, for instance, created an independent inspector general's office, which has broad oversight -- investigatory, monitoring and inspecting, along with a requirement that each warden be audited one year after appointment and each prison audited every four years.

Currently, Florida has oversight of medical and mental healthcare established through the Correctional Medical Authority (CMA) and this could serve as a model for general oversight.

The American Bar Association has studied the various types of oversight of corrections agencies in place among the states and in other nations and has developed a set of key requirements of effective correctional monitoring. Among these requirements are:

- Independence from corrections

⁶⁹ Bragg, Cecil T., CPA, "How Independent Are Florida Inspectors General?," March 2010

- Headed by a person appointed for a fixed term by an elected official, subject to legislative confirmation, and subject to removal only for just cause
- Sufficient expert and trained staff
- Duty to conduct regular inspections of the facilities, as well as the authority to examine, and issue reports on, a particular problem at one or more facilities.
- Authorization to inspect or examine all aspects of a facility's operations and conditions including, but not limited to: staff recruitment, training, supervision, and discipline; inmate deaths; medical and mental health care; use of force; inmate violence; conditions of confinement; inmate disciplinary processes; inmate grievance processes; substance-abuse treatment; educational, vocational, and other programming; and reentry planning.
- Authority to conduct both scheduled and unannounced inspections
- Authority to obtain and inspect any and all records, including inmate and personnel records, bearing on the facility's operations or conditions.
- Authority to conduct confidential interviews with any person, including line staff and inmates, concerning the facility's operations and conditions; to hold public hearings; to subpoena witnesses and documents; and to require that witnesses testify under oath.
- Requirement of an annual report of its findings and activities that is public, accessible through the Internet, and distributed to the media, the jurisdiction's legislative body, and its top elected official.⁷⁰

Recommendation: *An independent entity, accountable to the governor, legislature and the people of Florida, should be established with oversight, investigating, inspecting, monitoring and reporting authority over state corrections and juvenile justice and their facilities. It should also establish performance measures and review and report on the data collected pursuant to such measures.*

13. Develop risk / needs assessment and cost-analysis tools to be used at the time of sentencing (Missouri model)

Since Florida first enacted its Sentencing Guidelines in 1983, Florida's sentencing policy has explicitly rejected rehabilitation as a primary purpose of sentencing. Today, under the Criminal Punishment Code, adopted in 1998, the policy reads: "The primary purpose of sentencing is to punish the offender. Rehabilitation is a desired goal of the criminal justice system but is subordinate to the goal of punishment."⁷¹

⁷⁰ American Bar Association, "Key Requirements for the Effective Monitoring of Correctional and Detention Facilities", August 2008.

⁷¹ 921.002 (b), The Criminal Punishment Code

Thus, the calculation used to determine the sentence focuses not on risk or needs, or the likelihood of reoffending, but on the appropriate dose of punishment, based on static risk factors such as the nature of the primary offense and any additional offenses, prior criminal history, and injury to the victim. These are factors that cannot change and thus cannot be addressed through targeted interventions.

Florida's sentencing policy is consistent with the trend across the U.S. that began in the late seventies with determinant sentencing, focusing on punishment (called "just deserts"), deterrence and incapacitation. (It must be said that all states did not move in this direction. For instance, Article 1, Section 12 of the Alaska constitution provides that "Criminal administration shall be based upon the following: the need for protecting the public, community condemnation of the offender, the rights of victims of crimes, restitution from the offender, and the principle of reformation.")

Yet, as a 2006 National Conference of State Courts survey found, "the top concerns of state trial judges hearing felony cases included the high rates of recidivism among felony offenders, the ineffectiveness of traditional probation supervision and other criminal sanctions in reducing recidivism, restrictions on judicial discretion that limited the ability of judges to sentence more fairly and effectively, and the absence of effective community corrections programs. The survey also found that the state chief justices believed that the most important sentencing reform objective facing the state courts was to improve public safety and reduce recidivism through expanded use of evidence-based practices and programs, including offender risk and needs assessment tools."⁷²

While evidence-based approaches to rehabilitation have been most commonly associated with prison and community-based programs, states, in response to this frustration and stubborn recidivism rates, have been developing policies and practices that address risk at the time of sentencing so that the sentence is most appropriate to the individual defendant's risks of recidivating.⁷³

Accordingly, states are moving away from policies that barely consider the public safety objective of reducing recidivism (and thus reducing crime) and are instead embracing sentencing policies and practices based on what research has demonstrated and which helps to rehabilitate people convicted of crimes and to reduce recidivism. This is at the heart of drug courts and other treatment-oriented courts (also called problem-solving courts), regardless of whether the official state policy favors or eschews rehabilitation.

Among the practices being adopted are:

⁷² Warren, Roger K., Evidence-Based Practice to Reduce Recidivism: Implications for State Judiciaries, for the Crime and Justice Institute, National Institute of Corrections, and National Center for State Courts, The Crime and Justice Institute and the National Institute of Corrections, Community Corrections Division, 2007.

⁷³ See. e.g., Pew Center on the States, Public Safety Policy Brief, "Arming the Courts with Research: 10 Evidence-Based Sentencing Initiatives to Control Crime and Reduce Cost," May 2009.

- **Establishing recidivism reduction as an explicit sentencing goal.** The Oregon Judicial Conference, for example, requires judges to consider the sentence’s potential impact on reducing future criminal conduct.
- **Building flexibility into the sentencing laws so that judges can mete out sentences that are aimed at reducing recidivism.** As the Pew Center on the States has found, “The research indicates that whether a particular offender is an appropriate candidate for recidivism reduction cannot accurately be assessed relying solely on the type of offense committed and the offender’s prior criminal history. Individual offender characteristics must also be taken into consideration. This means shorter or probationary sentences for some offenders, and perhaps longer prison terms for others.”⁷⁴
- **Using risk and needs assessments in formulating a sentence.** Rather than focusing only on the unchangeable static factors (nature of the crime, criminal history, etc.) a validated tool that assesses “dynamic” risks and criminogenic needs (e.g. low self-control, substance abuse, antisocial attitudes, criminal thinking) can guide sentencing so that it results in effective treatment.

Missouri’s Sentencing Commission has developed a web-based tool for judges to use in sentencing that provides them extensive information about sentencing options and the risks and costs associated with each alternative. The tool is available for use by judges, prosecution, defendants and their attorneys, and the public. The user simply types in the code number for the highest level offense upon which the defendant has been (or will be) convicted, along with demographic, criminal history, substance abuse involvement, education and other information about the defendant, and the tool provides the user with the recommended sentences, the risk assessment, recidivism projections and the costs of incarceration, supervision, and community alternatives, including treatment where warranted.

Recommendation: *The commission appointed pursuant to Recommendation #12 should lead the development of a similar web-based tool for purposes of illuminating sentencing options, defendant risk reduction and sentencing costs.*

Section II: Cost-saving recommendations related to sentencing people convicted of Low-level offenses /short-term sentences

As DOC reports in its annual sentencing report,⁷⁵ one of the notable impacts of the 1998 repeal of the Sentencing Guidelines and the enactment of the Criminal Punishment Code is that “all felony offenders have the potential to receive a prison sentence, whereas many under the

⁷⁴ *Id.*

⁷⁵ Florida Department of Corrections, Florida’s Criminal Punishment Code: A Comparative Assessment, September 2009.

guidelines were, by policy, excluded from such a possibility.” In FY2008-09, only 28.2 percent of the new admissions to prison were incarcerated for violent crimes; the rest were admitted for drug, property or “other” offenses. Sentencing practices vary considerably from county to county, but all counties send increasing numbers of nonviolent low-level offenders to prison.

14. Require written justification for state prison sentences given to individuals with low sentencing scores – 44 or less (currently 22 or less)

Under Florida law, a person who has been convicted of a felony in the third-degree may be punished by a term of imprisonment not exceeding 5 years.⁷⁶ The discretion provided judges is limited, however, by the Criminal Punishment Code, which essentially establishes minimum sentences.⁷⁷ Under the Code, sentencing scores are used to calculate the *lowest* permissible sentence. Offenses are ranked under this law according to the seriousness of the most serious offense from one to ten. Calculation of the total sentence points includes multiple factors, such as secondary offenses, injury to the victim, and prior record.

If the total number of sentence points equals or is less than 44 points, the *lowest* permissible sentence is a non-state prison sanction,⁷⁸ but the non-state sanction is still within the discretion of judge to impose or not. Until 2009, a judge had unfettered discretion to sentence any person convicted of a third-degree felony for up to five years in prison, regardless of the total sentence score calculated under the Criminal Punishment Code. That year, the Legislature had discovered that thousands of defendants with point scores less than the 44-point threshold recommended for a prison sanction were nonetheless sentenced to state prison.

Effective July 1, 2009, 775.082, F.S., (SB 1722) was amended to require the court to sentence those with 22 points or less (and that have not been convicted of a forcible felony) to a non-state prison sanction unless the court makes written findings that a non-state prison sanction could present a danger to the public.

Still, as OPPAGA reported in October 2010, in FY2009-10, 11.5% of defendants with sentencing scores between 22 and 44 were sent to prison (1,470 individuals), and 2.6% (364 people) of those with scores of 22 and below were sent to prison.⁷⁹ This is a reduction over the previous fiscal years, but it is not sufficient.

⁷⁶ Section 775.082, F.S., specifies the penalty structure for the different felony classifications.

⁷⁷ (Chapter 921, the Criminal Punishment Code applies to defendants whose non-capital felony offenses were committed on or after October 1, 1998.)

⁷⁸ Section 775.082, F.S., specifies the penalty structure for the different felony classifications.

⁷⁹ OPPAGA, *Without Changes, Expansion Drug Courts Unlikely to Realize Expected Cost Savings*, Report No. 10-54, October 2010

Figure 29: Sentencing Scores and Sentences FY 2007-08 and FY 2008-09

Sanction Imposed	Recommended Sanction Category							
	FY 2007-2008 Sentence Dates ¹				FY 2008-2009 Sentence Dates ²			
	22.0 Points or Less	22.1 to 44.0 Points	More than 44.0 Points	Total	22.0 Points or Less	22.1 to 44.0 Points	More than 44.0 Points	Total
State Prison	1,230	5,150	13,530	19,910	1,204	5,145	13,325	19,674
	3.4%	13.2%	60.7%	20.4%	3.9%	13.8%	61.2%	21.8%
Community Control	997	2,234	1,203	4,434	872	2,152	1,273	4,297
	2.8%	5.7%	5.4%	4.6%	2.8%	5.8%	5.8%	4.8%
Probation	23,160	18,009	4,507	45,676	19,914	17,625	4,491	42,030
	64.1%	46.3%	20.2%	46.9%	63.9%	47.4%	20.6%	46.7%
County Jail	10,416	13,022	2,903	26,341	8,910	11,911	2,551	23,372
	28.8%	33.4%	13.0%	27.1%	28.6%	32.0%	11.7%	25.9%
Other	336	520	154	1,010	245	338	124	707
	0.9%	1.3%	0.7%	1.0%	0.8%	0.9%	0.6%	0.8%
Total	36,139	38,935	22,297	97,371	31,145	37,171	21,764	90,080
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

*Total points greater than 44.
¹ Offense dates on or after October 1, 2006.
² Offense dates on or after October 1, 2007.

According to the data provided in the above figure, a 10% diversion of individuals with 44 or less points would save \$1.6 million, annually. If half of these individuals could be successfully diverted from prison, the state could realize an annual savings of \$31.4 million.⁸⁰

Recommendation: *775.082, Fl. Statutes should be further revised to require written justification for sentencing individuals with 44 or fewer points to state prisons.*

15. Incentivize localities for reducing their rates of state incarceration and increasing local alternatives

Florida, like many other states, has been tracking and wrestling with the increasing phenomenon of local courts sentencing individuals to state prison under circumstances that would have equally warranted, under existing law, local jail sentences or community-based alternatives.

In some states, the cost of local incarceration is borne by local governments (in Florida, it is the counties), while the cost of state prisons is borne wholly by the state. In Florida, this may be one of the reasons behind the common use of year-and-a-day sentences (and year-and-a-month in one county), which, by law, send individuals to state prison at state cost. A sentence of just one day less and the costs would inure to the county.

In many cases, the state prison sentence actually served is just a few months because the majority of the sentence has already been served (and credited against the total) in jail, pending disposition of the case. Significantly, on a per-bed basis, the first six weeks of the sentence are the most costly because every new prisoner begins the sentence at a reception center and the per-

⁸⁰ The average daily cost of \$44.03 per inmate was used in calculations (weighted average that excludes the daily cost of reception centers based on the Florida Department of Corrections FY08-09 Budget Report.) These estimates accounted for \$5,000 in assumed diversion program costs per diverted offender.

diem at such facilities (\$85.94) is more than twice the cost of a bed, for instance, in a typical male facility (\$42.31). Thus, the cost of a short-term sentence can be far greater per day than that of a longer term sentence.

In light of this phenomenon, some states are looking to reverse or lessen the incentives to impose state prison sentences on people who would be equally or better served in the local community – or specifically incentivize counties for keeping low-level offenders out of state prison.

In Illinois, for example, the Crime Reduction Act (Public Act 96-0761) established the Adult Redeploy Illinois program (based on its successful Juvenile Redeploy program), which provides financial incentives to local jurisdictions for designing community-based programs to treat offenders in the community instead of sending them to state prisons.

In states such as California, Colorado, Arizona, Kansas and Alabama, incentive funds are also being made available to localities to reduce recidivism and to reduce the number of probation revocations that land people back in prison. Indeed, in 1968, when Ronald Reagan was governor of California, one of the strategies employed to reduce the prison population by 34 percent over the course of his governorship was to provide counties incentives to keep individuals from being sent to prison.⁸¹

There are many possible approaches to incentivizing local sentences. If, for example, the state reimbursed counties 50 percent of the savings achieved when counties reduce the number of offenders sent to state prison that are instead sentenced to local options (jail or community-based alternatives, including electronic monitoring), taxpayers would save 50% of the cost of diverting each such person from state prison, and the localities would reap the benefit of funds they would not have otherwise. Of course, critical to such an approach is assurance that these are true diversions and not local sentences of people who would have been locally sentenced anyway. Therefore, counties would be able to access state funds only if they materially reduce the number of low-level offenders sent to state prison, which would be measured against a baseline rate of offenders that each county sent to state prison in previous years.

From FY 2005-FY 2009, an average of 14% of all new commitments has been sentenced under the year-and-a-day practice. This is an average decline of approximately 9% in year-and-a-day sentencing over the previous five years.⁸² Assuming that many of the individuals sentenced to a year and a day would be the ones that would avoid prison if proper incentives were provided to the counties, and assuming the percent of new commitments sentenced to a year-and-a-day remains constant at 14%, it is **estimated that expanding state prison diversion would result in \$4.7 million to \$93 million savings over the next three years. Assuming the percent of**

⁸¹ Palta, Rena, Prison Overcrowding: What Would Reagan Do?: San Francisco Chronicle, Oct. 4, 2010

⁸² Calculations use prison data and projected new commitments from the Justice Estimating Conference. The average daily cost of \$44.03 per inmate was used in calculations (weighted average that excludes the daily cost of reception centers based on the Florida Department of Corrections FY08-09 Budget Report). These estimates accounted for \$5,000 in assumed diversion program cost per diverted offender.

inmates sentenced to a year-and-a-day continues to decline 9% annually, it is estimated that Florida would save between \$2.6 million and \$51.3 million.

Figure 30: Estimated Cost Savings

Scenario 1- Approximately 14% of new commitments sentenced year-and-a-day				
	Number of Eligible New Entrants	50% Diverted	25% Diverted	10% Diverted
FY2011-12	4,934	\$30,930,877.98	\$15,465,438.99	\$1,546,543.90
FY2012-13	5,008	\$31,395,152.71	\$15,697,576.36	\$1,569,757.64
FY2013-14	5,108	\$32,022,669.60	\$16,011,334.80	\$1,601,133.48
Scenario 2 - Average 9% annual decline in number of new commitments with year-and-a-day sentences				
	Number of Eligible New Entrants	50% Diverted	25% Diverted	10% Diverted
FY2011-12	2,986	\$18,718,286.51	\$9,359,143.25	\$935,914.33
FY2012-13	2,719	\$17,047,166.95	\$8,523,583.47	\$852,358.35
FY2013-14	2,477	\$15,525,240.56	\$7,762,620.28	\$776,262.03

Recommendation: *Florida should reverse the incentives counties now have to send people convicted of low-level nonviolent crimes to state prisons and reward them for sentencing them to community-based alternatives.*

16. Align Florida’s marijuana and cocaine possession laws with other Texas and other similar states

Florida laws authorize the incarceration in state prisons for the possession of very low quantities of drugs. Possession without intent to deliver or distribute of over 20 grams (7/10th of an ounce) of marijuana in Florida is a felony punishable by up to five years in prison. By contrast, in Kentucky and New York to reach felony level, the accused must have possessed 8 ounces or more (11 times the Florida felony amount); in Texas, it’s 4 ounces.

Possession of any amount of cocaine is also a felony in Florida and this offense has been a major driver of prison growth.

People convicted of drug offenses make up 19.8% of the prison population; those convicted of simple possession of cocaine made up 19% of new commitments (1,938 people) for drug offenses in 2009. According to OPPAGA, “1,265 drug possession inmates currently in prison scored fewer than 5 prior record points (likely no significant prior offenses). If half were diverted, the state would save \$10.4 million annually.”⁸³

⁸³ OPPAGA, Research Memorandum, Options for Reducing Prison Costs, March 3, 2009.

Across the country, states are making changes in their drug laws to reduce penalties from felonies to misdemeanors.⁸⁴ For instance, in 2010, the Colorado legislature amended its drug possession laws to make possession of most drugs (e.g., cocaine and heroin) a misdemeanor rather than a felony (and marijuana possession is decriminalized in Colorado). Colorado is reinvesting the money saved in treatment programs.⁸⁵

As of July 1, 2010, there were 2,260 inmates in custody of the Florida Department of Corrections due to charges of illegal possession of marijuana or cocaine. One third of these inmates were first-time offenders. The average maximum sentence for illegal possession is 2.9 years with an average of 2.17 years for first time offenders. **If half of the first-time offenders were diverted from prison, the state could save approximately \$6.7 million, annually.⁸⁶ A 50% reduction in all current drug offenders serving time for cocaine or marijuana possession would constitute a savings of \$21.2 million.**

Recommendation: *The Florida Legislature should amend 893.13(6)(b), Florida Statutes, to reclassify low-level marijuana and/or cocaine possession as a misdemeanor.*

17. Update value thresholds for property felonies

In Florida, most theft, fraud and other property offense laws establish the dollar threshold that makes the crime a felony at \$300; other thresholds are even lower. For instance, for food stamp fraud it is \$200. For fraud through issuing a worthless check or stopping payment on a check, it is \$150. And for removal of a from rental property if a landlord's lien has been placed on it, it is \$50. Florida also makes the theft of specific objects (e.g., pigs) a felonious theft regardless of value.

As with the changes other states are making to their drug laws by raising the weight level thresholds that make drug possession crimes a felony, other states are also raising the dollar value thresholds that make property crimes felonies.

Among the states that have raised their thresholds for felony property crimes are South Carolina (increasing the threshold for felony malicious injury to animal or property from \$5,000 to \$10,000); Delaware (Class G felony computer crimes from \$500 to \$1,500); Montana (increased threshold dollar amounts for a number of felony property crimes from \$1,000 to \$1,500); Washington (increased minimum threshold of Class C felony property crimes from \$250 to \$750).⁸⁷

⁸⁴ See, e.g., Vera Institute of Justice, Criminal Justice Trends; Key Legislative Changes in Sentencing Policy, 2001–2010; September 2010.

⁸⁵ Colorado Criminal Justice Reform Coalition, 2010 Legislative Summary.

⁸⁶ As of July 1, 2010, 712 were first-time offenders. Estimates assume an average per diem cost of \$52.00 for public institutions and \$45.53 for private institutions.

⁸⁷ *Id.*

As of July 1, 2010 there were 1,581 inmates in custody of the Florida Department of Corrections with carrying charges of grand theft between \$300 and \$5,000. The average maximum sentence for all of these individuals is 2.93 years. **For every 1% inmates with grand theft charges diverted from prison, the state could save approximately \$296,000 annually.**⁸⁸

Recommendation: *The Florida Legislature should increase the dollar thresholds that make property offenses a felony and reexamine offenses made felonious based solely on the type of property stolen.*

18. Amend the driving with a suspended license law to reduce the penalty from felony to misdemeanor when the reason for the suspension is inability to pay a financial obligation

Just a few years ago there was a spike in the number of people being sent to state prison for driving with a suspended license. This happened as a result of the Legislature having made a number of changes in the law over the years that made the failure to meet an increasing list of financial obligations (for instance, court fines and child support) cause to suspend a driver's license.

With more such failures punishable by license suspension, there were more felony convictions for driving a third time with a suspended license. In 2003, the increase was 10.8 percent; in 2004, it was another 10.4 percent.

The Legislature responded, passing a law⁸⁹ that changed what had been a felony for repeated convictions for driving with a suspended license to a misdemeanor for the many offenders whose convictions had resulted from the inability to make payments on obligations. However, a qualifier was put in the law, namely that this change did not apply "if a person does not have a prior forcible felony conviction as defined in s. [776.08](#), F.S" – no matter how long ago.

As of July 1, 2010, there were 1,023 inmates in custody of the Florida Department of Corrections held on charges of driving with a suspended license with an average maximum sentence of 4.79 years. **For every 1% of these individuals diverted from prison, the state could save approximately \$179,000 annually.**⁹⁰

Recommendation: *The Legislature should rescind this qualifying language and that driving with a suspended license, when the suspension was due to failure to pay a financial obligation, be recast as a misdemeanor offense in all instances.*

⁸⁸ This assumes that this prison population represents an accurate sample of relevant offenders incarcerated by Florida at any given time. Estimates assume an average per diem cost of \$52.00 for public institutions and \$45.53 for private institutions.

⁸⁹ CS/SB 1988.

⁹⁰ An average per diem cost of \$52.00 is used for inmates housed in a public institution and an average per diem cost of \$45.53 is used for inmates housed in a private institutions.

19. Expand electronic monitoring as an alternative to state prison sentences

In January of 2010, a significant study prepared for the National Institute of Justice and produced by Florida State University Center for Criminology and Public Policy Research looked at the impact of Florida's electronic monitoring (EM) policies and practices. It found that "EM reduces the likelihood of failure under community supervision. The reduction in the risk of failure is about 31%, relative to offenders placed on other forms of community supervision."⁹¹

The findings of this study show that EM is effective for offenders under a variety of different types of supervision and that involve varying levels of control and conditions, and across crime types and age groups.

The research team recommended that "there needs to be a reevaluation of the criteria the judiciary uses in EM placement, as well as laws which unilaterally mandate EM for specified offender types, regardless of whether the research indicates that it will make a difference in behavior."

Cost savings can be realized through the release of nonviolent inmates at different levels of their incarceration and utilize EM throughout the remainder of the sentence versus keeping them until they serve 85% of their sentences. Given varying rates of success, the state could save between \$1.14 million and \$11.4 million for FY2011-2012 if EM is used for the last 20% of the sentence. If that sentence percentage is increased, the state could save between \$4.4 and \$43.8 million if EM is used for the remaining 35% of the sentence, given various success rates.⁹²

Figure 31: Estimated Cost savings⁹³ FY2011-12
(Monitoring the remaining sentence via EM)

Success Rate	Final 20% of Maximum Sentence	Final 25% of Maximum Sentence	Final 30% of Maximum Sentence	Final 35% of Maximum Sentence
100%	\$11,417,106	\$22,655,389	\$33,462,449	\$43,778,758
50%	\$5,708,553	\$11,327,694	\$16,731,224	\$21,889,379
25%	\$2,854,276	\$5,663,847	\$8,365,612	\$10,944,689
10%	\$1,141,711	\$2,265,539	\$3,346,245	\$4,377,876

⁹¹ Bales, Bill, et al., A Quantitative and Qualitative Assessment of Electronic Monitoring, Report Submitted to the Office of Justice Programs, National Institute of Justice, U.S. Department of Justice, The Florida State University College of Criminology and Criminal Justice, Center for Criminology and Public Policy Research, January 2010

⁹² The savings are calculated for the period between July 1, 2011 and June 30, 2012, using a cross section of the inmate population in custody of the FDOC as of July 1, 2010. An average per diem cost of \$52.00 is used for inmates housed in a public institution and an average per diem cost of \$45.53 is used for inmates housed in a private institution. An average per diem cost of \$8.94 is used for EM.

⁹³ Estimates based on release of nonviolent inmates without any prior commitment to the state prison system. Estimates do not include costs to administer the EM program, which could potentially be off-set through fees to individual offenders (dependent on successful collection of such fees), or any potential increase of workload for DOC patrol officers or other law enforcement officers, if necessary.

Recommendation: *The Legislature should expand authority for the use of electronic monitoring as an alternative to incarceration either at sentencing or as part of a reentry program at the end of a prison sentence.*

20. Expand adult post-adjudicatory drug courts

In 2009, with federal funds, the Legislature established eight post-adjudicatory drug courts with the goal of diverting otherwise prison-bound offenders and saving corrections costs. At the same time, the legislature directed OPPAGA to evaluate these courts' effectiveness.

In October 2010, OPPAGA released its report, finding that while the drug courts were operating as directed, the cost savings anticipated were not realized because "initial admissions targets overestimated the potential population of offenders who would qualify for the programs and strict eligibility criteria limited admissions. Some programs also appear to be serving offenders who would be unlikely to be sentenced to prison in the absence of drug court."⁹⁴

The 2009 legislation was expected to divert 4,000 people from prison and thereby save \$95 million in Corrections costs. The 2010 midyear target was 900 diversions; instead, the courts served 324 people.

Those admitted met the statutory criteria that they "had no prior or current violent felony offenses, had committed third-degree nonviolent felony offenses or received technical violations of probation, and had sentencing scores of 52 points or fewer." But most participants scored below 44 points.

Significantly, according to OPPAGA, "Judges in six of the eight expansion counties are certifying that the offenders admitted to drug court with sentencing scores below 44 points would have been sentenced to prison in the absence of drug court. [See Recommendation #5 above] However, in Polk and Orange counties it appears that drug court participants would *not* have been sentenced to prison in the absence of this alternative.

OPPAGA found that 92% of offenders in these counties scored below 44 points. (The Legislature's Office of Economic and Demographic Research has found that Polk has recently cut its (related) year-and-a-day commitments by 40%.)

Recommendation: *The Legislature should enact legislation adopting the recommendations made by OPPAGA related to expanding drug court criteria by: 1) Authorizing drug courts to serve offenders who are cited for technical violations of probation other than a failed substance abuse test, if substance abuse was the main factor at the time of their violation; and 2) Giving judges discretion to allow offenders with prior violent offenses who are appropriate for treatment and do not present a risk to public safety to participate in expansion drug court.*

⁹⁴ Without Changes, Expansion Drug Courts Unlikely to Realize Expected Cost Savings, Report No. 10-54, October 2010

Section III: Recommendations relating to incarceration, release, supervision and reducing recidivism.

Florida must not only address the front-end drivers of prison growth, but also the policy choices that maintain the large numbers of people in prison and that fail to address recidivism reduction.

21. Institute adult post-incarceration drug courts

While 26.7 percent of those entering Florida prisons in 2009-10 were sentenced for drug crimes, over 50 percent need substance abuse treatment.⁹⁵ Approximately 60 percent of all arrests in Florida are for crimes committed either under the influence of drugs and alcohol or are committed to acquire drugs or alcohol.⁹⁶

As of December 31, 2009, there were 23,463 inmates serving time for property crimes (e.g., any burglary, theft or fraud).⁹⁷ If at least 30 percent of these inmates committed their crime for drug related reasons, then there are more than 7,040 individuals in Florida's prisons who committed property crimes and are in need of drug rehabilitation.

Concurrently, there are 19,723 drug offenders (e.g., possession, trafficking, and manufacturing) serving in Florida's prison system. Although drug rehabilitation programs exist within state facilities, they serve a fraction of those needing treatment. DOC established a goal of increasing the number of inmates participating in substance abuse treatment programs by 10 percent annually, but it started from a baseline of just 4,902 inmates receiving primary treatment (while 39,361 receive screening assessments) during FY2008-09.

Significant savings could be achieved if certain offenders were allowed to receive treatment outside of the confines of prison during the last portion of their prison sentence, and research shows that programs in the community produce twice the impact on recidivism as the same program behind the walls. Allowing some nonviolent offenders to participate in drug court programs after serving 60 percent of their sentence would ensure that they continue to be monitored but receive treatment at a significantly lower cost to the state and with potentially greater outcomes.

Florida TaxWatch identified approximately 15,000 nonviolent⁹⁸ offenders currently in the state prison system, many of which could be directed towards post-incarceration drug courts

Recommendation: The Legislature should authorize the Florida Parole Commission to permit incarcerated drug-involved offenders who have served at least 60 percent of their original

⁹⁵ OPPAGA Report No. 04-69

⁹⁶ Supreme Court Task Force on Treatment-Based Drug Courts, "Report on Florida's Drug Courts," July 2009.

⁹⁷ Data provided by the Department of Corrections Bureau of Research and Data Analysis. "Property Crime" as defined by the White House ONDCP, www.whitehousedrugpolicy.gov/publications/factsht/crime/index.htm.

⁹⁸ See Appendix on page 55.

prison sentence to complete the remaining portion of their term as a participant in a community-based drug court program.

22. Increase the maximum gain time accrual allowed

The notion of incentive gain time, that is, days subtracted from one's sentence for good behavior behind bars, has been in effect in Florida since 1989. Gain time is currently discretionary and may be awarded by DOC when "an inmate works diligently, participates in training, uses time constructively, or otherwise engages in positive activities."

In 1995, the Legislature limited the reach of gain time and enacted a law that provides: "for sentences imposed for offenses committed on or after October 1, 1995, the department may grant up to 10 days per month of incentive gain time, *except that no prisoner is eligible to earn any type of gain time in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, prior to serving a minimum of 85 percent of the sentence imposed.*" [Emphasis added] 944.275, F.S.

Accordingly, during the last fifteen percent of an inmate's term in prison, DOC has no discretion to reward good behavior, and inmates have no gain time incentive to comply with reentry planning efforts or participate in programs that are designed to reduce recidivism upon release.

Adjusting the cap on accumulated gain time would provide critically needed incentives for prisoners to engage in constructive behavior and reentry programming and would result in considerable cost savings for the state, with no risk to public safety.

Significant cost savings can be realized by allowing nonviolent inmates to be released at different points of maximum gain time as opposed to preventing release before reaching the 85% threshold of the sentence.⁹⁹ Based on a range of maximum gain time levels and percentage of inmates released with maximum gain time, **flexibility to the 85% rule could save Florida \$1.4 million to \$53 million in FY2011-12.**

⁹⁹ Estimates are based on inmates who have reached maximum gain time and have had no prior commitment to the state prison system. An average per diem cost of \$52.00 is used for inmates housed in a public institution and an average per diem cost of \$45.53 is used for inmates housed in a private institutions. The savings are calculated for the period between July 1, 2011 and June 30, 2012, using a cross section of the inmate population in custody of the FDOC as of July 1, 2010.

Figure 32: Estimated Cost Savings FY2011-12

Percent of Nonviolent Inmates Released with Maximum Gain Time	20% Maximum Gain Time	25% Maximum Gain Time	30% Maximum Gain Time	35% Maximum Gain Time
100%	\$13,819,336	\$27,423,455	\$40,506,339	\$52,995,892
50%	\$6,909,668	\$13,711,727	\$20,253,169	\$26,497,946
25%	\$3,454,834	\$6,855,864	\$10,126,585	\$13,248,973
10%	\$1,381,933.61	\$2,742,345.47	\$4,050,633.85	\$5,299,589.25

Recommendation: *The legislature should revisit its 1995 amendments to the gain time law, or include consideration of the gain time laws as part of the top-to-bottom commission review (from Recommendation 11).*

23. Authorize the possibility of parole for certain elderly offenders

While the literature shows that most offenders age out of their crime-committing years, the nation’s prison population is graying; nationally 10 percent of the U.S. prison population is 50 years old or older.¹⁰⁰ In Florida, it is far higher and surging. As of June of 2010, 16.1 percent (16,483 people) of the Florida prison population were 50 years or older. In 1996, 5.7 percent of Florida’s prisoners were elderly; in 2000, 8.0 percent were 50 years or older.

According to Florida Senate staff research, the cost of incarcerating a person over the age of 50 is three times greater than that of incarcerating younger people, primarily due to medical costs. Individuals in the community or nursing homes who are disabled or elderly are eligible for federally funded Medicaid (with state match) and/or Medicare, but people who are incarcerated are not eligible for such federal health care support, nor are the prisons.

Thus, Florida is increasingly saddled with the medical costs of an elderly prison population when some of these offenders would pose little, if any, risk to the public out of prison.

Many elderly prisoners were sentenced prior to 1983 when Florida abolished parole and thus are parole eligible. However, while approximately 5,000 inmates in Florida’s prisons are parole eligible, only 42 of the 37,391 inmates released from prison in FY2008-09 were actually paroled.

Alteration of parole standards for inmates over the age of 65 would save the state a significant amount without compromising public safety. Although determination should likely be made based on level of disability and potential risk, and must be made by the Florida Parole Commission or other appropriate body based on the individual offender, assuming only prisoners over 65 further limits the total number of prisoners eligible under such a program.

¹⁰⁰ BJS, Prisoners in 2008.

Assuming only inmates who have minimally served 20 to 25 years of their maximum sentence prior to the age of 65 and have not committed capital murder,¹⁰¹ but without specific consideration of level of disability, **Florida could save between \$263,000 and \$2.6 million in FY2011-12 if elderly inmates were released after 20 years** – considering varying levels of approval by the Florida Parole Commission based on level of disability and individual offenders potential risk. Assuming the same factors, **Florida could save between \$172,500 and \$1.7 million if varying levels of elderly inmates were granted parole after commuting 25 years of their sentences.**

Figure 33: Estimated Cost Savings

<i>Percent of eligible inmates approved for parole by Parole Commission after 20 years of sentence</i>				
	100% Approved	50% Approved	25% Approved	10% Approved
FY2011-12	\$2,632,387	\$1,316,194	\$658,097	\$263,239
FY2012-13	\$3,404,545	\$1,702,272	\$851,136	\$340,454
FY2013-14	\$4,176,702	\$2,088,351	\$1,044,176	\$417,670

<i>Percent of eligible inmates approved for parole by Parole Commission after 25 years of sentence</i>				
	100% Approved	50% Approved	25% Approved	10% Approved
FY2011-12	\$1,724,793	\$862,396	\$431,198	\$172,479
FY2012-13	\$1,949,363	\$974,681	\$487,341	\$194,936
FY2013-14	\$2,597,975	\$1,298,988	\$649,494	\$259,798

Recommendation: *The Florida Legislature should pursue strategies that allow for release of elderly prisoners who do not pose a risk to public safety.*

24. Expand prison work release programs

Florida’s work release programs allow selected (i.e., pre-screened as low-risk) inmates to work at paid employment in the community and live at work release centers outside of prison during the last 15 months of their sentence.

Housing inmates at work release centers is significantly cheaper than housing them in a regular prison facility. The average cost of housing an inmate at a work release center is \$25.84 less per

¹⁰¹ FDOC cross section of inmate population in custody data report on July 1, 2010 was used for these estimates. An average per diem cost of \$52.00 is used for inmates housed in a public institution and an average per diem cost of \$45.53 is used for inmates housed in a private institution.

day than housing them at a regular prison facility.¹⁰² Expanding the work release program to include additional individuals who are currently on the waiting list could produce significant savings for Florida.

The key step to achieve such savings is to incorporate more eligible inmates into the program. DOC should rescind the informal policy of holding one prison bed in reserve for every work release bed and capping work release at 4 percent of the inmate population.

Allowing nonviolent inmates to carry out the remaining portion of their maximum sentence in a work release program is more cost effective than mandating inmates carry out 85% of the sentence in a regular prison facility. Given varying rates of success, **the state could save \$536,000 to \$5.4 million annually if 20% of the maximum sentence is completed in work release programs. With 35% of the maximum sentence completed in work release programs, the state would save between \$2.1 million and \$20.9 million in cost savings.**¹⁰³

Figure 34: Estimated Cost Savings for FY2011-12
(% of final sentences served in work release programs)

Success Rate	Final 20% of Maximum Sentence	Final 25% of Maximum Sentence	Final 30% of Maximum Sentence	Final 35% of Maximum Sentence
100%	\$5,359,818	\$10,717,792	\$15,915,608	\$20,893,834
50%	\$2,679,909	\$5,358,896	\$7,957,804	\$10,446,917
25%	\$1,339,955	\$2,679,448	\$3,978,902	\$5,223,458
10%	\$535,982	\$1,071,779	\$1,591,561	\$2,089,383

Recommendation: *The legislature should require that DOC establish a process that immediately: 1) expands the current capacity of the work release program to include those eligible individuals who are currently on waiting lists to join; 2) ensures that the capacity of the program is set at the maximum sustainable level and reevaluated on a regular basis; and 3) expedites the movement of individuals into work release so that the average participating population in each program is maintained as close to full capacity as possible.*

¹⁰² Collins Center for Public Policy Report, “Smart Justice: Findings and Recommendations for Florida Criminal Justice Reform,” February 2010. According to the report the average cost of housing an inmate at a work release center is \$26.16, the average cost of housing an inmate in a prison facility is about \$52.00 (even when work release centers are excluded from the calculation).

¹⁰³ The estimates are calculated for the period between July 1, 2011 and June 30, 2012, using a cross section of the inmate population in custody of the FDOC as of July 1, 2010. An average per diem cost of \$52.00 is used for inmates housed in a public institution and an average per diem cost of \$45.53 is used for inmates housed in a private institution. An average per diem cost of \$30.80 is used for work release facilities. Those individuals who are already housed in work release facilities are not included in the analysis and additional upfront costs of expanding work release are not factored into cost savings.

25. Expand evidence-based prison-based programs that reduce recidivism

Florida allocates about one percent of the Corrections budget to prison-based programming (substance abuse treatment, education, vocational training, release planning, etc.) aimed at improving the chances that the inmates will not return to prison.

While DOC has a goal of reducing recidivism, about one third of the inmates nevertheless do come back within three years of release. Florida has not focused sufficient resources in preparing them during their previous stints in prison to succeed upon being released.

Figure 35



In December 2009, OPPAGA reported DOC was concentrating its rehabilitative programming on evidence-based approaches, which have “four basic components: assessing inmates using validated risk and needs assessment instruments; addressing offender attributes that directly relate to criminal behavior; developing release plans to facilitate offender reentry into society; and evaluating program effectiveness.” This is important, especially due to the extremely limited resources available for programming.

At the same time, community-based programs are also in short supply, and research shows that programs in the community produce twice the impact on recidivism as the same program behind the walls.

Recommendation: *the Legislature should reinvest a portion of the savings realized from front-end reforms that slow prison growth into expanding prison and community-based*

programming to reduce recidivism, thereby slowing prison growth further. In the meantime, these programs could be expanded at no additional cost to the state through the use of “trusties” (i.e., inmates who have earned trust through good behavior) and volunteers.

A. Expand evidence-based substance abuse treatment

While 65.1 percent of DOC inmates (65,706 individuals) were in need of treatment, there were only 4,902 treatment slots available in FY2008-09 (before the \$10 million cut in DOC programming), making treatment available to only 7.4 percent of those who need it.

Recommendation: *The legislature should restore the \$10 million in DOC programming and target it to in-prison and community-based treatment*

B. Expand evidence-based mental health treatment

In Florida, about 17,957 inmates (17.8% of the total) receive ongoing mental health care; the number of those incarcerated who suffer from mental illness and are not being treated is not known. Compare that to the total forensic and civil commitment state psychiatric beds: 2,723. Prisons and jails are the default mental health system in Florida. Texas enacted an information sharing law that makes it easy to share information on individuals with mental illnesses who are accessing so many deep end services including those in the criminal justice system. It allows them to track individuals with Serious Mental Illness (SMI) to assure case management, consistent medication and re-entry. It has also helped them tremendously to keep people with SMI out of jail and prison.

Recommendation: *The Legislature should review and amend statutes to facilitate more effective collaboration among stakeholders involved in the delivery of mental health services, particularly as they relate to continuity of care for individuals involved in or at risk of becoming involved in the justice system. This should include consideration of opportunities to improve information exchange among state and county agencies, as well contracted entities, that provide mental health and/or substance abuse treatment services. Consideration of such information sharing should be for the purposes of facilitating continuity of care only and should not be used as evidence in any criminal proceeding. The Legislature may wish to review chapter 614.017 of the Texas Health and Safety Code as an example of such cross systems collaboration.*

The Legislature should pass the Community Mental Health and Substance Abuse Treatment and Crime Reduction Act.

The Legislature should authorize county court judges to order involuntary outpatient treatment as a condition of release for defendants with mental illnesses when appropriate.

C. Expand evidence-based literacy, education and vocational training

DOC reported that 50.5 percent of DOC inmates (44,786 total) in FY2008-09 were tested as reading at or below the 6th grade level and that “for every education level an inmate gains, that

person is 3% to 4% less likely to come back to prison. Inmates with a vocational certificate at release recidivate 14% less than inmates overall.”

That year DOC was able to award 1,953 GED certificates and 1,881 vocational certificates. As demonstrated below in DOC’s annual report, the completion rates in the literacy, adult basic education, and vocational programs are quite low.

Recommendation: *The DOC should continue to aggressively look for innovative ways to partner with community colleges and public and private workforce development entities to improve skill levels of inmates.*

Figure 36

Participation in Correctional Education Classes in FY 2008-09

Enrollments*	Mandatory Literacy	Adult Basic Education	ITA ¹	GED	Vocational	Total
Number of Courses	1,700	8,086	6,201	2,064	5,034	23,085
Number of Inmates	1,700	8,086	6,201	2,064	4,789	***22,840
Completions**						
Number of Courses	412	557		1,953	1,881	4,803
Number of Inmates	412	557		1,953	1,562	***4,484

* "Enrollments" includes inmates enrolled as of 7/1/08 and new enrollments through 6/30/09.
 ** "Completions" are from 7/1/08 through 6/30/09.
 *** Inmates who participated in Mandatory Literacy, Adult Basic Education, GED and Vocational courses get counted for participation in all four programs.
 "Number of Courses" and "Number of Inmates" are different for vocational counts since it is possible for a given inmate to be involved in more than one course in this program year.
 For greater detail, Adult Basic Education (course "9900004") is shown in a separate column from the GED (course "9900026").
 "Completions" are defined as a CMP, ATT or CXS code on the DC32 screen for MLP and ABE participants, a GED certificate for course "9900026" participants, and a vocational certificate for vocational program participants.
¹ITA=Inmate Teaching Assistant Program.
 Note that none of the counts in the above tables include program participation or certificates earned at private facilities.

D. Expand life management skills training

OPPAGA notes that there was a lack of programming addressing criminal thinking.¹⁰⁴ This component was to be added to DOC’s 100-hour transition / release program; however, during FY2008-09, 8,850 inmates (26.9% of all released inmates who completed the course) took the course via self-study. This is less than optimal not only because of the low literacy rate of the inmates but because without the interaction with a facilitator, the results can be negligible.

Expanding currently available rehabilitative and training programs to those offenders who are on waiting lists, or are otherwise eligible to participate in them, could curb the rising inmate population and eliminate the need for the continued expansion of state prisons.

Recommendation: *The DOC should continue its efforts to provide evidence-based programming to address criminal thinking and to provide release programming through facilitators rather than relying on self-study.*

¹⁰⁴ Department of Corrections Should Maximize Use of Best Practices in Inmate Rehabilitation Efforts, Report No. 09-44, December 2009.

E. Expand faith- and character-based prisons

OPPAGA has found that faith- and character-based prisons improve institutional safety, achieve lower recidivism rates and attract more volunteers. Wakulla County’s recidivism rate, for example, is 15 percent lower than that of comparable prisons. Yet these more effective prisons had a waiting list of 8,890 inmates for the institution-based programs and 1,600 for the dorm-based programs at the time of October 2009 study.¹⁰⁵

Recommendation: *The DOC should expand its faith- and character-based prisons.*

F. Help inmates apply for Medicaid, Social Security Income, and Veterans benefits prior to release

Receiving the benefits of social programs to which they are entitled upon release will help those ex-offenders succeed in the community and reduce the likelihood that those individuals will return to prison. Helping inmates apply for those social benefits before release can improve their chances of successful reentry.

Recommendation: *The legislature should expand programs that help reentering inmates apply for government benefits for which they are qualified.*

26. Review and revise state-created employment restrictions based on criminal records

Gainful employment is essential to any strategy to reduce recidivism, and thus to reduce crime and make communities safer.¹⁰⁶ However, among the many hurdles facing people coming home from prisons and jails is in successfully reintegrating into society, getting a good job is often one of the most daunting challenges.

Equally daunting, for both the person with the record and for workforce staff who might attempt to help him search for jobs, is figuring out what occupations and places of employment are possibly open to people with criminal records.

Recognizing this challenge, Governor Jeb Bush, on the advice of the Governor’s Ex-Offender Task Force, and concerned about Florida’s stubborn recidivism rate, and understanding that

¹⁰⁵ OPPAGA, *Faith- and Character-Based Prison Initiative Yields Institutional Benefits; Effect on Recidivism Modest*, Report No. 09-38, October 2009.

¹⁰⁶ “Finding and maintaining a job is a critical dimension of successful prisoner reentry. Research has shown that employment is associated with lower rates of reoffending, and higher wages are associated with lower rates of criminal activity. However, former prisoners face tremendous challenges in finding and maintaining legitimate job opportunities. . .”Baer, et al. *Understanding the Challenges of Prisoner Reentry: Research Findings from the Urban Institute’s Prisoner Reentry Portfolio*, Urban Institute, January 2006, citing, Jared Bernstein and Ellen Houston, *Crime and Work: What We Can Learn from the Low-Wage Labor Market* (Washington, DC: Economic Policy Institute, 2000); Bruce Western and Becky Petit, “Incarceration and Racial Inequality in Men’s Employment,” *Industrial and Labor Relations Review* 54, no. 3 (2000): 3–16. A Canadian study found that “Offenders who were employed were convicted of less than half the convictions (22.2% versus 42.9%) and one quarter of the new violent convictions (5.6% versus 20.6%) of offenders who did not obtain employment in the first six months of release.” Gillis, et al., *Prison Work Program (CORCAN) Participation: Post-Release Employment and Recidivism*, Research Branch, Correctional Service Canada, March 1998.

gainful employment reduces recidivism, issued an executive order in 2006 requiring his state agencies to inventory the employment restrictions they administer, provide data on their impact and recommend reforms. Bush was the first governor to order such a review, which was hailed as a “landmark” in the Washington Post.

The Florida inventory, the findings of which were laid out in the Task Force’s report to the Governor,¹⁰⁷ revealed a vast, bewildering and unwieldy patchwork of hundreds of state-created restrictions of widely varying severity, often regardless of the trust and responsibility required of the job, affecting over 40% of Florida’s public and private sector jobs.

The Task Force reported that sometimes the restrictions offer the employer a measure of hiring discretion after reviewing a background check. Sometimes they give the employer the right to assess the relevance of the past crime to the job. Sometimes they provide the job seeker with an opportunity to demonstrate their rehabilitation. But often the restrictions offer little flexibility to either employers or people looking for work.

Each restriction has its own nuances. Some restrictions put jobs or places of employment off-limits to anyone with a record of a criminal conviction. Some put them off-limits only for those convicted of certain crimes. Sometimes the restriction creates a lifetime ban. Sometimes the restriction is time-limited. Sometimes the time limits depend on the crime.

For employers, it’s a minefield. Hiring in violation of the restrictions can lead to a loss of a business license and other harsh penalties.

For job seekers with a criminal record, the impact of restrictions are often both unknown and unknowable until after incurring the costs of a course of study, tests, and fees and the application for a job or license is finally reviewed.

Despite this strong effort to understand the restrictions and the Task Force’s reform recommendations, few reforms have been adopted.

Recommendation: *The Legislature and the Governor revisit and adopt the Task Force’s common sense employment restrictions reform recommendations.*

27. Expand the Florida Accountability Initiative for Responsible (FAIR) Probation

Despite, as OPPAGA reported in April 2010, rescission by DOC of its zero-tolerance policy on probation violations adopted in 2003 and a concomitant decrease in the number of technical violators sent to prison, in the 2009-10 fiscal year, 7,479 people were sent to prison on technical probation violations.¹⁰⁸

¹⁰⁷ [Key Findings and Recommendations](#) Based on the Task Force’s Analysis of the State Agency Responses to Executive Order 06-89.

¹⁰⁸ Zero Tolerance Policy Rescinded and Alternatives Implemented to Address Technical Violations, Report No. 10-39, April 2010.

FAIR, modeled after Project HOPE, designed by Judge Steven Alm in Hawaii, is a model that challenges what is often in actuality and in perception a kind of “randomized severity” of sanctions, that is, sometimes the violation will be punished harshly, sometimes mildly, sometimes not at all.

A program evaluation of HOPE commissioned by the National Institute of Justice was completed in 2009 and found that among HOPE participants, compared to the control groups: positive drug tests were reduced by 86%; missed probation appointments were reduced by 80%; revocations of probation were reduced by more than 50%; and arrests for new crimes reduced by more than 50%.¹⁰⁹

Like HOPE, FAIR targets probationers who are at the highest risk of reoffending and discourages such offending with swift, predictable, and immediate sanctions – typically resulting in several days in jail – for each detected violation, such as detected drug use or missed appointments with a probation officer.

A strong nexus exists between drugs, crime and incarceration. FAIR Probation works to lower heavy drug consumption and improve public safety. FAIR Probation is a way to support Florida’s drug courts by maximizing limited treatment space. In order to lower incarceration costs and improve public safety, community supervision must be strengthened in order for judges to view it as a viable alternative. FAIR Probation works to make community supervision a cost-effective alternative by instituting swift and certain consequences for non-compliance. The keystone of the project is creating personal responsibility on the part of the offender.

FAIR Probation has not yet been initiated in Florida. FAIR Probation is close to being piloted in Circuit 9 (Orlando). All stakeholders (judge, county jail, prosecutors, public defenders, and probation) have been briefed and are close to starting after January 1. Alachua County (Gainesville Circuit 8) has also been in early discussions about starting the project.

Recommendation: *The Department of Corrections should work with the state courts to implement FIAR as a pilot and expand the program if it proves effective. Strengthen community supervision as a viable alternative to costly incarceration by creating and expanding the Florida Accountability Initiative for Responsible (FAIR) Probation.*

28. Expand Veterans Courts

Studies have found that anywhere from 20% to 50% of veterans returning from Iraq and Afghanistan suffer from Post Traumatic Stress Disorder (PTSD). Furthermore, about half of these individuals do not seek treatment. PTSD and other mental health disorders are strongly

¹⁰⁹ *The Pew Center on the States, The Impact of Hawaii's HOPE Program on Drug Use, Crime and Recidivism, January 2010.*

linked to drug use and related criminal behavior. It is estimated that approximately 10% of all individuals with criminal records are veterans.¹¹⁰

Many state and local governments across the U.S. have instituted veterans courts to offer treatment and diversion for non-violent offenders in this group, with promising results. For example, a veterans court in Buffalo has a 90% graduation rate and no incidence of recidivism. According to Florida Senate research, 10 states have or are in process of passing legislation to expand veterans courts.

The momentum to initiate such programs in Florida is also growing. Palm Beach County implemented a veterans court in 2010.¹¹¹ Given the success rate of existing veterans courts targeting non-violent offenders in other states, instituting and expanding similar programs in Florida could help reduce recidivism and save valuable tax dollars. Such programs are also eligible for Federal grants, saving additional state funds.

Recommendation: *The Governor should convene a task force of veterans' affairs and criminal justice leaders to identify and resolve issues of veterans' encounters with the criminal justice system and to establish a framework for expanding veterans' courts.*

29. Reduce costs of inmate hospitalization (in non-DOC hospitals)

Inmates requiring hospitalization in non-DOC facilities cost the state million each year. Estimates of the total cost of hospitalization put the total cost at approximately \$50 million annually. Paying these costs through Medicaid would lower the total cost to the state because Medicaid is majority funded by the federal government and often pays lower hospitalization rates. While Medicaid will not pay for care provided in DOC facilities, the state should ensure that all potential costs of hospitalization at non-DOC facilities (i.e., when prisoners have to be taken to community hospitals) are shifted to Medicaid.

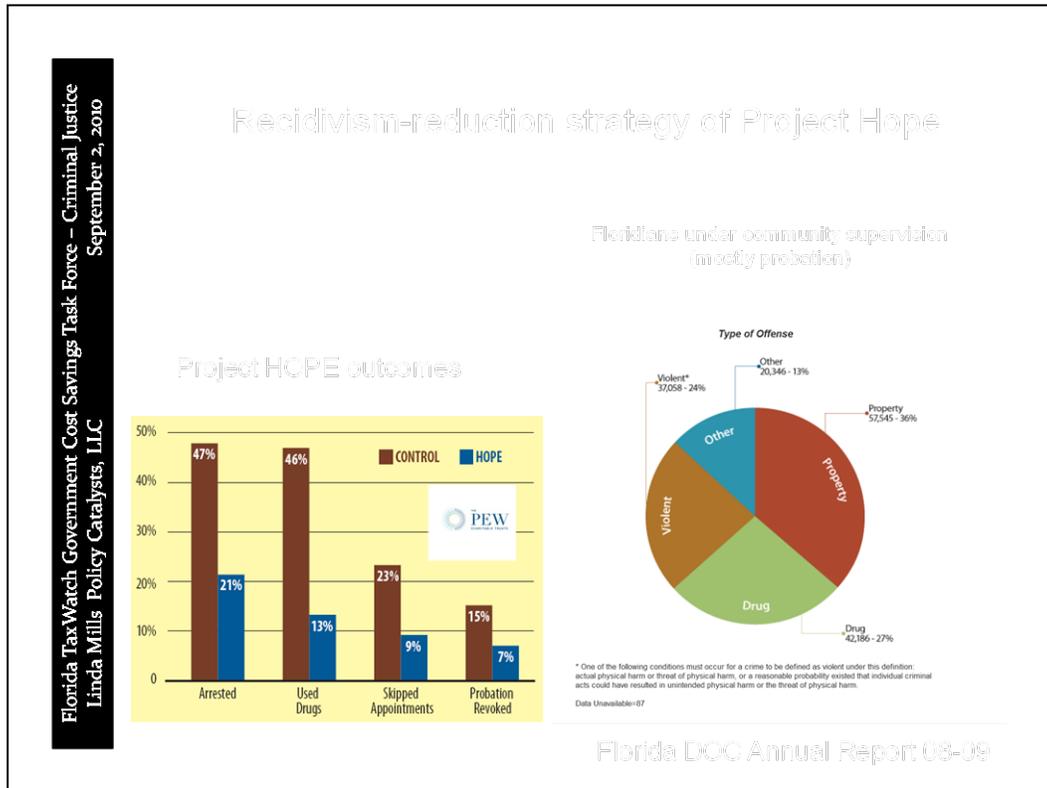
Recommendation: *The legislature should ensure that inmates remain Medicaid-eligible during incarceration so that Medicaid can cover hospitalization costs when inmates receive care in non-DOC settings.*

Alternative: set state reimbursement rate at the Medicaid rate instead of 110% of Medicare rate.

¹¹⁰ <http://www.slate.com/toolbar.aspx?action=print&id=2244158>

¹¹¹ <http://www.chicagotribune.com/topic/fl-palm-new-veterans-court-20101120,0,6995203.story?track=rss-topicgallery>

Figure 37



Section IV: Recommendations related to juveniles in the justice system

Getting smart on crime requires efficient and effective use of limited resources in prevention, diversion, and intervention programs, especially when it comes to juvenile justice.

30. Comprehensively review and implement Blueprint Commission recommendations

Although some of the recommendations of the 2008 report have been adopted and implemented, the overwhelming majority of them have not. One key recommendation, the revision of zero-tolerance policies in public schools to ensure that students who are expelled or referred to law enforcement pose a serious threat to school safety and are not expelled or arrested for petty misconduct, was implemented in 2009. Although this measure will reduce costs by removing unnecessary cases from the juvenile justice system, there is still much progress to be made.

Adopting the Blueprint Commission’s recommendations will help Florida set out in a new direction that focuses on utilizing community resources and evidence-based approaches to juvenile offender rehabilitation, and increasing public safety while simultaneously producing savings to the state and taxpayers.

Recommendation: *The Legislature should conduct a full review of the 2008 Blueprint Commission report and explore the implementation of all cost savings recommendations that have not yet been implemented.*

31. Study the effects of barring commitment of misdemeanants to state custody

Texas, North Carolina, and Virginia have adopted legislation to keep misdemeanants out of state custody and have reduced commitment rates substantially. In all three states, the state not only realized significant cost-savings as a result of the legislation, but also saw improvements in public safety. In Texas, youth cannot be committed to residential facilities for misdemeanor offenses unless adjudicated for four or more prior offenses. This resulted in a 36% reduction in commitments in the past three years. At the same time, juvenile arrests for violent offenses dropped. North Carolina has adopted similar legislation that bars youth from being committed to residential facilities for misdemeanor offenses or violations of misdemeanor probation. This had the effect of reducing commitments by 61% from 1998 to 2008. Over the same time period, juvenile arrests for violent offenses dropped by 20%. Legislation in Virginia bars youth from commitment to residential facilities unless the youth has been previously adjudicated for a felony of three or more Class 1 misdemeanors on separate occasions. Virginia saw a 50% drop in commitments from 1999 to 2009, and a 36% drop in juvenile arrests for violent offenses.

More than 2,500 children were admitted to DJJ residential facilities for misdemeanors or violations of probation in FY2008-09. If Florida had a statute barring the commitment of misdemeanants to state custody, DJJ would have reduced admissions by 1,273, or 21% during that period, which could have saved approximately \$30 million (\$25,668,000 for 1,183 children in non-secure residential beds and \$4,421,000 for 90 children in secure residential beds).¹¹² While Florida must continue to incarcerate youth who pose serious risks to public safety, detention and incarceration of young people should be an option of last resort.

Recommendation: *The Legislature should examine the potential savings produced by limiting the commitment of juvenile misdemeanants.*

32. Expand the Redirection program to avoid custodial care of juveniles

The Redirection program is a community-based, family-centered alternative to residential juvenile justice commitments. According to a 2009 program evaluation, youth who successfully completed the Redirection Program were 31 percent less likely to be subsequently arrested than similar youth who successfully completed residential commitment programs.

¹¹² Southern Poverty Law Center, *Opportunities to Strengthen Florida's Juvenile Justice System*, September 17, 2010.

An April 2010 OPPAGA study found that the Redirection Program has achieved \$51.2 million in cost savings for the state since it began five years ago, due to its lower operating costs when compared to residential delinquency programs.¹¹³

Redirection began as a way to redirect juvenile offenders with non-law probation violations from residential commitment to lower cost, therapy-based community programs and has expanded to serve additional youth, such as nonviolent offenders being considered for commitment due to misdemeanors and third-degree felonies.

The contracted project director estimates the program could serve 10 percent more juveniles under the current framework. Expanding the program could result in much greater savings in the first year.

Recommendation: *The legislature should expand the Redirection Program and we endorse the specific OPPAGA recommendations to expand the program (a) into underserved counties; (b) to serve gang-involved youth; and (c) to implement a program to serve youth who commit certain sex offenses. Additionally, the Legislature should examine potential savings from expanding the program to include youth who have committed certain third- degree felonies.*

33. Expand the use of juvenile civil citations

Civil citation programs are an alternative to arresting and taking children who commit misdemeanors into custody. Civil Citation emerged as a way to replace the existing practices of the current arrest model and incorporate early intervention and effective diversion programs for juveniles who commit minor crimes. As stated in Florida Statutes, the Civil Citation process was established “for the purpose of providing an efficient and innovative alternative to the custody by the Department of Juvenile Justice of children who commit non-serious delinquent acts and to ensure swift and appropriate consequences.”

The program allows juveniles who have committed a misdemeanor to complete community service hours or participate in intervention programs as an alternative to being arrested and taken into custody by the Department of Juvenile Justice (DJJ). The program is implemented at the local level in coordination with the chief judge of the circuit, state attorney, public defender, and the head of each local law enforcement agency involved.

Authorized by 985.301, F.S., the program allows “any law enforcement officer, upon making contact with a juvenile who admits having committed a misdemeanor [to] issue a civil citation assessing not more than 50 community service hours, and may require participation in intervention services appropriate to identify the needs of the juvenile.”

According to a 2010 Senate analysis¹¹⁴ of a bill related to the citation program, “the programs exist at the local level with the concurrence of the chief judge of the circuit, state attorney, public

¹¹³ Redirection Saves \$51.2 Million and Continues to Reduce Recidivism, Report No. 10-38, April 2010.

defender, and the head of each local law enforcement agency involved. Currently, there are nine civil citation programs funded by the DJJ and seven programs that are funded locally.”

Based on data from two major Civil Citation programs in Leon County and Miami-Dade County, a statewide implementation of the Civil Citation program is estimated to reduce the number of youth referred for delinquency by 40%.¹¹⁵ This would be an equivalent of 30,153 juveniles according to the most recent data. The cost saving per civil citation would be \$4,614 according to a recent study by Florida Juvenile Justice Foundation or \$1, 467 according to the 2009 Hillsborough County Study.¹¹⁶ Using the number from the first study for Scenario 1 and the second study for Scenario 2, the annual cost savings of implementing statewide Civil Citation programs is estimated to range from \$44 million to \$139 million.

Given the estimated short-term annual savings of \$44 to \$139 million, it makes perfect sense to implement Civil Citation programs throughout the state. Keeping juveniles away from prisons will also generate long-term economic benefits in the form of increased output and employment.

Recommendation: *The Legislature, state and local governments, business and community organizations should work together to design and implement statewide Civil Citation programs that give a second chance to all children who commit non-serious delinquent acts.*

34. Increase operational efficiencies and public safety by aligning the average length of stay by delinquents with best practices in residential facilities

Over the past eight years, the average length of stay for delinquents in residential facilities has been steadily increasing, even as the number of commitments has fallen. This increase cannot be explained in the change of profile of youth committed to DJJ. In fact, the percentage of youth committed for misdemeanors or probation violations was approximately the same in FY 2008-09 as it was in FY 1999-2000.¹¹⁷ Increases in the average length of stay have significant cost implications for the state, almost \$20 million per year. Furthermore, there is evidence that increased lengths of stay may actually reduce public safety.

The Florida Department of Juvenile Justice’s 2008 Blueprint Commission Report concluded from the best available research: “...youth who are kept in programs for prolonged length of

¹¹⁴ SB 2544 (2010)

¹¹⁵ Florida Juvenile Justice Foundation, “Getting Smart on Juvenile Crime in Florida: Taking It to the Next Level,” August 2010.

¹¹⁶ Dewey & Associates Inc., “Civil Citation of Hillsborough County, Cost Savings Analysis,” July 2009.

¹¹⁷ Office of Program Policy Analysis and Government Accountability. 2001. Misdemeanant and Non-Law Violation Youth in Juvenile Justice Commitment Beds, Report No. 01-49.

stays after treatment goals are achieved often begin to deteriorate and may be more likely to re-offend once release is finally achieved.”¹¹⁸

The Blueprint Commission recommends the creation of small, community-based programs that use a continuum of care and the implementation of an “offender review” process that systematically identifies and reviews non-violent and non-serious offenders as well as those who have made significant progress in their treatment programs. Suitable candidates would be referred to the courts for early release or “step down” into community-based programs.¹¹⁹

Another way to reduce the length of stay is to count services and education received in detention towards the completion of the youth’s treatment plan, per the Blueprint Print Commission’s recommendation. The Commission also suggests counting these services in competency restoration.¹²⁰ This recommendation reduces cost by eliminating the duplication of services.

Recommendation: Florida should examine the increasing average lengths of stay by youth offenders in residential facilities. One possible option is that length of stay be limited to the completion of treatment goals, and enact the Blueprint Commission’s specific recommendations to (1) implement an offender review process that would allow for the early release of suitable candidates or a “step-down” to less restrictive, community-based care; (2) count education and services received in detention towards the completion of the youth’s treatment plan.

^{118,9,&10} Florida Department of Juvenile Justice. “Report of the Blueprint Commission: Getting Smart About Juvenile Justice,” January 2008, p. 69. Available at: www.djj.state.fl.us/blueprint/documents/Report_of_the_Blueprint_Commission.pdf.

¹¹⁹ *Id.* at 41.

¹²⁰ *Id.* at 42.

Government Cost Savings Task Force

Chapter 3: Medicaid Reform

Report.....p. 77- 84

Recommendations.....p. 85

- 35. Expand Medicaid Managed Care - MediPass**
- 36. Implement Medicaid Statewide Integrated Managed Care**
- 37. Medicaid patient centered medical home**
- 38. Medicaid Managed long-term care**
- 39. Managed Care - Medicare Special Needs Plan (SNPs)**
- 40. Medicaid Fraud & Abuse**
 - A. Managed Care Fraud Controls**
 - B. Site Visit Verification**
 - C. Criminal and Administrative Sanctions**
 - D. Pre-payment review/Correct Coding Initiative (CCI)**
 - E. Recovery Audit Contractors (RAC)**
 - F. Evaluation and Management Codes**
 - G. Additional Surety Bonds**
 - H. Establish a reward for identifying and/or reporting fraud**
 - I. Implement a moratorium on new home health and durable medical equipment providers**
- 41. Alternatives to Medicaid provider rate reductions**
 - A. Medicaid provider assessments**
 - B. Medicaid Co-Payments**
- 42. Mitigate effect of Medicaid provider rate reductions**
 - A. Limit malpractice liability for Medicaid providers**
 - B. Medicaid Nurse Staffing Requirements**
- 43. Medicaid Optional Services**
- 44. Expand nursing home diversion programs**

- 45. Enhance eligibility screening for Medicaid beneficiaries (and applicants)**
- 46. Conduct durable medical equipment audits**
- 47. Medicaid waiver program administrative service support**
- 48. Implement a statewide managed incontinence supplies program**

Introduction

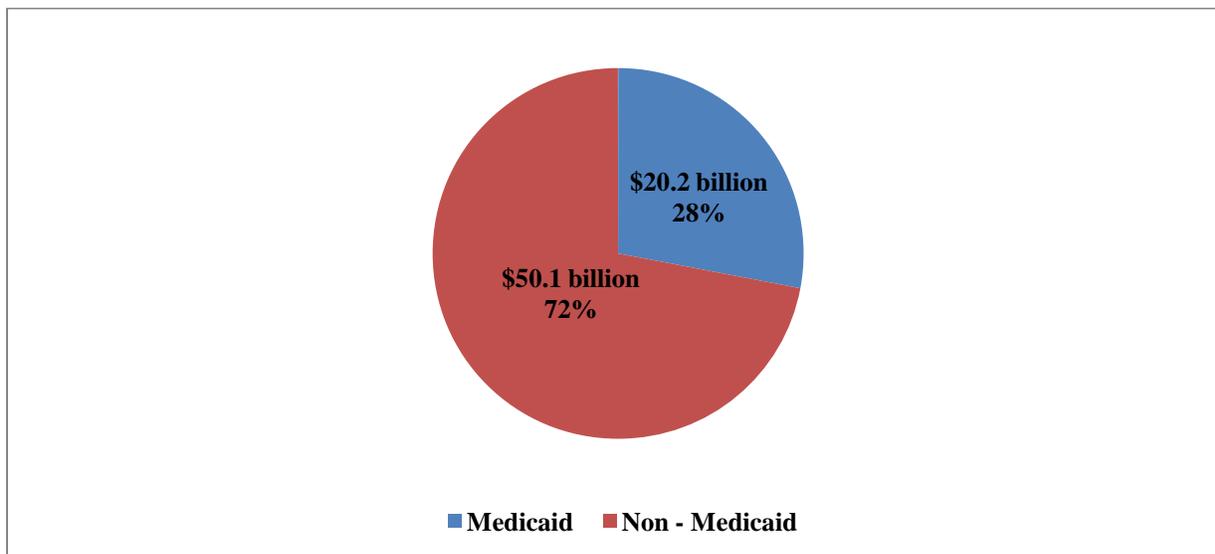
The magnitude of Florida's \$20 billion Medicaid program is immense, in terms of the number of people served, its critical importance and certainly, its cost. The program provides a medical safety net for nearly three million Floridians. Half of those in the program are children, but the elderly account for most of the spending. Florida Medicaid covers the state's most vulnerable populations:

- 27% of Florida's children
- 63% of nursing home days
- 51.2% of newborn deliveries
- 868,000 adults – parents, aged and disabled

Medicaid is a federal-state partnership through which states administer the program under federally approved plans. Federal law mandates certain benefits for certain populations, although there are a number of optional services states can provide. Services must be available statewide in the same amount, duration and scope.

Both levels of government pay for the program and the costs are massive. Florida is expected to spend \$20.2 billion in the current fiscal year (FY 2010-11) on the program, with the federal government providing 65% of the cost and Florida picking up the other 35%. The cost is an

**Figure 38: Medicaid Spending as a Percent of the Total \$70.3 Billion State Budget
FY 2010-11**



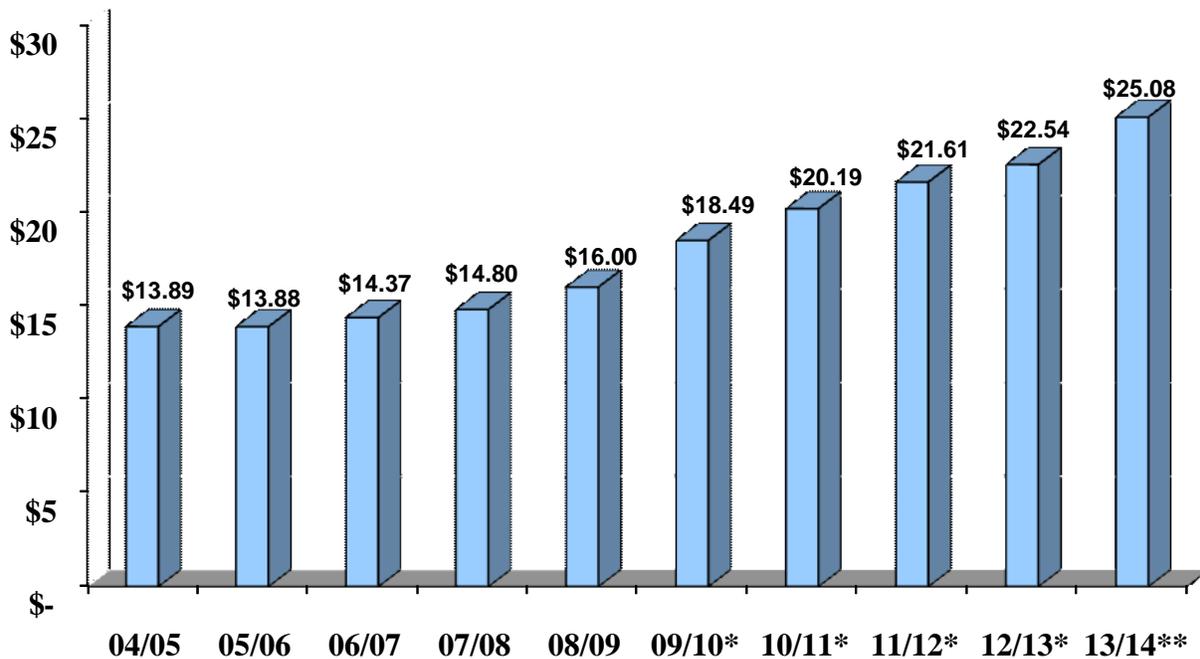
average of \$6,730 per participant. The state's share over the last three years has been lower than usual, because of additional federal assistance through the economic stimulus plan. Florida's share will increase to 46% (FY 2011-12) when federal stimulus FMAP assistance is phased out next year. Medicaid makes up 28% of the FY 2010-11 state budget and requires 15% of state general revenue funds. Next year, when the additional federal assistance goes away, Florida's

projected general revenue Medicaid expenditures will increase by almost \$2 billion and Medicaid will take 22% of the state’s general revenue.

Cost Are Rising Rapidly

Medicaid spending in Florida has increased by 36.4% in just the last three years (FY 2007-08 to FY 2010-11, rising from \$14.8 billion to \$20.2 billion). In addition, the cost is expected to continue to grow rapidly, exceeding the growth of the revenues that pay for it. Medicaid expenditures are expected to increase by 24.2% over the next three years – reaching \$25 billion by FY 2013-14. The state’s general revenue expenditures for Medicaid will increase even more, rising 74.2% over the next three years. State general revenue collections are expected to grow by only 21.7% over the same period. In fact, general revenue expenditures are projected to increase by almost \$2 billion next year, while general revenue is only expected to increase by \$1.7 billion in FY 2011-12.

**Figure 39: Growth in Florida Medicaid Expenditures
(billion \$)**



*Estimates based on August 2010 Social Services Long Term Medicaid Forecast

**Estimated increase resulting from Federal Health Reform

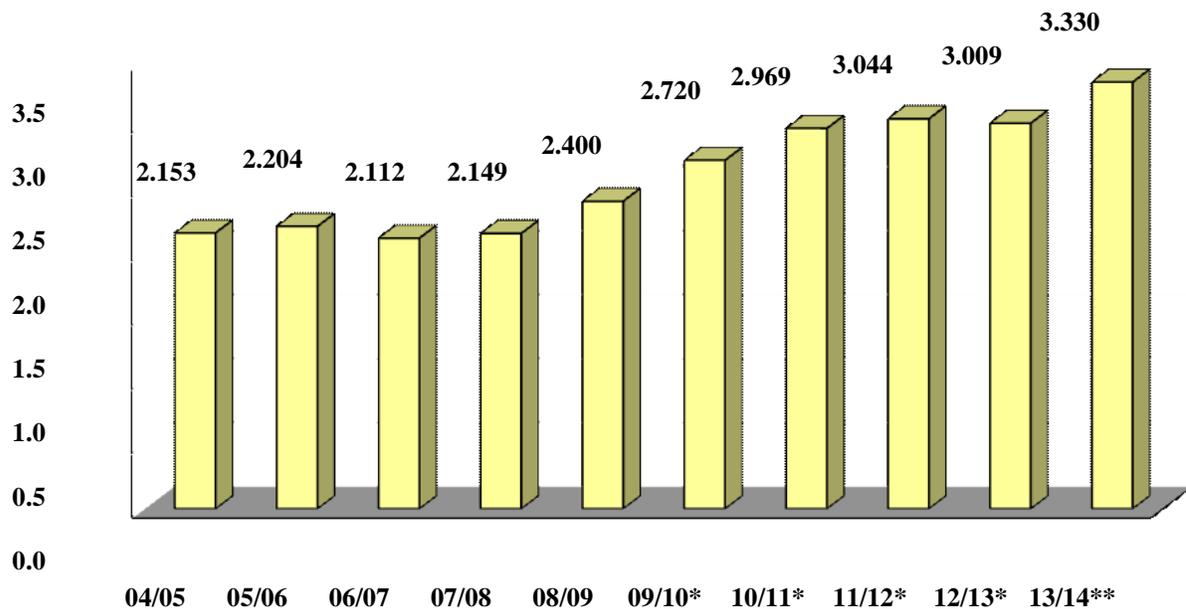
The recently enacted Federal Health Reform package, which will expand enrollments and increase provider payments beginning in 2014, will further increase costs. Health reform is projected to cost \$49 billion over the first six years through 2019. While most of this will be paid by the federal government, it will also increase state costs by an average of almost \$1 billion annually over those six years.

Three main factors drive Medicaid growth; increasing caseloads, the rising cost of health care and the increasing utilization of services.

The counter cyclical nature of Medicaid further complicates its funding. When the economy is down, government revenues decrease. However, unemployment and income also fall, meaning Medicaid enrollment rises. This is just what happened in Florida during the last few years.

The number of people receiving Medicaid benefits is also increasing. The last three years have seen average monthly caseloads increase by more than 800,000 Floridians (38.2%), almost reaching three million. The next three years will bring another 360,000 people on the rolls, an increase of 12.2%. Federal health care reform is projected to add 1.9 million cases to Florida's system by FY 2016-17.

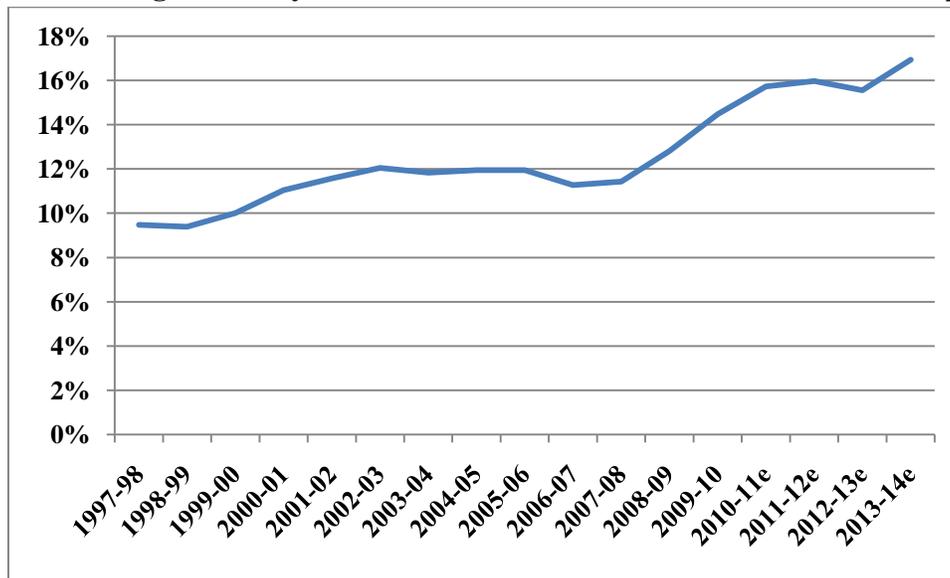
Figure 40: Growth in Medicaid Average Monthly Caseload (millions)



*Estimates based on July 2010 Social Services Estimating Conference

** Estimated increases resulting from Federal Health Care Reform

Figure 41: Average Monthly Medicaid Caseloads as a Percent of Florida Population



The number of caseloads is also increasing faster than Florida’s population, meaning a larger and larger percentage of Floridians are in the Medicaid system. From a recent low of 9.4% of the population in FY 1998-99, average monthly caseloads are now 15.7% of Florida’s population. In FY 2013-14, the first year of the federal healthcare reform impact, that percentage is projected to reach 16.9%.

Medicaid Fraud Must Be Addressed

Fraud is a huge problem throughout the healthcare system and Medicaid fraud in Florida is costing taxpayers billions of dollars. There is not a generally accepted estimate of Medicaid fraud. The National Health Care Anti-Fraud Association estimates that at least 3% of all health care spending, approximately \$68 billion, is lost to health care fraud each year. The FBI estimate is even higher – 10% of all health care spending.

In Florida, the Attorney General’s office calls Medicaid fraud “epidemic” and says that it costs Florida and the federal government billions of dollars annually. A 2008 OPPAGA report states that estimates of waste, fraud and abuse in Florida range from 5% to 20% of total Medicaid funds.

The OPPAGA report gives examples of fraud including providers overbilling Medicaid for health care services that are not medically necessary, for expensive procedures when less costly alternatives are available, or for services that were never delivered. More sophisticated fraud schemes can involve kickbacks to other providers for client referrals, or “hit and run” schemes in fake providers are paid for a large volume of false claims and then close their business before they are identified by fraud detection methods. OPPAGA also states that fraud or abuse can occur at the corporate level of a managed care organization. “For example, managed care plans may withhold or delay payments to providers, pay excessive

salaries or administrative fees, engage in practices to exclude enrolling sicker beneficiaries, deny medically necessary treatment, or falsify provider networks.”

Auditor General Finds Internal Controls Lacking

Florida’s Auditor General (AG) has recently completed several audits of Florida’s Medicaid system dealing with internal controls and legal compliance issues. These audits raise a number of concerns that the state may be paying more in claims than it should.

Some of the major findings include that the Agency for Health Care Administration (AHCA) paid \$792 million in emergency payments to hospitals, doctors and other health care providers that was not clearly authorized by law or supported by valid claims. In one-quarter of the cases reviewed by the AG, the Department of Children & Families failed to fully document Medicaid eligibility for patients. Nineteen nursing homes were paid \$40.6 million during the 2008-09 year without the facilities submitting actual cost data.

The AG also found that AHCA did not timely review and score the performance of the Medicaid fiscal agent or fully assess damages for its underperformance. The fiscal agent is the private company whose primary responsibility is to process medical claims submitted for payment.

The Auditor General is also currently conducting an operational audit to review and evaluate AHCA’s Medicaid fraud and abuse systems, as was required by the 2010 Legislature.

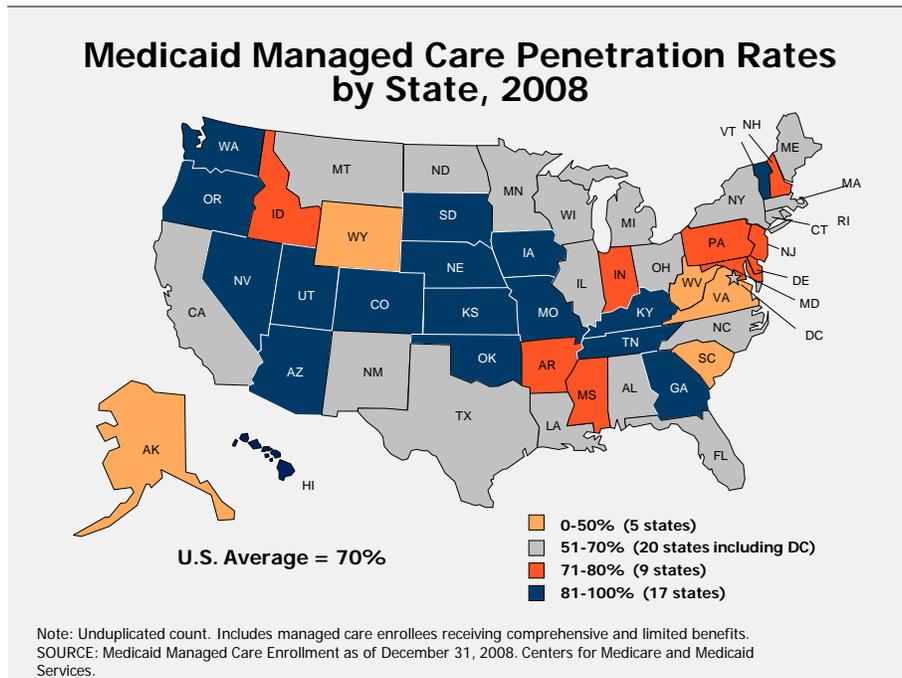
Florida’s Managed Care Experiment

The 2005 Legislature took a major step to attempt to reform Florida’s Medicaid program when it authorized the Agency for Health Care Administration (AHCA) to seek a federal waiver to implement a managed care pilot program. The intent of the program was to improve services for Medicaid beneficiaries while controlling costs. The pilot program began providing services in Broward and Duval counties in September 2006. AHCA expanded the pilot to Baker, Clay, and Nassau counties in September 2007.

Under Medicaid Reform, health plans can develop customized benefits packages for different beneficiary groups. This flexibility is intended to allow health care plans to better meet the individual needs of Medicaid recipients and promote competition between plans. In order to encourage beneficiaries to take an active role in their health care, the pilot offers them a choice among managed care options, guidance in selecting a plan, and monetary incentives to increase healthy behaviors.

The 2010 Legislature considered a major expansion of the pilot. The Senate proposed a 19-county expansion of the state’s current, five-county pilot program, putting a quarter of a million low-income citizens into managed care. The House proposed bringing Miami-Dade County into the reform pilot program by October 1, 2012. The House also proposed a sweeping plan, putting 2.7 million Medicaid beneficiaries into managed care over the next five years (by 2015).

Figure 42: Yet Managed Care Penetration remains low in Florida¹²¹



Provider-service-networks (PSNs), HMOs, and other managed care plans would bid to serve patients. Consensus proved difficult and it was decided to postpone expansion. Both the new House Speaker and Senate President have stated it will be considered again during the 2011 Legislative session.

Potential Medicaid Cost-Savings

There are options for reducing the costs of Florida’s Medicaid system. These include:

- Expanding Managed Care
- Long Term Care Managed Care
- Dual Eligible Managed Care (SNP)
- Reducing Fraud and Abuse
- Payment Reform
- New or Expanded Provider Assessments

Expanding managed care to all recipients should be explored. Managed care includes a medical home patient-centered model that coordinates and facilitates access to medical care. Plans would be selected through a competitive procurement and divided into geographic regions statewide.

It should also be remembered that the elderly and disabled represent over 60% of Medicaid expenditures. Although Nursing Home Services account for only 14.7 percent of total

¹²¹ Kaiser Family Foundation chart

expenditures, long term managed care should also be considered as a cost savings option. It would provide integrated acute and long term care within an organized managed care delivery system to lower the utilization of institutional services and increase access to home and community-based services.

Fraud and abuse can addresses through a variety of methods including requiring site visit verification as a mandate for any type of new individual or group Medicaid provider application; increase criminal and administrative sanctions for fraudulent providers; increasing and strengthening pre-payment reviews and audits; and developing an annual fraud and abuse prevention plan that establishes priorities, goals, and savings targets.

Medicaid payment redesign offers an alternative cost containment strategy that can also improve access to quality care. The current fee-for-service payment model encourages volume and intensity of services rather than the values of services. Additionally, a significant and growing number of medically complex patients are unmanaged in the fee-for-service system. Various options such as a Diagnosis-related Group (DRG) system for paying hospitals and pay-for-performance and performance based reimbursement methodologies should be explored.

Federal Medicaid regulations allow states to use provider taxes to fund the state share of Medicaid expenditures if it meets the following criteria:

- The assessment is broad based;
- The assessment is applied uniformly;
- The assessed entity is not held harmless for the tax paid; and
- The assessment is less than 6% of revenues

There are 19 separate classes of health care services and providers that are eligible to be taxed.

The most frequently taxed are hospitals, nursing facilities, intermediate care facility services for the mentally retarded (ICF/MR) and managed care organizations. Currently, 47 states impose provider assessments on at least one category of health care services and providers.

Florida currently assesses nursing homes and Intermediate Care Facilities for the Developmentally Disabled at the maximum of 5.5%. The state also assesses hospital inpatient services at 1.5% and hospital outpatient services at 1.0%. There are additional assessments available to reach the maximum.

Figure 43: Medicaid Cost Containment Actions Taken in States

Actions	2010	2011
Provider Payments	39	37
Benefit Reductions	20	14
Copays	1	5
Long Term Care	18	10

Source: Kaiser Commission on Medicaid and the Uninsured Survey of Medicaid Officials in 50 states and DC, September 2010.

Provider Rate Reductions

Provider rate reductions are the most frequently used Medicaid cost containment policy that states have used to control Medicaid costs because the savings are more immediate than other potential reductions. States have generally reduced institutional provider reimbursement including nursing homes, hospitals, and clinic services. During FY 2010, 39 states reported rate reductions for providers.

However, provider payment rates are linked to provider participation and therefore directly affect access to services for Medicaid beneficiaries. Furthermore, the Florida Legislature already has reduced institutional provider rates repeatedly over the last three to address state budget shortfalls and control spending growth in the Medicaid program.

Figure 44: Potential Medicaid Provider Rate Reduction FY 2011-12

Description	GR	Trust	Total
<i>Provider Rate Reductions</i>			
Hospital Inpatient Rate Reduction of 1%	(\$17,619,256)	\$57,947,149	(\$40,327,893)
Hospital Outpatient Rate Reduction of 1%	(\$4,402,002)	(\$5,673,534)	(\$10,075,536)
Nursing Home Rate Reduction of 1%	(\$13,825,638)	(\$17,819,219)	(\$31,644,858)
Hospice Rate Reduction of 1%	(\$1,054,893)	(\$1,359,602)	(\$2,414,494)
ICF/DD Rate Reduction of 1%	(\$873,645)	(\$1,126,000)	(\$1,999,646)
County Health Departments Rate Reduction by 1%	(\$664,381)	(\$856,289)	(\$1,520,670)
Prepaid Health Plans by 1%	(\$6,068,426)	(\$7,821,311)	(\$13,889,737)
Total	(\$44,508,241)	\$23,291,193	(\$101,872,833)

If a 1% rate reduction to institutional providers was implemented, an additional \$101.9 million in total funds and \$44.5 million in general revenue funds could be saved in FY 2011-12; however, given past cuts and the potential access problems, there are reasonable concerns about much farther the state can cut provider rates and alternatives to cuts should be explored. Similarly, if rate reductions are necessary, the Legislature should consider mitigating the effects of the cuts by enacting policies that simultaneously lower provide costs.

Medicaid Reform Recommendations

35. Expand Medicaid Managed Care - MediPass

Managed care is an approach to deliver and finance health care that aims to improve the quality of care and provide savings. The foundation of managed care is to have a medical home with a primary care provider and to rely on preventive and primary care services. Florida currently manages 67% or 1.9 million Medicaid recipients. Of those managed, 1.1 million are in an HMO while the remaining are in MediPass, Provider Service Networks (PSN) or Minority Physician Network (MPNs). HMOs are risk-based and paid a “capitation” rate (per member per month).

Last year, the Florida Senate proposed an expansion of managed care in the Medicaid Reform pilot program into 19 additional counties that had at least two managed care plans. **The proposal would have mandated the mandatory MediPass population (TANF-related and SSI) into managed care and would result in savings of an estimated \$59.6 million in total cost and \$26.1 million in general revenue funds in FY 2011-12, assuming a 12-month phase-in. There is another proposal to mandate both the mandatory and voluntary MediPass population (dual eligibles, pregnant women, and children in foster care) that would generate estimated savings of \$98.2 in total funds and \$42.9 million in general revenue funds in FY 2011-12.** These proposals could either be implemented under the reform waiver or non-reform waiver. Multiple statutes related to the Medicaid program would need to be amended to address both policies.

Recommendation: *The Legislature should explore options for expansion of Medicaid managed care either through reform or non-reform that would improve access to health care and provide fiscal predictability of the Medicaid program.*

36. Implement Medicaid Statewide Integrated Managed Care

Last year, the Florida House of Representatives proposed a statewide integrated Medicaid managed care expansion to address improved access to care and enhance fiscal predictability by converting to a capitated, risk-adjusted payment system. The proposal divided the state into six geographic regions and used a competitive process to choose HMOs and PSNs for each area. Enrollment was to be phased in for the primary and acute, long-term care and developmentally disabled populations. The program would have mandate participation for most populations; provided a competitive, negotiated selection of qualified managed care plans; regionalized plan selection to ensure coverage in rural areas; limited the number of plans; varied the models of managed care; provided for risk-adjusted rates; and provided enhanced benefits to incentivize healthy behaviors. This proposal required a significant rewrite of the Medicaid statutes. No specific cost savings estimate was provided last year except to state that savings and efficiencies may be realized particularly through the expansion of managed long-term care. **The exact amount of savings are indeterminate but are expected to be significant.**

Recommendation: *The Legislature should explore options to phase-in statewide Medicaid managed care that would improve access to health care and provide fiscal predictability of the Medicaid program.*

37. Medicaid patient centered medical home

The cost of delivering Medicaid services to around 3 million Floridians this year is estimated to cost \$20 billion in revenues- almost one-third of the projected state budget. The state of Florida in recent years has been focused on moving Medicaid patients into coordinated care models such as the five county Medicaid Reform plan and waiver. Currently around two-thirds of Medicaid patients in the state are on some type of coordinated care plan, yet the cost to the state continues to rise. More importantly there is evidence that Medicaid patients are often not receiving timely and adequate care. For example, many Medicaid patients turn up at Florida's hospitals to be seen in the emergency room, and or to be admitted to the hospital, for medical problems that could have been diagnosed and managed in the outpatient setting.

To address the problem noted above, many states have already established a new model of care called the patient centered medical home. This model provides for ongoing, coordinated care for patients through a modern, team-based approach, which focuses on prevention and early diagnosis. Originating from, and predominantly focused on, primary care, this innovation has produced dramatic results when it has been used for Medicaid patients. Several states have already implemented the patient centered medical home with impressive improvements in the quality of care, and sizable gains in financial savings both for the patient and for the taxpayers of the state. Although total Medicaid savings vary by the circumstances of the state and the size of its Medicaid population served, reductions in such costly services as emergency room visits and unnecessary hospital admissions alone **has the potential for saving the state of Florida upwards of \$100 million during the first full year of operation and possibly three to four times that amount** once the system is fully established throughout the state. Of note, this model can be integrated or used alongside other models of care coordination including more traditional managed care types such as health maintenance organizations or provider service networks.

Recommendation: *The state of Florida should include a statewide patient centered medical home model in any expansion or revision of the Medicaid service delivery system.*

38. Medicaid Managed long-term care

Medicaid is the primary payer for long-term care services covering a range of services in both institutional and community based settings. Nationally, Medicaid accounts for an estimated 40 percent of total long-term care spending and paying for long-term care services is expensive. Currently, there are ten states with managed long-term care programs (AZ, FL, HI, MA, MN, NM, NY, TN, TX, WA) that include a variety of service delivery systems including HMO,

Diversion, PACE and Home and Community-Based Waivers. These delivery systems are paid on a fixed capitation (per member per month) and fee-for-service basis.

In Florida, the elderly and disabled represent an estimated 32 percent of total Medicaid enrollment, yet they account for 61 percent of total Medicaid expenditures, although nursing home services account for only 14.7 percent. Florida currently provides home and community-based waiver services on a fee-for-service basis and nursing home diversion and the frail elder program on a capitation basis. Although Florida has increased its percentage of home and community-based services versus institutionalized services, further opportunities are available to manage the long-term care population and integrate benefits, service delivery and payment mechanisms into managed care organizations. Managed long-term care can provide access, choice, quality and cost-effectiveness by building a cost-effective long-term care system that is sustainable into the future. **Implementing managed long-term care is estimated to save \$26.3 million in total cost and \$11.5 million in general revenue funds in FY 2011-12.**

Recommendation: *The Legislature should explore options to increase Medicaid managed long-term care that would improve access to health care and provide fiscal predictability of the Medicaid program.*

39. Managed Care - Medicare Special Needs Plan (SNPs)

Many states are trying to improve coordination of care through different approaches to integrating Medicare and Medicaid under managed care. Some state Medicaid programs mandate managed care for dual eligibles under a waiver, while other states have voluntary managed care for dual eligibles. Medicare Advantage Special Needs Plans (SNP) were authorized to serve targeted Medicare subpopulations, including dual eligibles. The Medicaid program should use SNPs as an opportunity to improve care coordination and continuity of care for dual eligibles.

Current statutory language in s. 409.912(7), F.S., allows contracts with health maintenance organizations and health insurers; however, specific language needs to be added to authorize contracting with a Medicare Advantage SNP and to mandatorily enroll dual eligibles into SNPs for coverage of cost sharing and Medicaid services. Integration of home and community based services would happen over time. The Agency would need authorization to amend the Medicaid state plan and to submit a federal waiver for CMS approval. **This policy is estimated to generate annual savings of \$52.3 million in total funds and \$22.9 million in general revenue funds in FY 2011-12.**

Recommendation: *The Legislature should amend s. 409.912(7), F.S., to require the state to manage care for dual eligibles by mandating enrollment into Medicare Advantage Special Needs Plans (SNP).*

40. Medicaid Fraud & Abuse

Health care fraud is a serious and costly problem that affects all taxpayers. Estimates range from a low of 1 percent to a high of 10 percent lost due to health care fraud, abuse, and waste. This is likely to increase as the cost of health care is projected to increase. Federal law requires each state to have a Medicaid program integrity unit within the Medicaid state agency to detect and investigate Medicaid fraud and abuse. Federal law also requires a state to establish and operate a state Medicaid Fraud Control Unit (MFCU) to conduct a statewide program for the investigation and prosecution of health care providers that defraud the Medicaid program. Combating Medicaid fraud, abuse and waste is a significant effort that requires the partnership of states, beneficiaries, providers, and contractors to ensure that taxpayer dollars are spent appropriately.

Florida needs to develop an annual Fraud and Abuse Prevention plan to identify and prevent fraudulent and abusive activities in the Medicaid program and to prevent improper payments as a result of fraud and abuse. Additional efforts are needed in the following areas:

A. Managed Care Fraud Controls

There needs to be greater fraud and abuse reporting requirements for managed care plans and increased monitoring by the agency.

B. Site Visit Verification

There needs to be a broadened statutory authority to conduct site visits as a requirement for provider enrollment in the Medicaid program for moderate and high risk providers. These in-depth due diligence clinic investigations could be outsourced to private investigation firms. For example, these site visits or in-depth investigations could: verify clinics physical location and inspect the facility, verify all medical licenses of healthcare workers and medical directors, conduct surveillance to determine number of individuals entering/exiting clinic, interview claimant, insured, and all medical staff on premises, conduct background checks on the owners, and determine if treatment is actually being conducted.

C. Criminal and Administrative Sanctions

There needs to be increased criminal and administrative sanctions for providers that have committed Medicaid fraud and abuse.

D. Pre-payment review/Correct Coding Initiative (CCI)

There needs to be a required and enhanced prepayment review including the implementation of a comprehensive correct coding initiative to prevent the payment of inappropriate claims.

E. Recovery Audit Contractors (RAC)

Florida needs to implement a post adjudication process that identifies areas for further investigation and the use of recovery audit contractors to investigate and assist the agency in recovering inappropriate payments.

F. Evaluation and Management Codes

There should be a Requirement for additional review and edits prior to and after payment of claims for extended and comprehensive coding levels.

G. Additional Surety Bonds

There need to be further increases in the types of providers that would be required to post a surety bond (or other alternatives such as letters of credit or reserve accounts for selected providers) prior to enrollment in to the Medicaid program based upon risk analysis.

H. Establish a reward for identifying and/or reporting fraud

The state could establish a program to incentivize individuals to report Medicaid fraud, waste, or abuse where a certain percentage of the savings could be provided as a reward to the whistleblower. Alternatively, a certain portion of the recovery could be shared with the government entity identifying the fraud, waste, or abuse as an incentive.

I. Implement a moratorium on new home health and durable medical equipment providers

Medicaid fraud is often concentrated in certain service area. Health and durable medical equipment are areas where fraud remains high. Implementing a temporary moratorium on new providers will help reduce fraud in these areas.

J. Increase use of predictive modeling to identify fraud

Predictive modeling is the process by which a model is created or chosen to try to best predict the probability of an outcome. Extensive use of the most modern predictive evaluation engine would help identify potential aberrant Medicaid claims prior to any field investigation, which could reduce or eliminate unnecessary investigative work.

If Florida implemented a Fraud and Abuse Prevention plan including but not limited to these additional efforts it is estimated that **a 1 percent savings of general revenue funds could be achieved and provide savings of \$96.9 million in total funds and \$42.3 million in general revenue funds FY2011-12.**

Recommendation: *The Legislature should direct the agency to develop a Fraud and Abuse Prevention plan that targets savings in the Medicaid program of at least 1% and details specific areas to focus on in terms of the types of services targeted, any specific geographic areas, specific methodologies that will be used to combat fraud and abuse, savings targets and measurement of the results.*

41. Alternatives to Medicaid provider rate reductions

Before considering provider rate reductions, Florida should first explore enacting alternatives that can achieve similar savings at a lower cost to the providers, thereby lessening concerns over negatively affecting Medicaid recipients' access to care.

A. Medicaid provider assessments

The federal government allows states to impose provider assessments to fund the state share of Medicaid expenditures. Most states use the assessments as a mechanism to generate new state funds and match them with federal funds. The assessment is currently limited to 5.5 percent of revenues but increases to 6 percent effective October 2011.

There are 19 separate classes of health care services and providers that are eligible to be taxed. Currently, 47 states impose provider assessments on at least one category of health care services and providers. The most frequently taxed are hospitals, nursing facilities, and intermediate care facility services for the mentally retarded (ICF/MR-DD). **States generally use provider assessments in times of fiscal crisis because it allows the Legislature to free up general revenue and replace it with revenue collected through the assessment, thus maintaining the level of services provided.**

In 1984, Florida became one of the first states in the nation to impose a provider assessment on hospitals.

Nursing home and ICF/DD Assessment: In response to the economic recession, the 2009 Legislature enacted an industry supported quality assessment on nursing homes and ICF/DDs. The nursing home and ICF/DD assessment is currently assessed at 5.5 percent, meaning the Legislature can only consider increasing the assessment to the 6 percent maximum.

Hospital Provider Assessment: Florida imposes a 1.5 percent assessment of hospital inpatient services net operating revenues and a 1.0 percent assessment of hospital outpatient services net operating revenues. This revenue is deposited into the Public Medical Assessment Trust Fund and is used as the state share of the Medicaid program. Currently, 34 states impose provider assessments on hospitals in FY 2010-11.

This past year, eight states increased or adopted new hospital assessments. Florida could increase the hospital assessments incrementally up to the maximum allowable amount. If the hospital assessment was increased by 1 percent, an estimated annual savings of \$111.9 million in general revenue for hospital inpatient services and \$61 million in general revenue for hospital outpatient services could be generated in FY 2011-12 and replaced with revenue collected through the increased assessment.

HMO Provider Assessment: Currently, 11 states impose a provider assessment on managed care organizations (Arizona, Maryland, Minnesota, New Jersey, New Mexico, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, and Texas). Federal law originally defined the managed care organization class to be Medicaid only but was changed to broaden the definition to those of

all managed care organizations, effective July 1, 2009. Florida has not implemented a provider assessment on managed care organizations and could implement an HMO assessment incrementally up to the maximum allowable amount. **If a 1 percent assessment was established, an estimated annual savings of \$71.5 million in general revenue could be generated from the prepaid health plan services category in FY 2011-12 and replaced with revenues collected through the assessment.**

Recommendation: *The state should explore opportunities to increase hospital provider assessments up to the maximum allowable cap to and to establish a managed care provider assessment generate revenues to support the state share of the Medicaid program. Increasing or establishing assessments could be used as an alternative to provider rate reductions and allow providers to maintain the level of services while achieving cost savings for the state.*

B. Medicaid Co-Payments

Increased cost-sharing, or requiring Medicaid beneficiaries to pay more for medical care, has been implemented by most states as a way to reduce Medicaid costs and promote “personal responsibility”. A total of 45 states have copayment requirements in their Medicaid program. Nominal copayments may be charged Medicaid beneficiaries that range between 50 cents and \$3 per service for most services but may not be charged to children, pregnant women or institutionalized individuals. The amount of the copayment is deducted from reimbursement to the provider. The Medicaid program, in accordance with s. 409.9081, F.S., requires Medicaid recipients to pay a nominal copayment for the following Medicaid services.

Figure 45: Florida Medicaid Required Copayments

Service	Co-Payment
Birth Centers	\$2.00 per day, per provider, per recipient for gynecological services
Chiropractor	\$1.00 per day, per provider, per recipient
Community Behavioral Health	\$2.00 per day, per provider, per recipient
Federally Qualified Health Center	\$3.00 per day, per provider, per recipient
Home Health Agency	\$2.00 per day, per provider, per recipient
Hospital Emergency Room	5% coinsurance up to the first \$300 of Medicaid payment for each visit in the Emergency Room for non-emergency services, not to exceed \$15.00
Hospital Inpatient	\$3.00 per admission fee
Hospital Outpatient	\$3.00 per visit
Independent Laboratory	\$1.00 per day, per provider, per recipient
Non-Emergency Transportation	\$1.00 per trip each way
Nurse Practitioner	\$2.00 per day, per provider, per recipient
Optometrist	\$2.00 per day, per provider, per recipient
Physician	\$2.00 per day, per provider, per recipient

Physician Assistant	\$2.00 per day, per provider, per recipient
Podiatrist	\$2.00 per day, per provider, per recipient
Portable X-Ray Company	\$1.00 per day, per provider, per recipient
Rural Health Clinic	\$3.00 per day, per provider, per recipient
Registered Nurse First Assistant	\$2.00 per day, per provider, per recipient

During 2010, Arizona implemented a new \$2.30 co-payment for prescription drugs and Massachusetts increased their generic and over-the-counter drugs copayment from \$2.00 to \$3.00 (with some exceptions). **Florida does not currently charge a co-payment on prescribed drugs. If Florida implemented a \$2.00 co-payment on prescribed drugs, an estimated \$8.9 million in total savings and \$3.9 million in general revenue funds could be saved in FY 2011-12.**

Recommendation: *The Legislature should explore the option of implementing a co-payment on prescribed services to encourage personal responsibility similar to other co-payments established on other services in the Medicaid program.*

42. Mitigate effect of Medicaid provider rate reductions

If provider rate reimbursement reductions are going to be considered, the Legislature should also explore implementing changes reducing providers' costs and thereby mitigating the negative effects of a rate cut.

A. Limit malpractice liability for Medicaid providers

The litigation crisis is affecting patients, physicians, hospitals, and nursing homes and impacts health care quality. The patients' ability to get care is affected not only because many physicians find the increased premiums unaffordable but also because liability insurance is increasingly difficult to obtain at any price. **If provider reimbursement rates are reduced, such a reduction should also explore meaningful litigation reform to help ensure access to health care**, including extending limited sovereign immunity for Medicaid providers against liability for Medicaid patients.

B. Medicaid Nurse Staffing Requirements

Florida had been a recognized national leader in nursing home quality and has one of the highest nursing homes staffing in the nation. Over the past several years, the required nursing staffing ratios have increased from 1.7 hours to 2.3 hours in January 2002, to 2.6 hours in January 2003, and to 2.9 hours in January 2007. The 2010 Legislature modified the nursing home staffing requirements to allow for a combined direct care staffing requirement of 3.9 hours per resident per day, effective July 1, 2010. Over this same time period, there has also been a commitment from the Legislature to improve nursing home quality through increased Medicaid funding in the direct care cost component of Medicaid reimbursement to pay for new staffing, rigorous enforcement of standards, increased fines when facilities do not comply with standards, tort

reform and public reporting requirements. Should additional provider rate reductions to nursing homes be contemplated, it is recommended that the Legislature consider reducing the required nursing staffing ratio to 2.6 hours. **If the nursing staffing ratio was reduced to 2.6 hours, an estimated \$30 million in total funds and \$13.1 million in general revenue funds could be saved in FY 2011-12.**

Recommendation: The legislature should explore implementing either of these changes to reduce providers' costs.

43. Medicaid Optional Services

The Medicaid program is a federal-state partnership and states design and administer their own programs within broad federal guidelines. Medicaid covers a wide range of benefits and states may elect to offer many “optional” services, such as prescription drugs, dental care, durable medical equipment, and personal care services. All Medicaid services, including those considered optional for adults, must be covered for children. Several states have recently eliminated optional services and examples are included below:

- Michigan - eliminated dental, hearing aids, chiropractic care, podiatry and eyeglasses for adults (2009).
- Nevada - eliminated coverage of non-medical vision services for adults (2009).
- Utah – eliminated dental coverage (2010); eliminated audiology and hearing services, physical, occupational and speech therapies, eyeglasses and chiropractic services for adults (2009).
- California – eliminated acupuncture, dental, audiology and speech services, optometry and optician services, podiatry, psychology services and chiropractic services (2010).

If Florida eliminated dental, visual, hearing, podiatry, and chiropractic services for adults, estimated annual savings of \$55.3 million in total funds and \$23.9 million in general revenue funds could be saved in FY 2011-12.

Figure 46: Medicaid Optional Service Reductions FY 2011-12

Service	General Revenue	Trust	Total
Adult Dental Services	(\$13,224,957)	(\$17,296,409)	(\$30,521,366)
Adult Visual Services	(\$6,368,178)	(\$8,474,942)	(\$14,843,120)
Adult Hearing Services	(\$1,478,093)	(\$1,905,044)	(\$3,383,137)
Podiatry -Adult	(\$2,135,669)	(\$2,768,128)	(\$4,903,797)
Chiropractic - Adult	(\$704,376)	(\$911,583)	(\$1,615,959)
Total	(\$23,911,273)	(\$31,356,106)	(\$55,267,379)

Recommendation: *The state should review opportunities to reduce or eliminate optional services for adults.*

44. Expand nursing home diversion programs

Home care services for seniors such as personal care – help with bathing, dressing and toileting, meals, transportation, and help with chores such as laundry and cleaning, help thousands of seniors to safely in their homes and in their communities. These home care services provided through Florida’s Community Care for the Elderly, Home Care for the Elderly, Local Service Programs, Alzheimer’s Respite Care, and the Aging and Disabled Medicaid Waiver Program are cost effective, providing home care at an average cost of less than \$5,000 annually – much less than the \$65,000 annual cost per person for institutional care under Medicaid.

Florida must continue to provide funding to support quality long-term care facilities; however, the state should also explore more cost-effective and appropriate home care alternatives.

Expanding the diversion programs could create between \$290 and \$397 million in savings annually, if the programs service eligible individuals who otherwise would have been served in a nursing home during the same period without the program.

Recommendation: *The Legislature should increase funding for the Community Care for the Elderly, Home Care for the Elderly, Aging & Disabled Medicaid Waiver, Local Service Programs, and Alzheimer’s Disease Respite Care who have been assessed to be most at risk of nursing home care (Risk level 4 & 5).*

These funds could be allocated to these home care programs by redirecting a portion of the planned increase in appropriations for Medicaid nursing home expenditures as determined by the Medicaid estimating conference.

45. Enhance eligibility screening for Medicaid applicants

Improving eligibility screening for Medicaid can reduce fraud by identifying ineligible applicants at enrollment before benefits have been assigned and payments have been made. Implementing an electronic matching process (tied to national database information) for Medicaid eligibility determination is one option that would generate significant savings opportunities for the state by reducing payments for healthcare services provided to individuals who are not eligible for Medicaid (i.e., ineligible Medicaid recipients).

Data resources such as identity and address information, household composition, and financial status are gathered utilizing browser-based tools to validate the self-reported information submitted by applicants. A comprehensive screening system would provide state officials with the information they need to approve or refuse eligibility with confidence and justification.

Denial of ineligible claims represents significant savings to Florida, as just 74 indictments issued in 2007 in Miami alone uncovered over \$400 million in fraudulent billings to Medicare.

Although Medicare is entirely funded by Federal tax dollars, this case provides insight into the vast amounts that Florida could be losing from Medicaid payouts to ineligible recipients. Assuming that 2 percent of a program's total beneficiaries are actually ineligible (a very conservative estimate given that experts estimate that the typical state averages between 3.5% - 5%) then within Florida Medicaid's population of approximately 2.5 million beneficiaries,¹²² an estimated 50,000 individuals could therefore be determined ineligible and claims made on their behalf would be appropriately denied. Florida Medicaid's average service usage for Fiscal Year 2008–2009 was approximately \$7,000 per beneficiary, although distribution of usage is not linear. Based on FY 2008-09 expenditure data, if only 10 percent of average service usage for the 2 percent of beneficiaries estimated to be ineligible were appropriately denied benefits through eligibility screening, the Medicaid program would save more than \$35 million,¹²³ **which would result in a savings to Florida of approximately \$11.3 million annually beginning in FY 2010-11** (not including implementation costs or cost sharing if provided through outsourcing).¹²⁴

Recommendation: *The Legislature should direct the Department of Children and Families to enhance the applicant eligibility screening and benefit determination program, either internally or by contract with a private provider.*

¹²² Although exact number of beneficiaries is difficult to pin down, there are approximately 2.5 million beneficiaries. According to AHCA website, (<http://ahca.myflorida.com/Medicaid/about/about2.shtml>, accessed on January 21, 2010) "Florida's average monthly eligibles is currently approximately 2.4 million Medicaid recipients." According to the "Number of Medicaid eligibles by program-group by county as of 12/31/2009," there were 2,679,941 eligibles in December 2009 and 2,727,362 eligibles in November 2009 – therefore, the 2.5 million is likely an underestimate.

¹²³ Assuming 2 percent of 2.5 million beneficiaries (50,000 individuals) multiplied by the average annual service usage (\$7,000) equals \$350 million, 10 percent of which is \$35 million.

¹²⁴ This figure is based on the FY 2009-10 Federal Medical Assistance Percentages (FMAP) with the American Recovery and Reinvestment Act (ARRA), Public Law 111-5, adjustment, meaning that Florida saves 32.36 percent of all Medicaid program expenditures. ($\$35 \text{ million} * 0.3236 = \$11,326,000$).

Under current federal law, the ARRA adjustment expires on December 31, 2010. The FMAP for Florida for Federal Fiscal Year 2010 (October 1, 2009 – September 30, 2010) without the adjustment was 54.98 percent. (Federal Register, November 26, 2008 (Volume 73, Number 229) [Page 72051-72053], available at <http://aspe.hhs.gov/health/fmap10.htm>). The savings estimate for this recommendation was calculated using the ARRA adjusted FMAP to ensure the estimate is conservative – if the federal share (FMAP) decreases and the state share increase, the savings to the state will be even higher.

On November 19, 2009, the Social Services Estimating Conference "adopted revised Federal Medical Assistance Percentage (FMAP) levels for the state fiscal years through the forecast period. The adopted FMAPs are as follows- FY 2009-10 at 67.64%; FY 2010-11 at 61.54%; FY 2011-12 at 56.51%; and, FY 2012-13 at 57.31%." (Social Services Estimating Conference, *Executive Summary* (November 19, 2009), available at <http://edr.state.fl.us/conferences/medicaid/medsummary.pdf>; the official state FMAP estimate (Social Services Estimating Conference, *Federal Medical Assistance Percentage (FMAP) Forecast adopted November 5, 2009*) is available from the Florida Legislature's Office of Economic & Demographic Research at <http://edr.state.fl.us/conferences/medicaid/fmap.pdf>.)

For more information about the FMAP formula, see CRS Report for Congress RL32950 (by April Grady), "Medicaid: The Federal Medical Assistance Program (FMAP)", February 2, 2009; available on the web at: http://assets.opencrs.com/rpts/RL32950_20090202.pdf.

46. Conduct durable medical equipment audits

Estimated expenditures show that the Florida Medicaid program will spend \$91,338,452 in FY 2009-10 on “durable medical equipment” (DME).¹²⁵ As with other aspects of Medicaid, the annual DME billings likely include some “aberrant claims” (i.e., fraud, waste, and abuse), such as billings for services that were never administered or billings that violate the provider agreement. Implementing a durable medical equipment audit process would help identify such claims and could significantly reduce the cost of the Medicaid program.

Medicaid claim audits are not unique to Florida’s Medicaid program or to DME services. According to a leading service provider, the distinguishing factor of a successful audit process is that a qualified medical professional conducts chart reviews at the actual provider site. This on-site approach is less burdensome on the provider than typical off-site or “desk” audit reviews, which require the provider to photocopy reams of documentation for the auditors. In contrast, on-site reviews simply require access to the files and a small workspace to conduct the review.

The on-site approach also allows for a full review of each page of the patient chart. The auditor can easily compare doctors’ orders, nurses’ notes, compounding records, and dispensing records to the amount billed to the plan.

Specific examples of the success of DME audits in other states provide useful insight into the potential value of this process for Florida. DME audits have uncovered such practices as a provider that frequently included the leasing of durable medical equipment in perpetuity. Whether it was a set of \$50 crutches, or a \$1,500 infusion pump, the company could lease the equipment for a monthly rate, but would bill well beyond the point when the insurer had met the purchase price (or agreed “cap”). In one instance, an infusion pump valued at \$2,500 was leased at the monthly rate of \$720. At the time of the audit, payments of over \$10,000 were identified for the infusion pump. Upon discovery through the audit, the provider repaid the overcharges.

DME audits are especially important in Florida; national media reports have explicitly shown that DME billings have become excessive in some parts the state, as noted in a *60 Minutes* investigative report on Medicare fraud perpetrated by DME providers in South Florida.¹²⁶ Specifically reported was a tiny medical supply company that billed Medicare almost \$2 million in July and, while *60 Minutes* was there in August billed \$500,000; but there was never anybody inside the company and phone calls were never returned. One interviewed DME ‘provider’ indicated that he never provided any service; he simply purchased readily available recipient billing ID’s and billed for unfilled services on their behalf.

Also, the state can take a proactive approach to ensuring that the most blatant violators are removed as providers of medical services under the program. Since Medicare (which is federally

¹²⁵ Florida Agency for Health Care Administration, “Florida Medicaid” presentation by Roberta K. Bradford to the Senate Health and Human Services Appropriations Committee, February 4, 2010, p. 13; available at http://ahca.myflorida.com/Medicaid/deputy_secretary/recent_presentations/florida_medicaid_020410.pdf.

¹²⁶ Aired October 23, 2009.

administered and funded) shares many of the same issues that Florida Medicaid is facing with this service category, these audit efforts could be coordinated with the Medicare program and referrals from either party should be targeted by the other program.

Given the annual DME spending of more than \$90 million, every 1 percent fraud reduction would yield more than \$900,000. A leading audit service provider uses 8 percent in estimating savings based on DME spending: for the Florida Medicaid program in FY 09-10, that would produce a savings of \$7,307,076. Assuming a 20% revenue sharing arrangement with the outsourced provider (to avoid any upfront cost to the state), **the state could achieve a savings of \$5.8 million in the first year.**

Whatever the percentage of aberrant claims identified or the revenue-sharing ratio, the savings for Florida are likely to be significant given the increasing utilization of DME services in medical care and the recent revelations of the prevalence of unscrupulous billing practices.

Recommendation: *The Legislature should direct the AHCA to explore implementation of an on-site durable medical equipment audit program, either internally administered or outsourced through a revenue sharing arrangement (to avoid upfront costs).*

47. Medicaid waiver program administrative service support

Implementing an electronic system to provide administrative support of the Medicaid Home and Community-Based Long-term Care Services (HCBS) Waiver Programs can produce significant savings through: a reduction in claim loss in three categories (1-reduction in losses attributable to eligibility-related reporting errors/inaccuracy, 2-misrepresentation of service units provided, and 3-data input errors) and through a reduction in waiver administration costs (reduction in paper processes, process improvements in case management and point of care authorization functions, reporting accuracy and efficiencies, and electronic billing and claim control enhancements).

Florida's HCBS Waivers serve over 60,000 participants, expending more than \$1.1 billion in health and social services, through 14 different Waivers, in three different departments. Additionally, there are waiting lists with over 20,000 potential eligible clients of which many are receiving some services while on the waiting lists. However, all of the individual waiver programs are managed through various systems, disparate applications, and paper processes. There is very little coordination between waivers and no enterprise management or view of the waivers. This includes both those in the Waiver programs and those on waiting lists.

Because of the nature of the current, mainly manual, administration of the HCBS programs in Florida, there are un-quantified losses or additional unnecessary costs related to both the claim process and the administrative support. Implementing the administrative support components for the HCBS Waiver programs could control these losses and unnecessary costs.

Assuming a 1 percent loss due to duplicate payments, unauthorized services, and overpayments (a.k.a. aberrant claims), the state losses approximately \$11 million annually due to lack of coordination in administration of waivers. Outsourced systems are available that could reduce

these losses. Assuming a 20 percent revenue share with the vendor on 1 percent losses avoided, **the state would save \$8.8 million in FY 2010-11 and annually thereafter** (assuming no additional upfront or implementation costs).

South Dakota has implemented a similar program (but there are no finalized cost savings). Other states are contemplating this type of administrative support, including Texas, New Hampshire, and Hawaii.

Recommendation: *The Legislature should consider the implementation of an enterprise-wide Medicaid Home- and Community-Based Long-term Care Services (HCBS) Waiver programs administrative support system.*

48. Implement a statewide managed incontinence supplies program

Florida's Medicaid Program spends over \$22 million dollars each year to provide incontinence products, i.e., diapers, pads, etc. to thousands of Medicaid recipients. Over 150,000 claims are paid each year supporting over 20,000 Medicaid beneficiaries. Florida could achieve significant cost savings as well as improve quality and client services by implementing a comprehensive managed incontinence supplies program. Such a program would ensure the adequate supply and prompt delivery of high quality incontinence medical supplies, ensure beneficiary satisfaction, implement effective utilization controls, and reduce Medicaid fraud and abuse. It is projected that a minimum cost savings of 20% could be achieved through a managed statewide incontinence supplies program. These savings could be redirected to other critical health care programs or may be used to increase the number of beneficiaries served.

Other states and organizations, including Michigan and Indiana, private health care providers including Aetna, Blue Cross/Blue Shield, and CareFirst, as well as General Motors and AAA of Michigan have implemented such programs for their clients with favorable cost-savings and quality improvement results.

Implementing a statewide managed incontinence supplies program could save the state \$4.5 million in the first year and up to \$6 million annually thereafter.

Recommendation: *The Legislature should require the Florida Agency for Health Care Administration to initiate a statewide competitive procurement for a Managed Disposable Incontinence Medical Supplies Program that focuses on adequate supply and prompt delivery of high quality incontinence medical supplies and that ensures beneficiary satisfaction and that implements effective utilization management and cost control. The competitive procurement instrument should require all potential bidders to achieve a minimum 20% cost-savings reduction below current state Medicaid expenditures as well as offer 24 hour call center technologies to provide Medicaid beneficiary assistance.*

Government Cost Savings Task Force

Chapter 4: Healthcare Reform

Report	p. 100 - 109
Recommendations	p. 110
49. Defined Contribution Model	
50. Provide incentives based on controllable wellness indicators	
51. Require all classes of employees to pay same premiums for health insurance	
52. Promote Health Investor HMOs and PPO	
53. Review pharmaceutical purchasing system	
54. Consolidate and/or outsource pharmaceutical repackaging	
55. Expand use of Section 340B purchasing for pharmaceuticals	
56. Implement pre-payment audit system	
57. Find other fund sources for services to undocumented immigrants in state mental facilities	
58. Expand the role of Advanced Registered Nurse Practitioners and Physician Assistants	

Introduction

While Medicaid dominates the health care portion of the state budget, ensuring the health of state employees and non-Medicaid eligible individuals who are the responsibility of the state, is not only a critical function of government, but also an expensive proposition. This chapter focuses on a few areas of the non-Medicaid healthcare budget where efficiencies would produce savings without reducing services.

This chapter largely focuses on the state's employee health insurance system. In FY 2008-09, Florida taxpayers contributed over \$1.365 billion on health insurance for its employees. One portion of these recommendations directly deals with modernizing state employee health benefits. These recommendations will bring the state into the main stream. As with other areas of the budget, incorporating real world business practices is no longer a luxury but a necessity. The state has been insulated from the realities of the changing market and modernization is long overdue.

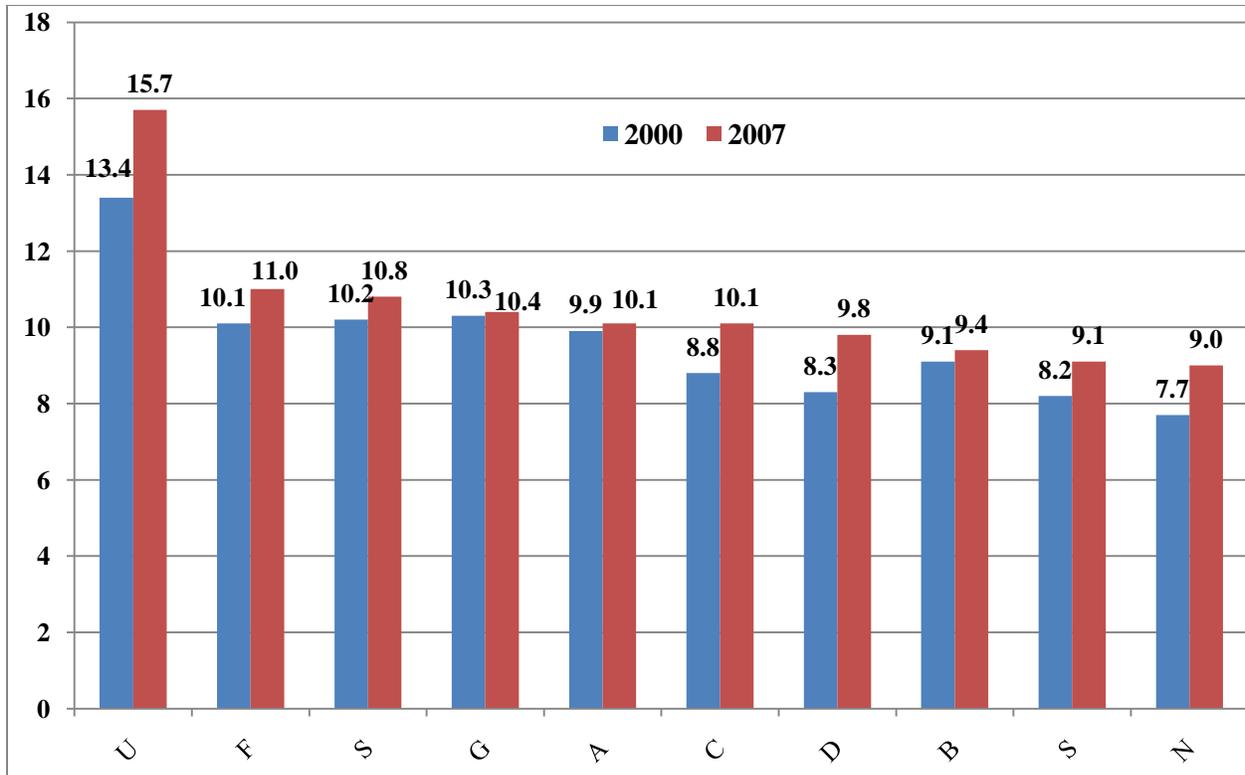
A key part of modernization is to increase flexibility within the insurance system by broadening the portfolio of health insurance choices. Another idea that underlies these recommendations is the introjections of market principles and incentives for improved employee health. The employees are the best ones to determine their coverage needs and their willingness to pay for additional benefits, or to bear the costs of added risk to the system. Empowering state employees with options to respond to their needs and what they are willing to pay will result in better quality of life, health care outcomes, and cut costs.

Additional recommendations in this section address reducing the state's total prescription drug expenditures (including prescription drug spending for Medicaid, employee health insurance, and all other purchases), which exceed \$2 billion annually, and other creative ideas to reduce the cost of providing healthcare-related services that can save taxpayer dollars and allow Florida to focus scarce resources on critical functions.

The Problem: Unsustainable Healthcare Costs

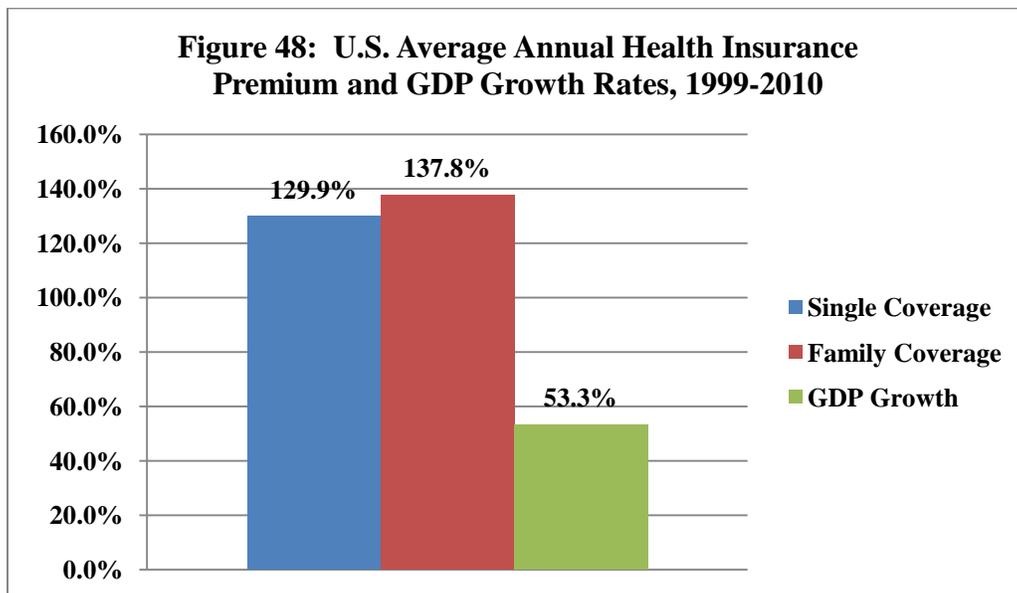
Despite many efforts, health care costs in the U.S. are still rising. In fact, the U.S. is the number one in the world in terms of the total health care expenditure as a percentage of Gross Domestic Product (GDP). As seen in the chart below, the rate of health care expenditure in the U.S. went up from 13.4% in 2000 to 15.7% in 2007. The gap between U.S. and the country with the second highest expenditure as a percent of GDP (France) jumped from 3.3 percentage points in 2000 to 4.7 percentage points in 2007.

Figure 47: Top Ten Countries with the Highest Total Health Care Expenditures as Percent of GDP



Source: World Health Statistics 2010, World Health Organization.

As seen in the chart below, the growth rate of the single coverage health insurance premium is 2.4 times and the family coverage health insurance 2.6 times greater than the growth rate of GDP between 1999-2010. This price hike is largely due to the increase in health care costs. The lack of competition among health care service providers is a main driving force behind this unsustainable growth rate.



Source: Kaiser Family Foundation & U.S. Bureau of Economic Analysis

The Proposed Solutions

Any solution for the skyrocketing healthcare costs must address both demand and supply sides of the healthcare cost equation. On the demand side, overutilization, unhealthy life styles, and imperfect information about available choices are the leading factors behind the high healthcare costs. On the supply side, the lack of competition among service providers, billing fraud and claims errors, and lack of accountability are the driving factors.

Potential options to reduce costs to Florida of employee health insurance must directly responses to these factors. For instance, the defined contribution model and health investment plans would provide incentives to enrollees for cost-conscious behaviors while making service providers more competitive. Providing incentives based on controllable wellness indicators would promote healthy behaviors and reduce the utilization of healthcare services. Likewise, requiring all state employees to pay regular premiums would reduce the overutilization of services.

Advantages of Defined Contribution Model

If designed and implemented properly, the defined contribution healthcare model can benefit both employers and employees. It is an effective way for the state to manage the increasing health care costs. It can also provide greater flexibility and control to employees in choosing an appropriate healthcare plan based on their needs. The current health insurance system Florida has is a defined benefit model where a one-size-fits-all benefit plan is chosen and premiums paid by the state are adjusted annually to maintain the benefit package. The defined contribution plan model would do just the opposite. It will define the contribution, not benefits, and let employees choose a plan based on their needs.

As explained before, the cost of health care is not sustainable anymore. Defined contribution health plans are considered a free market solution to the problem.¹²⁷ Health care insurance providers are expected to be more efficient and creative in their benefit plans as a result of induced market competition. They would be forced to change their business model, selling their plans to employees, not employers. Market competition would result in better contracting for the state and lower insurance premium rates for employees. As a result of higher competition, providers will be forced to offer a price concession, improved quality, and access to service.

The design of an effective defined contribution health model is the key to its success for bringing competition to the healthcare market. The model should include a mechanism that allows employees to choose the delivery system that they want for their healthcare. It should give them incentives to choose providers that provide high quality services at lower costs. It will put them in control of getting the most value for themselves and generate savings for the state. Furthermore, the cost of healthcare for the state will be more predictable. Finally, it could be more compatible with high-deductible health plans as well.

¹²⁷ “Defined Contribution It would Change Everything,” Managed Care, September 2010.

The Federal Employees Health Benefits Program

The Federal Employees Health Benefits Program (FEHBP) is quite similar to the proposed defined contribution model. The program provides health insurance to most federal employees and retirees, including members of Congress, covering about eight million individuals. The FEHBP allows insurance companies, employee associations, and labor unions to market health insurance plans to federal employees. The program is administered by the United States Office of Personnel Management (OPM). The program has been in place since 1960. Choices among competing health plans are available to employees during an "open enrollment" period. After the annual enrollment, changes can be made only upon a "qualifying life event" such as marriage, divorce, etc. Premiums vary from plan to plan and are paid by the employer and by the employee. The employer pays an amount up to 72 percent of the average plan premium for single or family coverage, and the employee pays the rest. The exact dollar amount is calculated annually based on the chosen plans' premiums. The federal government's contribution for a chosen plan is capped at a certain rate of average cost for all plans. Employees could choose any plan they like; however, they have to pay for the expensive choices. Since the contribution is defined, the carriers and providers are forced to create attractive benefit packages to increase the enrollment in their respective plans. Indeed, the FEHBP is often mentioned as a model for health reform because it is nice to say: "Everyone should have health care as good as members of Congress."

The FEHBP has been a success story mainly due to its features which affect both demand and supply sides of the health care market. On the demand side, employees are incentivized to search for better plans while on the supply side providers are forced to come up with better benefit packages at lower prices. Insurance companies respond to this cost efficient pressure from employees by offering restricted network systems of providers at lower prices. For instance, the most popular option offered through the FEHBP is the Blue Cross Blue Shield Standard Option plan (BCBS-SO) covering approximately 60 percent of all program participants.¹²⁸ The BCBS-SO plan offers services through a network of PPOs. Patients will pay reduced rate for services provided through the preferred network of providers. If they choose to go outside of the network, they have to pay a larger share of the service cost. One of the most prominent features of the FEHBP is the choices it allows. It is important to note that the FEHBP is not limited to PPOs. It also offers HMOs, high deductible health insurance plans, and other consumer-driven plans.

Utah's Experience with the Defined Contribution Model

The defined contribution model is currently implemented in the state of Utah. The state created a health exchange system to bring competition among health care providers. The system is not limited to state employees; rather, it is accessible by all workers in the state. Employers offer workers a tax-free contribution toward the health plan of their choice. Employees then select the

¹²⁸ "Basic Facts about the Federal Employee Health Benefit Program," July 2009, Consumers Union.

benefit plan they prefer from the rich menu offered by competing insurers through the health insurance exchange. The Utah model includes three important components: (1) a “premium aggregator” feature to allow employees to combine contributions from more than one employer; (2) a “risk adjustment” system to compensate for any adverse selection effects, such as individuals in poorer health choosing certain plans in disproportionate numbers; and (3) funding for brokers to help employers participate in the system and help employees to choose a plan fit their needs and preferences.¹²⁹

Challenges of Defined Contribution Model

Even though the defined model looks like a magical market bullet to stop the ever increasing health care costs, it is not free from criticisms.¹³⁰ Opponents argue that it will not create any savings. Rather, it will shift the financial burden from employers to employees. This concern could be eliminated if employees are assured that they will not pay more than what they currently do if they get their service through the preferred network of providers. Another criticism is that employees will not be able to choose the best plan for themselves. The state could address this issue by establishing great support system for employees. Furthermore, if the core benefits and default providers are determined by the state, employees will only have to make a decision about additional benefits and alternative providers. The success of defined contribution model depends on how it is designed.

The Evidence for the Effectiveness of Wellness Programs

It is not news that poor health behaviors cost the public a lot of money. There are well researched and documented economic costs associated. Specifically, A U.S. Center for Disease Control and Prevention study indicates that, from 1997-2001, smoking caused approximately 438,000 premature deaths in the United States annually and approximately \$92 billion in annual health-related economic losses.¹³¹ In 1998, smoking-attributable personal health care medical expenditures were \$75.5 billion.¹³² For each of the approximately 46.5 million adult smokers in 1999, these costs represent \$1,760 in lost productivity and \$1,623 in excess medical

¹²⁹ “Utah’s Defined-Contribution Option: Patient-Centered Health Care,” Backgrounder #2445, July 30, 2010, the Heritage Foundation.

¹³⁰ “Defined Contribution It would Change Everything,” Managed Care, September 2010.

¹³¹ Center for Disease Control and Prevention (U.S. Department of Health and Human Services), “Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Productivity Losses --- United States, 1997-2001,” Morbidity and Mortality Weekly Report (MMRW), April 12, 2002, 51(14): 300-3; available electronically at www.cdc.gov/mmwr/preview/mmwrhtml/mm5425a1.htm. (Figures were even higher for the 1995-1999 period: “Results show that during 1995--1999, smoking caused approximately 440,000 premature deaths in the United States annually and approximately \$157 billion in annual health-related economic losses.” Center for Disease Control and Prevention (U.S. Department of Health and Human Services), “Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Productivity Losses --- United States, 1995-1999,” Morbidity and Mortality Weekly Report (MMRW), July 1, 2005, 54(25): 625-8; available electronically at www.cdc.gov/mmwr/preview/mmwrhtml/mm5114a2.htm.)

¹³² Ibid.

expenditures; the economic costs of smoking totaled \$3,391 per smoker per year.¹³³ These are costs, when translated more directly in the state, the taxpayers of Florida cannot afford.

Currently, 21 states have incentivized wellness programs for their employees: Alabama, Delaware, Georgia, Indiana, Kansas, Kentucky, Minnesota, Missouri, Montana, New Hampshire, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Utah, Washington, West Virginia, and Wyoming. The incentivized wellness programs provide a variety of discounts to employees, ranging from \$5-\$500 dollars in several forms, including premium discounts for their insurance, gift cards, and reduction in co-pays.

These incentive programs can use incentives or disincentives (i.e., colloquially, carrots or sticks). For example, in Georgia employees may receive a \$25 discount in their Health Reimbursement Account and a family can receive \$250 for completing a wellness exam, but tobacco use is discouraged by requiring state employees to pay extra premiums each month (called a “smokers surcharge”) for using tobacco use.¹³⁴ In Alabama, participants receive a discount on their insurance if they do not smoke and their Body Mass Index (BMI) is below 25.¹³⁵ The state of Arkansas offers discounts for positive health behaviors in their state employees. Arkansas workers are incentivized through monthly discounts on insurance premiums through their voluntary participation in health care screenings and through such screenings are provided an additional discount for positive health indicators.¹³⁶ Arkansas also provides non-cash incentives, such as allowing workers to earn vacation days known as “health days” for participating in well programs.¹³⁷

Wellness Programs in Private Sector

According to Employer Health Benefits 2010 Annual Survey¹³⁸ which is conducted by the Kaiser Family Foundation every year, many private firms provide wellness programs to their employees to improve health and control health care costs. The wellness programs offered include at least one of the followings: weight loss programs, gym membership discounts or on-site exercise facilities, smoking cessation program, personal health coaching, classes in nutrition

¹³³ Center for Disease Control and Prevention (U.S. Department of Health and Human Services), “Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Productivity Losses --- United States, 1995-1999,” *Morbidity and Mortality Weekly Report (MMRW)*, July 1, 2005, 54(25): 625-8; available electronically at www.cdc.gov/mmwr/preview/mmwrhtml/mm5114a2.htm.

¹³⁴ National Conference of State Legislatures, “State Employee Health Benefits,” January 4, 2010; available electronically at www.ncsl.org/degault.aspx?tabid=14345

¹³⁵ The body mass index is a measure that estimates a healthy body-weight based on a person's height; 18.5 – 25 BMI is considered “Normal range” while 25-30 BMI is considered “Overweight.”

¹³⁶ National Conference of State Legislatures, “State Employee Health Benefits,” January 4, 2010; available electronically at www.ncsl.org/degault.aspx?tabid=14345

¹³⁷ National Conference of State Legislatures, “State Employee Health Benefits,” January 4, 2010; available electronically at www.ncsl.org/degault.aspx?tabid=14345

¹³⁸ Employer Health Benefits 2010 Annual Survey, <http://ehbs.kff.org/pdf/2010/8085.pdf>, accessed on November 3, 2010.

or healthy living, web-based resources for healthy living, or a wellness newsletter. The percentage of firms offering at least one wellness program reached 74% in 2010. Almost all of wellness programs are offered through the health plan. As seen in Table 1, the vast majority of large firms offer the following wellness programs: gym membership discounts or site exercise facilities (63%); smoking cessation program (60%); web-based resources for healthy living (80%); wellness newsletter (60%); personal health coaching (42%); weight loss programs (53%); and classes in nutrition/healthy living (47%).

Figure 49: Among Firms Offering a Particular Wellness Program to Their Employees, by Firm Size and Region, 2010

	Firm Size		Region			
	All Small Firms (3-199 Workers)	All Large Firms (200 or More Workers)	Northeast	Midwest	South	West
Gym Membership Discounts or On-Site Exercise Facilities	29%*	63%*	58%*	29%	22%	15%
Smoking Cessation Program	23%*	60%*	46%*	22%	14%*	19%
Web-based Resources for Healthy Living	49%*	80%*	56%	46%	59%	37%
Wellness Newsletter	43%*	60%*	62%*	27%*	44%	40%
Personal Health Coaching	11%*	42%*	11%	16%	10%	12%
Weight Loss Programs	29%*	53%*	50%*	18%	20%	33%
Classes in Nutrition/Healthy Living	23%*	47%*	38%	27%	13%*	22%
Other Wellness Program	8%*	32%*	14%	6%	7%	7%

* Estimate is statistically different within type of wellness program from estimate for all other firms not in the indicated size, region, or industry category (p<.05).

Source: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2010.

Some firms even use financial incentives such as gift cards, travel merchandise, or cash to encourage participation of their employees in wellness programs. As seen in Table 2, 23% of large firms give gift cards, travel, merchandise, or cash to attract their employees to wellness programs. Very few firms punish their employees through higher premium contributions or

deductibles if they choose not to participate in wellness programs. Firms sometimes use health fairs or review health claims to identify individuals with health risks and encourage them to participate in wellness programs.

Figure 50: Among Firms Offering Health and Wellness Benefits, Percentage of Firms That Offer Specific Incentives to Employees Who Participate in Wellness Programs, by Firm Size and Region, 2010

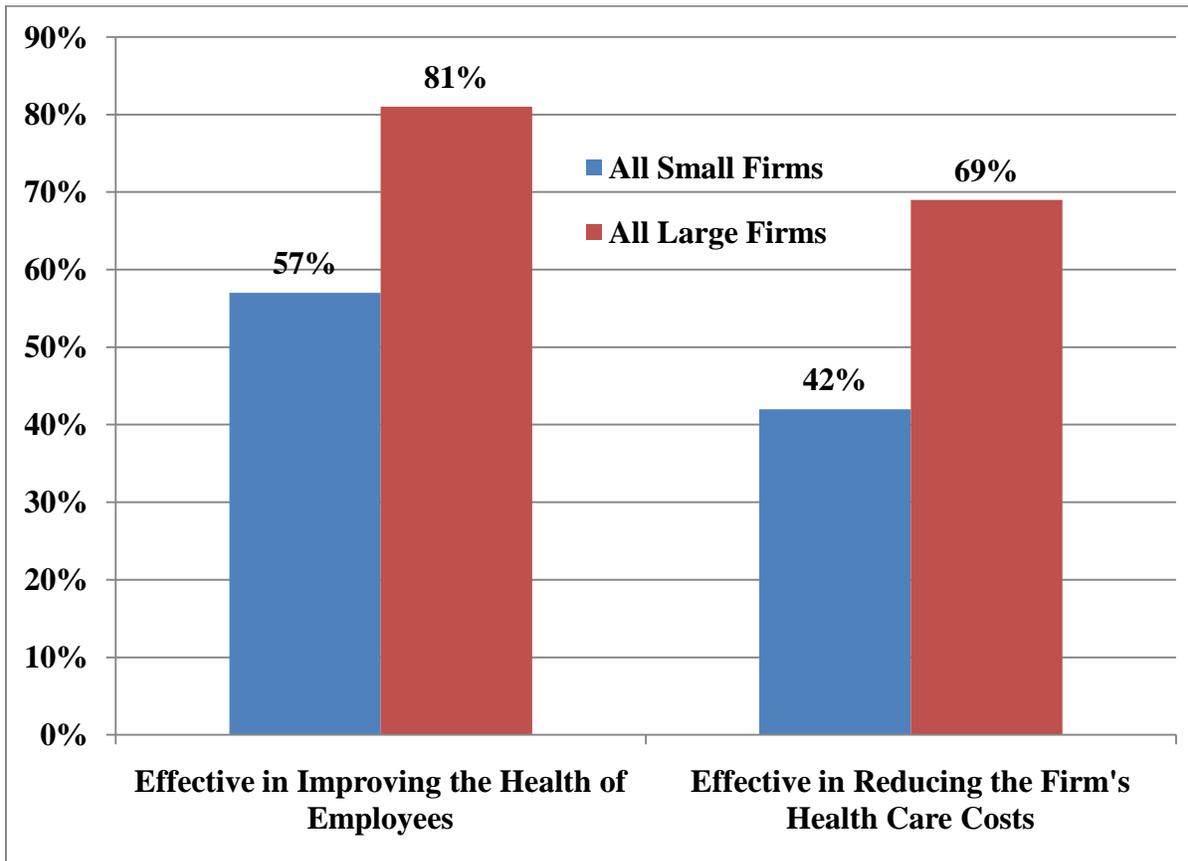
	Workers Pay Smaller Percentage of the Premium	Workers Have Smaller Deductible	Receive Higher HRA or HSA Contributions[‡]	Receive Gift Cards, Travel, Merchandise, or Cash
FIRM SIZE				
All Small Firms (3-199 Workers)	1%*	<1%*	1%*	7%*
All Large Firms (200 or More Workers)	10%*	2%*	7%*	23%*
REGION				
Northeast	<1%*	1%	1%	9%
Midwest	2	<1	2	8
South	1	1	5	9
West	1	<1	<1*	7

* Estimate is statistically different within type of incentive from estimate for all other firms not in the indicated size or region (p<.05).

Source: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2010.

Among large firms offering wellness programs, 28% of them reported reduction of health care costs as their main reason while 34% of them stated health improvement and reduction of absenteeism. As seen in the chart below, overwhelming majority (81%) of large firms consider wellness programs as an effective method to improve the health of their employees. 69% of them think offering wellness programs is effective means to reduce their health care costs.

Figure 51: Percentage of Firms That Think Offering Wellness Programs is Effective at Improving Health or Reducing Costs, 2010



Source: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2010.

Majority (67%) of large firms uses disease management programs to improve the health of their employees and reduce their costs due to chronic illnesses such as diabetes, asthma, hypertension, lower back pain, depression, and obesity. The programs include teaching patients about their disease, suggesting alternative treatment options, and assessing the treatment outcomes and success. Some even offer financial incentives to their employees to increase their participation in the programs.

Figure 52: Among Firms Offering Health Benefits That Have a Disease Management Program for Their Plan with the Largest Enrollment, Percentage With a Particular Program, by Firm Size and Region, 2010							
	Diabetes	Asthma	Hypertension	High Cholesterol	Lower Back Pain	Depression	Obesity
FIRM SIZE							
All Small	100%*	92%	88%	83%	46%	68%	70%

Firms (3-199 Workers)							
All Large Firms (200 or More Workers)	98%*	89%	90%	83%	48%	59%	63%
REGION							
Northeast	100%	98%	96%	89%	49%	75%	83%
Midwest	100	93	92	87	63	66	77
South	100	84	74	72	31	67	48*
West	100	94	96	88	54	55	71

* Estimate is statistically different from all firms not in the indicated size, region, or industry category (p<.05).
Source: Kaiser/HRET Survey of Employer-Sponsored Health Benefits, 2010.

Conclusion

Florida will need to explore new and innovative ways to ensure that the state can continue to provide high quality health care but at a cost that is not an unsustainable burden to the taxpayers. Health care continues to be a challenge nationally and in Florida, through the Medicaid program as well as all other state funded health care system. The solutions that need to be considered both reduce the cost to the state and apply market principles that can reduce the overall cost of health care while enhancing quality, which will benefit all Floridians.

Healthcare Reform Recommendations

49. Defined Contribution Model

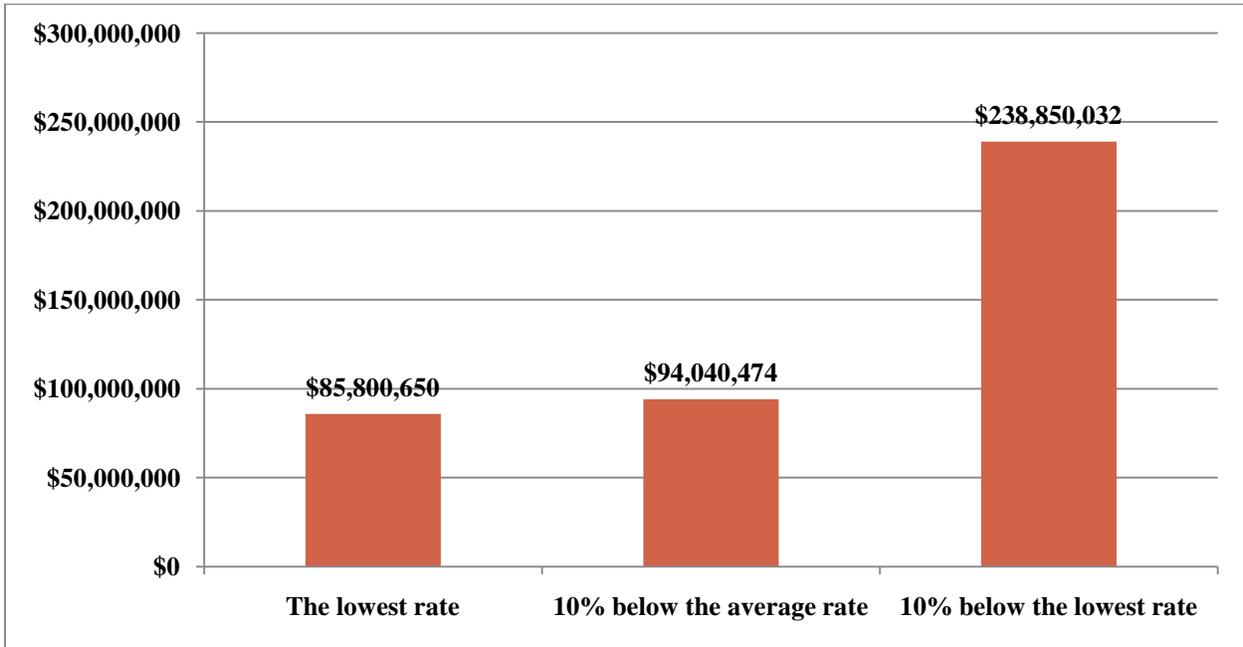
Defined contribution is a consumer-oriented health insurance plan which allows employees to be more involved in their health care choices. Even though there are many forms of defined contribution health insurance plans, they all have key elements in common. An employer makes a fixed contribution towards health care coverage for each employee. This is the defined part of defined contribution. Then, employees will be provided with various health care plans to choose from. The plans offered might vary by the deductible, co-payment amount, plan style, premium, and coverage. It is up to the employee to decide which plan will best fit his or her needs.

Defined contribution health plans emerged as an effective measure to control escalating health care costs in the last two decades. As health care costs outpaced the inflation rate during this period, public and private employers were forced to seek cost control measures in the form of higher premiums, co-payments, and deductibles. While the conventional employer-sponsored health plans define specific benefits and the employee's premium rates, the defined contribution health plans set a fixed amount toward healthcare coverage for each employee. The defined contribution model became quite popular in the private sector after 2000 as the costs of health

The cost savings of a defined contribution model will be immediate if the state sets a rate below the existing average premiums. Currently, there are five insurance companies offering insurance plans to state employees at various rates. The state could set the defined rate based on 1) the lowest existence rate among all providers; 2) 10% below the average rate of all providers; or 1) 10% below the existing lowest rate.¹³⁹ **As seen in the chart below, the estimated annual savings will range from \$86 million for the first scenario to \$239 million for the third scenario.**

¹³⁹ The estimated rates for various scenarios do not include the cost of PPO plans which currently serve almost 50 percent of the state employees. The insurance premium paid the providers is per a contract, not subscriber.

Figure 53: Estimated Savings from Defined Contribution Health Plans



Recommendation: *The Legislature should direct DMS, or hire a consulting firm, to design a defined contribution model combined with incentives for wellness programs, and high-deductible insurance plans. The model will likely to succeed if it includes important changes in insurance regulations, fairly negotiated individual benefit plans, and a great support system for consumers. The defined contribution premium should be determined after a thorough study of the causes of the cost difference among existing insurance plans. A simplistic approach will likely force some providers out of the market and result in even greater cost in the long-term. Indeed, the success of the proposed change will largely depend on the fair and comprehensive approach in determining defined contribution rate. The estimated annual savings from the defined contribution plan alone would range from \$86 million to \$239 million.*

50. Provide incentives based on controllable wellness indicators

Many governmental and private entities, including other state governments, offer incentives to employees based on controllable wellness indicators, primarily tobacco use and body weight level. Reportedly, these types of incentive programs have resulted in a much slower increase in overall health care costs for some employers.

Incentivized wellness programs are being used by states across the country. Long used by private industry, state governments are realizing the benefits of incentivized wellness programs to both the employee as well as the taxpayer. The programs are intended to encourage and support state employees to do such things as stop using tobacco and reduce their Body Mass Index (BMI) and, in so doing, improve their personal health and work-related productivity.

Research is supportive of this win-win scenario and demonstrates that incentivized wellness programs improve the health of the employee while also benefiting the organization for which the employee works.

The concept of wellness programs is not new to Florida. In 2006, Florida began implementing a policy to reward Medicaid recipients up to \$125 a year for engaging in specific wellness and healthy behaviors.¹⁴⁰ An incentive program for state employees could especially yield benefits because of the longevity of the employer/employee relationship; because state workers tend to stay with the state for long periods of time, a wellness program would likely have a high return on investment for the state.

Public and private entities have realized significant savings through the implementation of employee wellness programs. According to a study in the peer-reviewed journal *Health Affairs*, private companies with wellness programs have seen a 28% decrease in sick leave, a 26% reduction in adjunctive health care costs, and a 30% reduction in disability and workers compensation costs.¹⁴¹ North Carolina estimates that the health incentive programs save \$2 for every \$1 spent. Oklahoma estimates the health incentive program saves \$2.30 for every dollar spent.¹⁴² And according to the Wellness Council of America, a \$1 investment in wellness programs saves \$3 in health care costs.¹⁴³

Every one percent reduction in Florida’s employee health care expenditures saves \$12 million for the taxpayers annually. Obviously, this does include the cost of the incentive program producing the savings in health care expenditures, but some of the administrative and benefits expenses could be recouped through the penalties for discouraged behaviors.

Recommendation: *The Legislature should direct DMS to implement a program to provide incentives and disincentives for state employees based on controllable wellness indicators.*

51. Require all classes of employees to pay same premiums for health insurance

While most state employees pay a monthly premium for their state-subsidized insurance coverage (\$50 per month for individual policies and \$180 per month for family coverage), about 26,000 SPS workers and their spouse (about 6,700) used not to pay any premiums at all, including nearly all of the Governor’s staff, the 160 legislators, 1,800 legislative employees, Senior Exempt Service (SES), and SMS employees. As seen in the table below, since August 2010, they began making some contributions (\$8.34 for single coverage and \$30 for

¹⁴⁰ AHCA Policy letter (2006). ENHANCED BENEFITS REWARDS PROGRAM. For more information, see http://ahca.myflorida.com/Medicaid/medicaid_reform/enhab_ben/enhanced_benefits.shtml

¹⁴¹ *Health Affairs*, Volume 21, No.2, March 2002.

¹⁴² www.nga.org/Files/pdf/0907HEALTHMANAGEMENTINITIATIVES.PDF

¹⁴³ www.welcoa.org/freeresources/pdf/wellness_matters_jk.pdf

family/spouse coverage) on a monthly basis toward their health insurance premiums; however, it is still far below their fair share compared to other state employees.

Figure 54: Monthly Premium Contributions since August 2010				
Standard Plan				
	# of Enrollees	Employer Cont.	Employee Cont.	Total
SES/SMS Single	7,533	\$ 515.30	\$ 8.34	\$ 523.64
SES/SMS Family	18,405	\$ 1,154.16	\$ 30.00	\$ 1,184.16
Spouse	6,736	\$ 1,154.16	\$ 30.00	\$ 1,184.16
Health Investor Plan				
	# of Enrollees	Employer Cont.	Employee Cont.	Total
SES/SMS Single	27	\$ 480.28	\$ 8.34	\$ 488.62
SES/SMS Family	29	\$ 1,038.44	\$ 30.00	\$ 1,068.44
Spouse	7	\$ 1,038.44	\$ 30.00	\$ 1,068.44

Source: Florida Department of Management Services, Division of State Group Insurance

If all state employees were required to pay the same premium (\$50 for single coverage and \$180 for family/spouse coverage), as seen in the table below, the estimated annual savings would be \$60 million.

Figure 55: Cost Savings Estimate		
Standard Plan		
	Monthly	Annual
SES/SMS Single	\$ 313,825	\$ 3,765,897
SES/SMS Family	\$ 2,760,750	\$ 33,129,000
Spouse	\$ 1,010,400	\$ 12,124,800
Total	\$ 4,084,975	\$ 49,019,697
Health Investor Plan		
SES/SMS Single	\$ 180	\$ 2,158
SES/SMS Family	\$ 995	\$ 11,936
Spouse	\$ 240	\$ 2,881

Total	\$ 1,415	\$ 16,975
	Total	Total
	\$ 4,086,389	\$ 49,036,673

Requiring all SPS employees (including elected officials and SES and SMS employees) to pay health insurance premiums (as required of CS employees) **would save the state budget an estimated \$49 million in the FY 2011-12 and annually thereafter.**

Recommendation: *The Legislature should direct DMS to modify the health insurance benefits to reflect the same benefit package currently afforded to CS employees.*

52. Promote Health Investor HMOs and PPO

The state currently offers high-deductible plan through Health Savings Account. It is called Health Investor Account. It comes both with HMOs and PPO options. The Health Investor PPO gives enrollees the flexibility to network or non-network providers with a lower cost when they choose network providers. BlueCross BlueShield of Florida and Caremark administer PPO option and the Standard PPO option. Health Investor HMOs require enrollees to use network providers unless it is a medical emergency. It covers the same services and benefits as its Stand HMO counterpart and uses the same provider networks.

Health Investor HMOs and PPO include the following key features:¹⁴⁴

- If enrollees contribute toward the cost of their coverage premium, their monthly insurance premiums will be lower.
- For specific preventive care services, there's no deductible. For other health services or prescription drugs, enrollees must meet the deductible before benefits begin.
- With single coverage, enrollees must meet the individual deductible before anything but preventive care is covered. For family coverage, they must meet the family deductible before the plan pays benefits for any of them.
- Enrollees may open a Health Savings Account and receive contributions from the state and add their own contributions. They can use the HSA to pay out-of-pocket expenses.

As seen in the table below, the cost to the state for Health Investor Health plans is not as low as expected. As implemented today, the plan is not going to create any savings for the state in the short term.

¹⁴⁴ http://www.myflorida.com/myBenefits/Health/Medical_Plans/Health_Investor_PPO.htm, accessed on November 3, 2010.

Figure 56: Standard PPO and HMOs versus Health Investor PPO and HMOs

	Monthly Premium by Enrollees	HSA Contribution	Premium Contribution by the State	Standard deductible for in-network services
Standard PPO	\$50 individual, \$180 family	Standard PPO does not qualify for an HSA	\$500 for single and \$1063 for the family coverage	\$250 individual, \$500 family
Health Investor Health Plan PPO	\$15 individual, \$64.30 family	HIHP PPO can have \$500 individual and \$1000 family annual, employer contribution. Employees can also add their own contributions.	\$500 for single and \$1063 for the family coverage	\$1,250 individual, \$2,500 family
Standard HMO Plan	\$50 individual, \$180 family	Standard HMO does not qualify for an HSA	On average, \$536 for single and \$1156 for family coverage	Standard HMO has no deductible
Health Investor Health Plan HMO	\$15 individual, \$64.30 family	HIHP HMO can have \$500 individual and \$1000 family annual, employer contribution. Employees can also add their own contributions.	\$500 for single and \$1063 for the family coverage	\$1,250 individual, \$2,500 family

Source: http://www.myflorida.com/myBenefits/Health/Medical_Plans/Important_Considerations.htm

High-deductible plans through Health Savings Account promise a considerable potential for controlling the cost if designed and implemented effectively. Apart from providing more choice to employees, it might be a powerful tool for making enrollees more cost-conscious and careful about overpayment and overutilization. The money deposited in HSA becomes enrollees' permanent property. They could use it for various health expenses. Furthermore, the employee is fully protected if the cost of health care exceeds an out-of-pocket maximum. Currently, only 1% of the state employees are enrolled in a high-deductible plan. However, as recently seen in Indiana, if designed and promoted effectively, the plan could attract more individuals. The savings might arise in the form of reduction in the utilization of unnecessary services because of the incentive embedded in the plan.

Recommendation: *The Legislature should direct DMS to come up with better high-deductible plans through the Health Savings Account in conjunction with the proposed defined contribution health plan.*

53. Review pharmaceutical purchasing system

Florida is not leveraging the state's buying power in the pharmaceutical market in the most effective manner possible. **For every 1 percent savings in purchasing price, the state would realize approximately \$21 million in savings annually.**

Recommendation: The Legislature should undertake a review of the pharmaceutical purchasing system and the cost of the system to determine potential savings that could be realized.

54. Consolidate and/or outsource pharmaceutical repackaging

OPPAGA noted in a March 2009 Research Memorandum that the Agency for Persons with Disabilities (APD), the Department of Juvenile Justice (DJJ) and the DOC have separate contracts to dispense drugs at multiple facilities across the state. The costs for these contracts all exceed the unit cost for the same activity performed by the Department of Health's (DOH) central pharmacy. OPPAGA recommended either in-sourcing the function with DOH or outsourcing for less than is currently being paid.¹⁴⁵

Several agencies in Florida purchase pharmaceutical drugs through a contract with a large group purchasing organization, called Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP), which then contracts with Cardinal Health, Inc., which is the wholesale drug supplier for these agencies' statewide drug purchases. This contract is managed through DOH's Central Pharmacy on behalf of these agencies. DOC currently has a contract with a private company for drug repackaging.

The OPPAGA found that the state could attain cost savings by consolidating all drug repackaging under DOH's Central Pharmacy or a private vendor. The OPPAGA report compared the dose and script dispensing fees paid by APD with DOC and DJJ contracts for repackaging and filling prescriptions with DOH's Central Pharmacy and stated that consolidation under DOH could be more cost-effective option. DOH could expand its drug purchasing through the federal 340B pricing program for eligible programs to save the state money.

Currently, DOC has contracts for repacking services so the primary savings would be for APD and DJJ. APD estimates that by consolidating its purchasing of pharmaceuticals with DOH, and utilizing DOH's pharmacy they could save \$488,258.¹⁴⁶ Based on a presentation by DJJ in October 2009, the estimated savings at that agency are \$1.5 million.

¹⁴⁵ Office of Program Policy and Government Accountability of the Florida Legislature, "RESEARCH MEMORANDUM: Feasibility of Consolidating Statewide Pharmaceutical Services," March 3, 2009, www.oppaga.state.fl.us/Monitor/docs/Reports/pdf/Feasibility_of_Consolidating_Statewide_Pharmaceutical_Services.pdf

¹⁴⁶

Consolidating all state drug repackaging services through DOH, either at their facilities or contracting with an outside vendor, **would save up to \$2 million annually beginning in FY 2010-11.** This amount will both pay for the service and save the state money.

Recommendation: *The Legislature should require all agencies to consolidate their drug repackaging services under DOH.*

55. Expand use of Section 340B purchasing for pharmaceuticals

The 340B Drug Pricing Program was established in 1992 and limits the costs of covered outpatient drugs for federal purchaser and for certain federal agency grantees.¹⁴⁷ Qualified entities that participate in this program realize significant savings on pharmaceutical purchases. Section 340B prices are on average 49 percent lower than average wholesale prices and 24 percent lower than that available to group purchasing organizations. Maximizing utilization of Section 340 purchasing for other state drug purchases would produce significant immediate and recurring savings.

Although state and local government entities are generally not directly eligible to participate in the Section 340B purchasing program, one of the primary means these entities can reduce drug expenditures for vulnerable populations is through partnerships with Section 340B qualifying entities. Partnerships with qualifying entities are increasingly used by states to provide reduced price Section 340B pharmaceuticals to mental health facilities, nursing homes, and prison populations. For example, the Texas prison system partnered with a disproportionate share (DSH) hospital several years ago to provide the state corrections population with healthcare services and access to Section 340B pricing; thus saving the State of Texas more than \$10 million annually.

Every state has Section 340B providers, particularly DSH hospitals and Federally Qualified Health Centers (FQHC), which includes the Florida DOH, that are also eligible under the program.

Although the Florida DOH is the only state agency that can purchase drugs at the federal 340B prices (because DOH is the recipient of federally awarded programs and responsible of the administration of the FQHC), Florida may be able to expand some of its pharmaceutical purchasing through the 340B program. DOH is piloting an initiative with the DOC to purchase drugs for patients with HIV/AIDS and sexually transmitted diseases (STDs) through the 340B program. Physicians employed by the DOH will treat inmates in the pilot program, and because of direct treating relationship, DOH will be authorized to purchase drugs under Section 340B for inmates in the pilot project. This pilot project could be expanded to all DOC facilities for the purchase of HIV and STD pharmaceuticals for inmates.¹⁴⁸

¹⁴⁷ The program was created by Public Law 102-585, the Veterans Health Care Act of 1992, Section 340B.

¹⁴⁸ Office of Program Policy and Government Accountability of the Florida Legislature, "RESEARCH MEMORANDUM: **Feasibility of Consolidating Statewide Pharmaceutical Services,**" March 3, 2009,

The Florida DOC operates 62 correctional facilities. Twenty-two are “HIV cluster prisons,” housing most of the HIV-infected inmates to allow for the concentrated and intensive medical care such inmates need. The average cost of treating an inmate with HIV is \$1,863 per month.¹⁴⁹ Florida has approximately 3,000 prisoners who are HIV positive or have AIDS at any one time. By multiplying the cost of treating an inmate with HIV by the number of inmates with HIV housed by DOC then a conservative estimate of the cost of treating the inmates at DOC is \$67 million per year. **Assuming 2 percent savings then using Section 340B pricing would save the state more than \$1.3 million per year beginning in FY 2010-11 and annually thereafter.**

The state should also expand this type of DOH partnership to purchase section 340B drugs for other state entities, such as Department of Children and Families, DJJ, and other entities that provide outpatient pharmaceuticals directly to patients in the state’s care. An analysis by the Florida Department of Health’s Bureau of Statewide Pharmaceutical Services found that the “state would have saved \$7.4 million over three years if it purchased the top 50 most prescribed medications at 340B prices.”¹⁵⁰ **Assuming the savings are equal over the three years and projecting into future years, purchasing the top 50 most prescribed pharmaceutical drugs under 340B would save approximately \$2.5 million annually.**

Recommendation: *The state should expand the use of the Section 340B program for acquiring cheap pharmaceuticals through establishment of partnerships with associated state agencies and Section 340B providers.*

56. Implement pre-payment audit system

The state pays for the prescription drugs for a number of individuals through a myriad of programs, including the Division of State Group Insurance (DSGI) at the Department of Management Services (which administers the state employees’ health insurance program) and the Medicaid program. To facilitate the distribution of prescription drugs to beneficiaries, the state – like most third-party payers including states and non-governmental entities – contracts with a Pharmacy Benefit Manager (PBM) to administer the processing and payment of prescription drug claims made on behalf of beneficiaries by the drug dispensers (i.e., the pharmacies). These claims from PBMs can number in the hundreds of thousands and auditing them to ensure accuracy is a daunting task that has typically been done by examining only a sample of the claims.

www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/Feasibility_of_Consolidating_Statewide_Pharmaceutical_Services.pdf

¹⁴⁹ Kitahata, et al, “Effect of Early versus Deferred Antiretroviral Therapy for HIV on Survival,” New England Journal of Medicine, April 30, 2009; Volume 360, Number 18, pages 1815-1826.

¹⁵⁰ Office of Program Policy and Government Accountability of the Florida Legislature, “RESEARCH MEMORANDUM: Feasibility of Consolidating Statewide Pharmaceutical Services,” March 3, 2009, www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/Feasibility_of_Consolidating_Statewide_Pharmaceutical_Services.pdf

New technology would now allow the state to conduct a pre-payment audit of the 100% of the claims submitted by the PBM for a number of potential errors, including beneficiary eligibility and price accuracy. Furthermore, this service can be done on a contingency service.

Industry experts estimate that the error rate for PBM claims is likely 3-5% on the overcharging side. The state purchases approximately \$2.1 billion worth of pharmaceutical drugs. Assuming 3% overpayment error rate, implementation of a pre-payment audit system could reduce state payment by more than \$60 million annually. **Assuming a contingency fee of one-third (33.3%) of all identified claims (i.e., money saved by the state), implementation of a pre-payment audit could generate \$40 million in cost savings annually.**

Recommendation: *Florida should implement a pre-payment audit system for prescription drug invoices submitted the state for payment on a contingency basis to reduce overpayments due to claims errors.*

57. Find other fund sources for services to undocumented immigrants in state mental facilities

During the 2009 Session, the Sunset Review Committee requested that OPPAGA research the issue of illegal immigrants housed in Florida's state mental health hospitals. Specifically, whether there were other funding sources for this population (which is currently funded with 100% general revenue). This issue has been assigned to the criminal justice group at OPPAGA. There do not appear to be other funding sources, but there do appear to be options to work with the federal government to deport these individuals back to their nations of origin when appropriate, which would **save the state \$8 million annually beginning in FY 2010-11.**

Recommendation: *The Legislature should require appropriate state agencies to work with the federal government to reduce the cost of maintaining undocumented immigrants whenever possible.*

58. Expand the role of Advanced Registered Nurse Practitioners and Physician Assistants

Advanced registered nurse practitioners (ARNPs) and physician assistants (PAs) are highly trained health professionals who increasingly provide primary care in a variety of settings across the nation. In recent years, they have increasingly assumed responsibility and independence. In Florida, they are allowed to perform their duties under the supervision of a physician. As of November 2009, they were providing 10% of health care services. However, if they were allowed to perform procedures within their scope of training without the supervision of a physician, they can perform up to 80% of the primary care functions which are currently billed by a physician. Such a change will result in cost savings health care services both for the state government, employers, and residents primarily due to the fact that the rate of service provided by ARNPs and PAs is 20% less than that of physicians. The cost savings will benefit the state public and private employers, and residents. **BlueCross BlueShield of Florida estimated the annual savings for the state to be up to \$6 million once the sizeable increase in the number**

of ARNPs and PAs are employed over a number of years. The savings for private employers and self-paid residents will likely to be even greater. The estimated potential savings are based on the lower salary and lower cost of malpractice insurance and education for ARNPs and PAs compared with physicians. However, it is important to note that these savings might be partially offset by the increase in other cost such as increased utilization of specialty care and diagnostic testing. Furthermore, it will take time to train the sizeable number of ARNPs and PAs required for the full implementation of the proposed change.

Recommendation: *The Legislature should redefine the role and responsibility of advanced registered nurse practitioners and physician assistants allowing them to perform procedures within their scope of training without the supervision of a physician.*

Government Cost Savings Task Force

Chapter 5: Procurement Reform

Procurement Report.....p. 121 - 129

Recommendations.....p. 130

Section I: Increase Competition

- 59. Remove (more) competitive bidding exemptions
- 60. Require justification for sole source contracting

Section II: Improve State Term Contracts

- 61. Reduce use of multiple vendors on state term contracts for proprietary goods and services to reduce price through negotiation
- 62. Enforce agency utilization of state term contracts
- 63. Make State Term Contracts available for state-sponsored construction purchases
- 64. Increase the use of state term contracts to achieve economies of scale by requiring Local School Boards and Community Colleges to use state term contracts unless local items can be purchases below the lowest STC cost
- 65. Require the Citizens Property Insurance Corporation to comply with Chapter 287 except in emergency situations
- 66. Allow state term contracts to use a “hold-back” percentage of contract value for contingency contracts in lieu of a performance bond

Section III: Improve Oversight and Transparency

- 67. Expand and enhance oversight of agency contract management
- 68. Create and maintain an enterprise clearing house of all Agency Term Contracts (ATC) and require prior approval of ATC
- 69. Improve Internal Audit Oversight (through OIG)
- 70. Integrate procurement informaiton acorss the purchasing and accounting systems

Section IV: Improve/Encourage Efficiency in Procurement

- 71. Require purchase of generic equivalent when available for off-the-shelf products
- 72. Design and implement an “E-Mall” system for off-the-shelf commodity purchases
- 73. Reduce number of agency procurement officers
- 74. Increase penalty for P-card misuse/abuse
- 75. Study/Review the bid challenge process for cost efficiencies

Introduction

State agencies in Florida purchase large quantities of goods and services, annually. These purchases include professional and construction services as well as commodities needed to support agency activities such as office supplies, vehicles, and information technology. Establishing the most proficient processes for the procurement of these goods and services, however, remains an unresolved issue. The solution to the problem of inefficient procurement practices have been varyingly addressed by different states. Generally, relevant reforms have fallen into either of two broader categories: outsource purchasing to the private sector or internally centralize agency purchases through a single administrative entity. While some states have chosen to outsource their procurement processes to private companies; other states, including Florida, have opted for the centralized model.

Absent substantial evidence showing that one method is more effective over the other, there can be no justification for Florida to abandon its centralized model for another approach to improve state purchasing practices. Nevertheless, there remains ample opportunity within the current framework to reform and develop the efficacy of existing state purchasing procedures. Although the centralized model for purchasing has been set in place in Florida, the state is suffering from its decentralized implementation.

The Department of Management Services (DMS) is responsible for overseeing state purchasing activities in Florida. The department's Division of State Purchasing establishes statewide purchasing rules and negotiates contracts and purchasing agreements that leverage the state's buying power. DMS also oversees the state's electronic procurement system, MyFloridaMarketPlace (MFMP), which was designed to enable state agencies to procure commodities and contractual services on-line and electronically communicate information on purchasing activities to the state's accounting system, Florida Accounting Information Resource Subsystem (FLAIR), to optimize state procurement. For several reasons, however, Florida's procurement system does not capture all of the procurement data that could be used to improve state agency purchasing practices.

For one, a lack of adherence to and enforcement of the instituted procurement rules has allowed many state purchases to occur without the proper cost-saving safeguards in place. Many state purchases are simply not made through or recorded in MFMP even though they should be. Additionally, certain goods and services are currently exempt from the requirements, as are certain agencies. Furthermore, most agencies employ their own purchasing agents in addition to using DMS, convoluting the flow of the purchasing process. As a result of these deficiencies, the state's ability to strategically purchase goods and services remains limited.

This report will explain the existing methods used by state entities in the procurement of goods and services, as well as highlight certain shortcomings. At the end of the report, Florida TaxWatch will offer specific recommendations within the present parameters to reduce the costs

of state procurement processes and to make the acquisition of resources more transparent. While these recommendations will focus on improving the current system, more adequate research in this area could prove that outsourcing procurement altogether would be the most effective solution to the system’s current inefficiencies.

Background

The Legislature enacted numerous laws to help ensure that state purchases obtain the highest overall value; agencies procure goods and services in an accountable, effective, and economical manner; and vendors are afforded fair and open competition. For example, Ch. 337, Florida Statutes, governs procurement of transportation related construction projects, while Ch. 255, Florida Statutes, specifies the competition and solicitation requirements for acquisitions relating to construction of public property. In FY 2009-10, the state spent a total of \$1.18 billion on the public construction services, including related architectural and engineering services.¹⁵¹ Purchases of goods and services that are not related to construction are governed by s. 287.057, Florida Statute.

Figure 57: Statutory Definition of Types of Goods and Services

Florida Statute	Type of Goods and Services
Section 287.055	Professional Construction Services
Chapter 337	Transportation Construction
Chapter 255	Public Property Construction
Section 287.057	Non-Construction

As provided in s. 287.057, Florida Statutes, agencies may use a variety of procurement methods, depending on the cost and characteristics of the needed good or service, the complexity of the procurement, and the number of available vendors. These include:

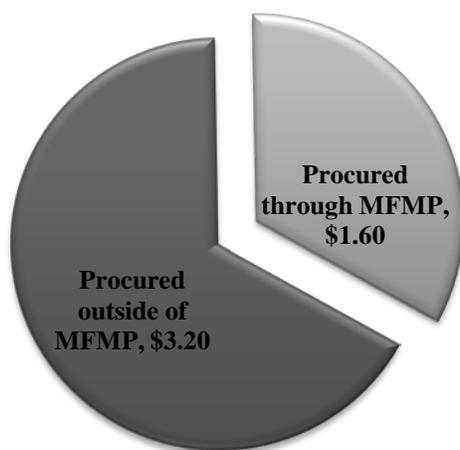
- **single source contracts**, used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- **invitations to bid (ITB)**, used when an agency determines that standard services or goods will meet needs, wide competition is available, and the vendor’s experience will not greatly influence the agency’s results;
- **requests for proposal(RFP)**, used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and

¹⁵¹ As identified through FLAIR data

- **invitations to negotiate (ITN)**, used when negotiations are determined to be necessary to obtain the best value and involve a request for high complexity, customized, mission-critical services, by an agency dealing with a limited number of vendor.

Approximately \$4.8 billion in goods and services were purchased by state agencies in FY 2009-10.¹⁵² **Figure 58** illustrates that only about \$1.6 billion of the total universe of expenditures on goods and services were requested through MFMP, while approximately \$3.2 billion in value of these expenditures were made outside of the system.¹⁵³

Figure 58: Total State Expenditures on Goods and Services in FY 09-10 (in \$Billions)



Source: MyfloridaMarketPlace FY 09-10 Purchase Order Data and FY 09-10 FLAIR Data

Many of the outside purchases could have been secured at lower prices had agencies utilized MFMP as their purchasing vehicle. Furthermore, the state could have accomplished additional cost-savings had many of the exempted goods and services been subject to the procurement requirements established for other products.

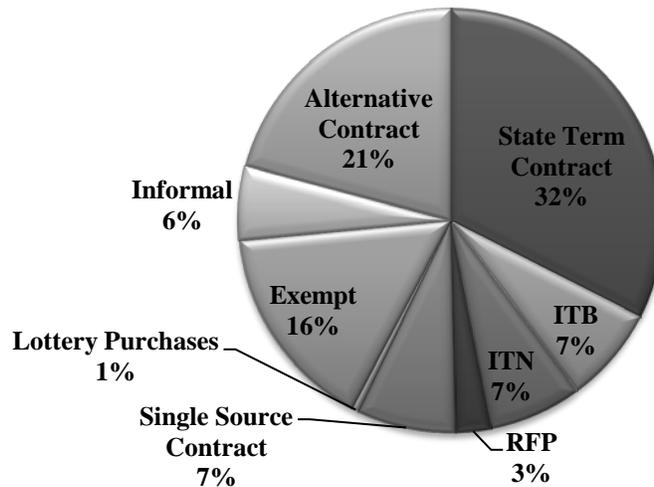
Competitive Bidding Exemptions

As previously mentioned, agencies ordered about \$1.6 billion worth of goods and services in the MFMP system in FY 2009-10. The bulk of the dollar value of these purchases was made using competitive processes. State agencies made most of these competitive purchases through state term contacts or similar agreements. The remaining portion of these competitive purchases was made by agencies through their own competitive solicitations. **Figure 59** breaks down MFMP procurements by type of acquisition.

¹⁵² As identified through FLAIR

¹⁵³ As identified through a crosswalk between FLAIR object codes and MFMP commodity codes.

Figure 59: Total MFMP Procurement Spending by Acquisition Type



Source: MyfloridaMarketPlace FY 09-10 Purchase Order Data

The above figure shows that discretionary spending refers to purchases that were made under \$2,500 and are thus not subject to competitive bidding requirements. The state, however, spent a combined \$49 million on such purchases in FY 2009-10. Additionally informal agreements accounted for 6% (\$88 million) of total spending through MFMP, while procurement expenditures made through alternative contracts composed 21% (\$325 million). Finally, 16% of procurement spending made through MFMP were exempted from competitive purchasing requirements. This equates to about \$246 million in spending on exempt items including statutorily exempt spending, emergency spending, purchases made from government agencies, and purchases from government programs such as PRIDE and RESPECT.¹⁵⁴

Prior to 2010, over half of non-construction related acquisitions by state agencies were exempted from competitive processes. These goods and services were not competitively bid because their value was below the cost threshold of \$25,000, were statutorily exempted from the competitive process, or because single source justifications were made. Additionally, agencies are not required to use competitive processes when emergency conditions exist that preclude the use of these processes.

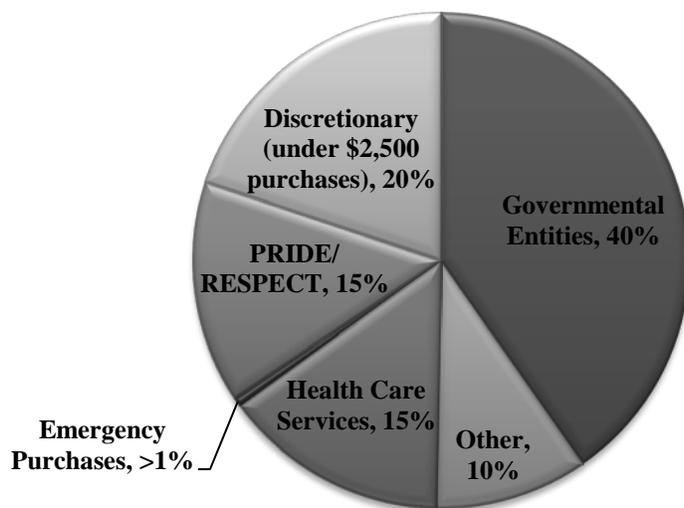
In 2010, Legislation was enacted to strengthen Florida’s competitive bidding requirements [1]. Senate Bill 2386 removed up to \$125 million in annual purchases of certain types of services from the list of services exempted from competitive bidding requirements, including auditing

¹⁵⁴ PRIDE is a private/state endorsed correctional work program; RESPECT is a state sponsored blind/handicapped work program.

services, academic program reviews, health services, and Medicaid services. As shown in the above figure, however, there is still significant room to reduce the number of goods and services that are exempted from competitive bidding requirements.

Section 287.057(5)(f), Florida Statutes, provides 12 types of non-construction services to be exempted from competitive bidding requirements, regardless of whether the purchase exceeds the applicable cost threshold, including: health, auditing, and legal services. **Figure 60** highlights these services as well as other exempt purchases by type. The categories of exempted services that account for the bulk of these purchases were from other governmental entities (40%), such as universities, and purchases on discretionary items under \$2,500 (20%). Government approved programs (PRIDE and RESPECT) (15%) and purchases for the provision of health care (15%) also accounted for a significant portion of these exempt services.

Figure 60: Most Competitive Bid Exemptions Are For Items Under \$2,500 and Purchases From Other Governmental Entities



Though authorized by law, the large value of purchases that are exempt from competitive processes continues to limit assurances that the state is receiving the best value for their procurements. For example, eliminating the minimum value threshold for competitive bidding requirements and/or reducing the items/state entities that may be exempt from competitive bidding processes could yield considerable cost-savings.

The bottom line is that increasing the number of items that must be acquired through one of the defined competitive bidding methods is crucial for saving the state valuable tax dollars. Furthermore, better enforcement of these requirements will ensure that a higher volume of procurements will be made through MFMP. Altogether, a third of the procurements made

through MFMP were executed through a state term contract or purchasing agreement. As procurements made through state term contracts and purchasing agreements constitute the largest portion of total MFMP buy in FY 2009-10 and as they concurrently allow buyers to attain the best value for purchases, the subsequent section will take a closer explain how the increased utilization of state term contracts and purchasing agreements can improve efficiency in purchasing.

Lack of Compliance with State Term Contracts and State Purchasing Agreements

State term contracts and state purchasing agreements are set in place to ensure that purchasers acquire the best values yet they are not adequately utilized. These agreements are created and used when multiple purchases of standard commodities and services are anticipated, for example: office supplies, uniforms, motor vehicles, and management consulting services. These contracts are with vendors selected through a competitive process, and agencies are generally required to use them when they are available. The Department of Management Services currently manages 60 such contracts that may be used by state agencies and local governments, and agencies may enter into their own term contracts for commodities and services.

State term contracts establish supplier(s) and price(s) for selected goods and services for a period of time without guaranteed purchase quantities. State term contracts also consolidate normal requirements of all agencies into one agreement. Florida law requires that state term contracts be utilized by all state agencies for purchases of applicable goods and services.¹⁵⁵

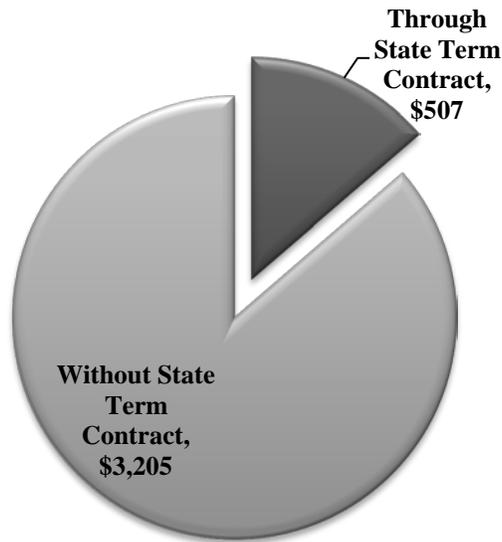
One of the primary objectives of the state term contracting process is to achieve increased value from the goods and services purchased by state agencies by leveraging the volume of statewide purchases of selected goods and services to obtain lower prices. Vendors are encouraged to provide lower costs in exchange for assurances that all state agency purchases for the associated goods or services will utilize the selected vendor. Any associated reductions in profit margin will therefore be made up with increased purchase quantities.

In addition to providing increased value for purchased goods and services, the state term contracting process can also serve to improve the efficiency of the state agency procurement processes. State agencies can reduce procurement costs for commonly purchased goods and services through utilization of state term contracts because cost associated with competitive bidding requirements are significantly reduced or eliminated.

For the state term contract process to be effective, vendors and the state need assurances that agencies will utilize only selected vendors. Documented sales volumes and high compliance rates mean vendors can confidently rely on historical sales volume to calculate competitive state term contract bids. To maximize cost savings, there needs to be assurances that state agencies are utilizing state term contracts to purchase all applicable goods and services. As **Figure 5** shows, however, many agencies still do not fully comply with state term contracts

¹⁵⁵ As specified in Section 287.056.

Figure 61: State Term versus Non-State Term Contract Purchases (in \$ billions)



Source: MyfloridaMarketPlace FY 09-10 Purchase Order Data and FY 09-10 FLAIR Data

The above figure shows that most expenditures that are subject to state term contracts and that are not acquired through MFMP by other means far exceeds the purchases that were made through state term contracts. The data indicate that up to \$3.2 billion in non-compliant purchases could have been performed in FY 2009-10. For MFMP to function as intended it is imperative that the majority of non-compliant spending be reined in.

Insufficient Contract Data

The final caveat to improving Florida's centralized procurement model relates to improving the data collected to accurately gauge the system's efficiency. There are several reasons why MFMP is not capturing all of the procurement data that could be used to improve state agency purchasing practices. Specifically, some agencies are still exempted from using the system, while others are only utilizing a few functions of the system. For example, the Department of Agriculture and Consumer Services is exempted by statute from using MFMP to record its purchases and the agency uses its own purchasing system to manage acquisitions.

Furthermore, many purchases made by state agencies are not recorded in MFMP. For example, construction-related purchases, including: professional architectural and engineering services are still not required to be documented in the system. Moreover, state agencies are required to record only non-construction related goods and services through MFMP if made through a purchase order. As such, non-construction related purchases made through purchasing cards or agency-

specific two-party contracts are not required to be recorded in that system. Although some agencies do elect to record these contracts in MFMP, agencies record some contracts in FLAIR instead, as it would double agency workload to create purchase orders on contracts. As a result, the state's ability to strategically purchase goods and services remains limited.

More comprehensive purchasing information would help the state identify situations in which agencies are using numerous suppliers that are providing similar goods and services— often at varying prices—and where purchasing costs can be reduced and performance improved through state-level agreements. This data would help agencies and other entities to monitor compliance with state-level agreements and state procurement laws. To help ensure that the state receives the best value from its purchases, we continue to believe that agencies should integrate procurement information across the state's purchasing and accounting systems.

Conclusion

The current state procurement process suffers from a lack of enforcement, transparency, and linearity. Items that should be subject to competitive requirements remain exempt without due cause. Furthermore, many purchases subject to state term contracts are still executed without following the proper guidelines; with no repercussions for noncompliant purchasers. Finally, multiple databases using separate classifications for goods and services make it extremely difficult to track agencies' compliance with competitive requirements. The following recommendations are offered by Florida TaxWatch to mitigate wasteful procurement practices and to ensure that Florida's state agencies acquire the most value for the least cost in their purchases.

Procurement Reform Recommendations

Section I: Increase Competition

59. Remove (more) competitive bidding exemptions

In order to achieve the best value for Florida taxpayers on state purchases of goods and services, Florida law requires that “all purchase of commodities or contractual services in excess of [\$25,000] shall be awarded by competitive sealed bidding;” however, the same section of the code also identifies certain goods and services that are exempt from this competitive bidding requirement. The 2010 Legislature acted on this issue by eliminating some of the types of goods and services exempted from competitive bidding requirements. However, further reductions are possible.

As indicated in the 2010 FTW Cost Savings Study, we believe that reductions in competitive bidding exemptions can result in significant cost savings. Based on our analysis of payments issued through the state accounting system, FLAIR, we estimate that in FY 09-10, \$59 million in goods and services purchased by state agencies were exempted from competitive bidding requirements. Utilization of competitive bidding can serve to reduce the cost of goods and service by 10-15%. **If competitive bidding was required for 50% of these purchases, and the savings was conservatively estimated at 10%, the state could realize a savings of \$2.9 million.**

Recommendation: *By further reducing the types of goods and service exempted from competitive bidding requirements. To reduce any increase in administrative costs associated with the competitive procurement process, the Florida Department of Management Services (DMS) may consider the establishment of state term contracts for some of the currently exempted goods and services.*

60. Require justification for single source contracting

Contracts that are awarded using competitive procedures but where only one offer is received have recently gained attention as an area of concern. Competitions that yield only one offer in response to a solicitation deprive agencies of the ability to consider alternative solutions in a reasoned and structured manner. Consequently, the state may not be obtaining the best value for the goods and services it purchases under sole source contracts.

In FY 09-10 \$197 million of the goods and services purchased by state agencies that were subject to competitive bidding requirements were purchased as single source requisitions. In 2010, the Legislature required all state agencies notify the Department of Management Services (DMS) of any intended decisions to enter into a single-source purchase contract if the amount of the contract does not exceed \$195,000. In addition, agencies are now required to provide the Department of Financial Services with contracts for goods and services valued at more than \$35,000.

The effectiveness of this legislation in achieving the intended objective of reducing the number of sole source acquisitions is unknown. Since there is no external oversight of compliance with this requirement, DMS has no way of determining whether this reflects all applicable state agency purchases. However, **a 1% savings from the reduction of procurement from single source vendors would save nearly \$2 million.**

Recommendation: *The legislature should consider expanding the requirement for agencies to notify DMS of intended decisions to enter into a single source purchase contract for amounts valued at more than \$35,000. The Legislature could also consider requiring DMS to establish a listing of vendors who wish to be notified of any pending single-source acquisition for each commodity code. This would help ensure that potential vendors are aware of these procurement opportunities, and provide them with the opportunity to participate in the competitive bidding process.*

Section II: Improve State Term Contracts

61. Reduce use of multiple vendors on state term contracts for proprietary goods and services to reduce price through negotiation

Non-construction commodities purchased by the state can be categorized as either proprietary goods or off-the-shelf commodities. Proprietary items tend to be big ticket, durable good items such as automobiles, light trucks, copiers, IT equipment, etc. These products are offered by a limited number of vendors and standardization of these items provide for better contract pricing along with better after sale servicing. Off-the-shelf commodities are typically lower-priced, consumable items such as medical supplies, paper products, food products, office supplies, recreational equipment, etc. These products are offered by many vendors and lend themselves to more competition across a broad product offering. Multiple vendor contracts should be awarded for this classification of commodities as no single vendor can provide the best pricing on a wide product offering. The agency purchasing professionals should be expected to solicit the best price and terms for the purchase of these items.

Many of the current state term contracts for proprietary commodities include multiple vendors for the same product. Use of multiple vendors for proprietary commodities limits the effectiveness of the state term contract process. Awarding state term contracts to multiple vendors limits the effectiveness of the process because vendors cannot reliably predict sales volume. This uncertainty limits vendors' ability to provide the lowest price because expected profits from a state term contract award cannot be reliably calculated. Consequently much of the potential cost savings associated with the state bulk purchasing power is not being realized.

In addition, vendors are less likely to participate in the state term contract process in the procurement of these proprietary products, knowing they are not guaranteed to be the recipient of all subsequent agency purchases. Vendors may choose to instead separately solicit agencies by developing relationships with state agency procurement.

Recommendation: *DMS should establish and document criteria for categorizing commodity classifications as either proprietary or off-the-shelf thereby simplifying the determination of when to use a single vendor versus multiple vendors for a state term contract. While there may be legitimate reasons for using multiple vendors for proprietary commodities, such as efficiencies associated with vendor's geographical proximity, these reasons should be documented. Unless otherwise directed by the Legislature, use of multiple vendor awards should be limited to off-the-shelf commodities and services meeting these established criteria.*

62. Enforce agency utilization of state term contracts

In Fiscal Year 2009-10, approximately 468,767 requisitions with a value of nearly \$1.6 billion were processed through the state on-line purchasing system, MyFloridaMarketPlace (MFMP). State agencies made most of the competitive purchases through state term contracts or similar agreements, spending \$507 million. The remaining portion of these competitive purchases was made by agencies through other solicitations through MFMP. It is believed that states also spent an additional \$3.2 billion outside of the centralized MFMP system when they could have purchased through a state term contract.

This determination was made by identifying payments associated with object codes with state term contracts, as provided by DMS (see exhibit below). Object codes with state term contracts were identified through a crosswalk between the commodity codes used to document the type of good and service, and also serve as the definition for the specific goods and/or services when developing a state term contract.

MFMP does not force state agencies to purchase from state term contracts. Consequently, agencies can circumvent the state term contract process and select other vendors even when state term contract vendor and price information is made available in MFMP. Noncompliance with state term contracts for purchases of applicable goods and services reduces the cost savings agencies realize from state term contracts.

DMS has estimated that the state has realized savings of up to 25 percent when agencies purchase goods and services through a state term contract; however, it should be noted that agency purchasing managers have cited many examples where purchasing outside of the state term contract is actually cheaper for the state, and likewise, examples have been cited where the state term contracts do not offer the newest or most useful versions of important products (such as computers and related equipment). Assuming that only half of the \$3.2 billion in expenditures for which state term contracts were available but were not used, and assuming that using the state term contract saves only 20% (instead of the 25% estimated by DMS), **the state would save approximately \$3.2 million on the purchase of goods and services if the economies of scale achieved through state term contracts were actually realized.**

Recommendation: *DMS should use existing system edits in MFMP. System edits can be used to force agencies to choose from state term contract vendors at stipulated prices for purchases of applicable goods and services. System edits can also ensure that accurate procurement data*

is collected from state agencies that can be used to evaluate cost savings realized from the use of state term contracts.

To help ensure adequate monitoring of state term contracts, DMS should require agencies use existing MFMP procurement functionality to electronically document reasons for not using the applicable state term contract. Documented reasons for noncompliance can improve monitoring of the state term contracting process. For example, information from this documentation can be used to identify goods and services appropriate for future state term contracts. Also, this information can be used to better allocate compliance monitoring resources to state agency procurement processes with indications of significant noncompliance or ineffective procurement processes.

The legislature should allow for off-contract purchasing of off-the-shelf commodities by state agencies provided the price for such items purchased is less than the pricing a state term contract would provide for a similar item.

DMS should use existing system edits in MFMP to force agencies to limit purchase prices to a maximum of state term contract prices for purchases of applicable goods and services. System edits can also ensure that accurate procurement data is collected from state agencies that can be used to evaluate cost savings realized from state term contract pricing.

63. Make State Term Contracts available for state-sponsored construction purchases

Ch. 337, Florida Statutes, governs procurement of transportation related construction projects, while Ch. 255, Florida Statutes, specifies the competition and solicitation requirements for acquisitions relating to construction of public property. In addition, Florida law includes agency-specific provisions and procedures for the purchase of goods and services. For example, Ch. 1013, F.S., provides competitive bidding requirements for educational facilities.

The state of Florida purchases approximately \$3 billion in construction related goods and services each year. Many of these purchases are for commodities, such as concrete, paint, and drywall, where product specifications can be sufficient defined to allow for product selection criteria to be limited to price and terms of delivery. However, currently DMS does not have jurisdiction to establish state term contracts or require that agencies use applicable state term contracts when purchasing construction related goods and services.

State term contracts can reduce the cost to purchase goods and services by up to 25%. In FY 09-10, approximately \$507 goods and services were purchased through a state term contract. **If just 10% or \$300 million of the \$3 billion in construction related goods and services purchased annually were subject to a state term contract, and DMS was able to achieve a price reduction of 10%, the state could realize \$30 million annually.**

Recommendation: *Section 287.056 F.S. should be modified to allow DMS to negotiate state term contracts for construction related goods and services, which exhibit the characteristics of a commodity. Additionally, DMS should ensure that the state recovers the savings from use of*

STC for construction related to the leasing of facilities by the state (instead of the savings being accrued by the landlord).

64. Increase the use of state term contracts to achieve economies of scale by requiring Local School Boards and Community Colleges to use state term contracts unless local items can be purchases below the lowest STC cost

Access to state term contracts is made available to all local school boards; however, actual utilization of the contracts is limited for various reasons. The most popular excuse for not using these contracts is because local businesses and residents provide the bulk of the funding for local school board budgets and those administrators prefer to keep their money local.

Increasing utilization of state term contracts by local school boards would allow the state to increase its ability to obtain lower prices by providing assurances of greater sales volume to potential vendors.

Based on an analysis of goods and services procured through utilization of a state term contracts with the same services purchased through other contracts, **we determined that a 1% savings from the increased utilization of state term contracts could produce an additional \$3.2 million for the state.** Increasing the use of state term contracts by local school boards and community colleges could save even more for the state.

Recommendation: *As with state agencies, local school boards and community colleges should be required to use where available, but with an exception allowing for off-contract purchasing if the pricing for such purchases will be less than or equal that offered on state term contract.*

65. Require the Citizens Property Insurance Corporation to comply with Chapter 287 except in emergency situations

The Citizens Property Insurance Corporation was created by the state legislature as a non-profit organization focused on providing Florida homeowners with property insurance. Citizens currently employs its own competitive bidding procedures outside of DMS. As with the inclusion of Local School Boards and Community Colleges, increased utilization of state term contracts by the Citizens Property Insurance Corporation would allow the state to increase its ability to obtain lower prices by providing assurances of greater sales volume to potential vendors. **A 1% savings from the increased utilization of state term contracts by Citizens could produce an additional \$3.2 million for the state.**

Recommendation: *As with state agencies, Citizens Property Insurance Corporation should be required to use state term contracts unless they can justify utilization of another vendor by obtaining a lower quoted price or better terms of delivery. In addition, Citizens Property Insurance Corporation should be required to comply with all other competitive bidding requirements, as specified in Chapter 287, Florida Statutes.*

66. Allow state term contracts to use a “hold-back” percentage of contract value for contingency contracts in lieu of a performance bond

“Hold-back” in the context of contract law refers to a requirement in some contracts under which an owner engaging a contractor must hold a particular percentage of payment for a stipulated length of time in order to ensure all parties working on a contract are paid. The amount of hold-back, typically a percentage of the contract price, and time of hold-back varies by contract and jurisdiction.

A performance bond is an obligation, expressed in writing, to pay a fixed and liquidated sum on the happening or nonoccurrence of a specified condition or event. The performance bond secures the contractor's promise to perform the contractual obligations at the agreed upon price, and within the time allowed.

State contracts may be able to reduce their costs by offering the option to use a hold-back percentage of the contract instead of requiring a performance bond. Utilization of a hold-back percentage in the contract will provide the state with similar protections against nonperformance.

Recommendation: *The legislature should require that state agencies offer vendors the option to use a hold-back percentage of the contract instead of requiring a performance bond in state term contracts.*

Section III: Improve Oversight and Transparency

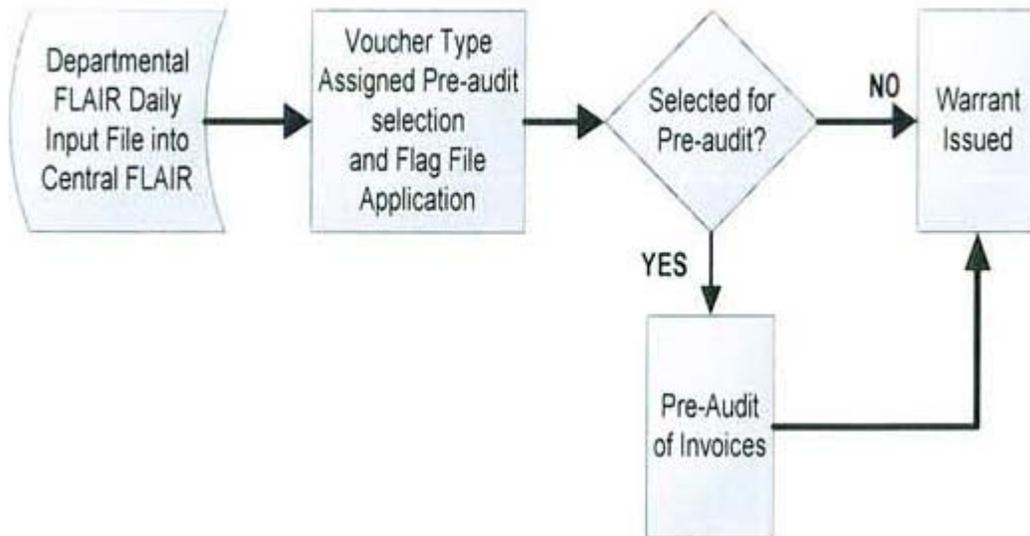
67. Expand and enhance oversight of agency contract management (conduct STC compliance auditing)

Currently, there is little oversight of state agency contract management processes, despite the fact that DFS has over 30 auditors assigned to conduct ‘pre-audits of vouchers submitted by state agencies. The pre-audit process begins with the submission of a voucher by state agencies. Vouchers are authorizations for payment associated with one or more vendor invoices. Information required to be provided by state agencies on vouchers is designed to allow the Department to ensure that each claim is properly recorded and there is sufficient legislatively authorized funding. In addition, authorized employees at each state agency are required to certify transactions identified on the voucher were made in accordance with Florida law and goods and services were received.

As shown in the Exhibit below, the pre-audit process compares information on vouchers, such as invoice amount and vendor name, with the information included on associated invoices. This comparison verifies that the vendor and state agency are in agreement that the stipulated goods and services were provided for an agreed-upon cost. In addition, to verify that the transaction represents a legal obligation, state agencies are required to provide copies of documentation certifying the good or service was provided in accordance with the contract. For invoices selected for pre-audit, funds are not authorized for disbursement until the pre-audit process is completed.

In Fiscal Year 07-08, the Department processed approximately 9.8 million invoices of which 3.6 million were subject to pre-audit. Due to the Department policy to sample vendor invoices under \$10,000, the Department audited approximately 527,000 of 15% of these invoices.

Figure 62: The DFS pre-audit process



These pre-audits identified discrepancies in less than 1% of the invoices. The vast majority of these errors were associated with discrepancies between the identified invoice and voucher amounts. For each pre-audited invoice with identified discrepancies, the Department notifies the agency of the associated discrepancy via a return form. State agencies are to remedy the associated discrepancy as a condition of releasing the invoice for payment.

DFS is also responsible for conducting audits of the system of internal controls over payment by state agencies. However, during FY 07-08, the Department completed only five of these audits, with 4 of the 5 related to state agency utilization of purchasing and fuel cards, which are not subject to pre-audit review.

An estimated savings of \$2 million annually could be realized if current pre-audit positions are eliminated and replaced with automated continuous monitoring system. However, cost savings associated with improved compliance with state procurement law by state agencies through redeployment of this staff to conduct audits of state agency procurement practices could result in much larger savings. While we do not know the amount of noncompliance by state agencies, based on our reviews of state term contract compliance and overuse of sole source contracts, we believe it extensive.

Recommendation: *The Legislature should require that DFS conduct compliance monitoring over state agency procurement processes, to include compliance with state term contracting*

requirements. Currently, more than 30 FTE are assigned to the Bureau of Auditing within the Division. This staff is responsible for conducting “pre-audits” of approximately 15% of state agency warrant requests. This effort, which consumes approximately \$2 million per year in resources is supposed to help ensure that payments are appropriate. Through the use of continuous monitoring software, DFS could monitor 100% of the warrant requests, while achieving the same level of assurance at an initial cost of approximately \$100,000.

Implementation of a continuous monitoring system would also allow for redeployment of most of the existing staff to perform compliance monitoring of state agency procurement processes. Improvement by agencies as a result of post-audits would help ensure that future state agency acquisitions are compliant with state law, and prescribed standards, and have been reviewed to limit fraud or error.

68. Create and maintain an enterprise clearing house of all Agency Term Contracts (ATC) and require prior approval of ATC

The state does not maintain a database of state agency term contracts and MyFloridaMarketPlace (MFMP) does not capture complete information about agency procurements, which continue to diminish the state’s ability to achieve the best value.

Agency term contracts are similar to state term contracts, except they only apply to purchases by the contracting agency and do not require approval of DMS. The state will continue to miss opportunities to leverage its vast purchasing power when buying commercial goods and services unless it takes steps to improve the management and oversight of these contracts.

In Fiscal Year 2009-10, agencies placed \$1.6 billion in purchase orders in MFMP, or 32% of the universe of agency purchases for goods and services that have typically been processed through this system. The remaining purchases were completed in FLAIR or agency systems. More comprehensive purchasing information would help the state identify situations in which agencies are using numerous suppliers that are providing similar goods and services.

Recommendation: *To help ensure that multiple term contracts are not being negotiated for similar goods and services, the Legislature should require DMS approval of agency term contracts and should create and maintain a database of all effective agency term contracts information, including minimally: contract amount, method of procurement, contract begin and end date, and vendor identification.*

69. Improve Internal Audit Oversight (through OIG)

Strengthening the role of the Governor’s Inspector General can also serve to improve oversight of state agency procurement practices. Currently, most state agency Office of Inspector General lack sufficient resources to provide adequate assurance services that agencies are efficiently and effectively procuring goods and services.

In Fiscal Year 2009-10, the state purchased \$4.8 billion in goods and services. These purchases were subject to state procurement laws, which are designed to ensure the state receives the best

value possible. By providing additional assurances state agencies are complying with these procurement laws through increased oversight, the state can expect to reduce overall expenditures for the goods and services it buys, with no reductions in quality or quantity.

Improved procurement practices through increased oversight by state agencies and the Governor's Inspector General can result in overall savings to the state. For example, **if this increased oversight produced a 5% reduction in the cost of goods and services purchased by the state, based on FY 09-10 annual expenditures, it would result in an annual savings of \$265 million.**

Recommendation: *The governor's internal audit function should be staffed with specialized audit expertise needed to adequately perform assessments of state agency procurement operations.*

70. Integrate procurement information across the purchasing and accounting systems

The effectiveness of the state's procurement system is limited because MFMP 1 does not contain records of all state agency procurements. Only a small portion of state acquisitions are being made through MFMP. Specifically, the department reports that in Fiscal Year 2009-10, agencies placed \$1.6 billion in purchase orders in MFMP, or 32% of the \$4.8 billion universe of agency purchases for non-construction goods. The remaining purchases were completed in FLAIR or agency systems.

As a result, the state's ability to strategically purchase goods and services remains limited. More comprehensive purchasing information would help the state identify situations in which agencies are using numerous suppliers that are providing similar goods and services—often at varying prices—and where purchasing costs can be reduced and performance improved through state-level agreements. This data would help agencies and other entities to monitor compliance with state-level agreements and state procurement laws.

Recommendation: *To help ensure that the state receives the best value from its purchases, agencies should integrate procurement information across the state's purchasing and accounting systems. Future data coordination improvements to the systems should include, at a minimum,*

- 1 Adding fields to FLAIR that capture the nature and method of each procurement, as well as the vendors providing these services;*
- 2 Assuring that the MFMP interface with FLAIR is accurate and updated*
- 3 Taking steps to facilitate more extensive use of the contracts function of MFMP*
- 4 Establishing a uniform product classification system for FLAIR and MFMP*
- 5 Establishing state term contracts for goods and services by product class.*

Section IV: Improve/Encourage Efficiency in Procurement

71. Require purchase of generic equivalent when available for off-the-shelf products

Currently, many state agencies purchase brand name products over their generic, less expensive equivalents when purchasing off-the-shelf commodities. Off-the-shelf commodities are typically lower-priced, consumable items such as medical supplies, paper products, food products, office supplies, recreational equipment, etc. Ensuring that state agencies purchase generic brands for these type purchases would save the state significant funds.

For example, DMS recently awarded a multi-vendor, state term contract for a wide range of office supplies with an annual contract value of \$42 million. These office supply products are offered to agencies in a catalog which contains approximately 40,000 items. Agencies are authorized to purchase any of these products offered in the catalog at the contract price and be in compliance with procurement legislation. Virtually every brand name product in this catalogue has a generic equivalent at a fraction of the price of brand name product. Based on the purchasing history provided in the office supply contract Invitation to Negotiate and the pricing offered by the winning vendors, the state could save over \$16 million on this \$41 million contract by simply requiring the use of generic equivalent products. **Apply that 39% savings to only half of the \$1.6 billion purchased through MFMP and the state could save \$305 million annually.**

Recommendation: *The legislature should require state agency procurement officers to purchase the generic version of the off-the-shelf products unless they can provide adequate justification for the purchase of brand name products.*

72. Design and implement an “E-Mall” system for off-the-shelf commodity purchases

The U.S. Department of Defense currently employs a procurement software platform called “E-Mall” for their commodity procurement process. The DOD EMALL is the single web based entry point for military and federal agency purchasers to find and acquire off-the-shelf, finished good and services, from the commercial marketplace and government sources. The DOD EMALL offers cross-store shopping to compare prices and other best value factors to ensure that they receive the best value. To insure adequate competition, there are currently 1,887 commercial vendor contracts hosted on DOD EMALL of which 1,030 are small businesses.. Participating vendors electronically upload their product offering catalogue including the pricing they are offering to the government. Each item recorded contains associated identification information, vendor information and pricing. An integrated search engine allows for quick and easy product search by reference to the product’s National Stock Number (NSN), product name, catalog or manufacturer part number, keyword, or product characteristics.

Instituting an “E-Mall” style web-based software platform for state purchasing personnel and end users would facilitate their finding the items that best address their needs and would allow them to compare prices between approved vendors quickly and efficiently. This system would

streamline the procurement process and concurrently save the state money through efficiencies, headcount reductions and increased competition among multiple vendors. This platform could also be integrated with the FLAIR accounting system to better track purchases by state agencies make and ensure lowest cost purchases are made.

Recommendation: *The legislature should require DMS to develop and implement a central “E-Mall” –style website for state agency purchasing officers and end users to make all of their purchases of off-the-shelf commodities – i.e., enforce s. 287.057(22), currently enacted.*

73. Reduce number of agency procurement officers

Each agency currently employs one or more purchasing officers to spearhead the acquisition of goods and services. State agencies also make certain procurements through the Department of Management Services’ Division of State Purchasing. Furthermore, in addition to the 40 personnel hired by DMS to handle the purchase orders of all state agencies, an additional four employees handle internal purchases for the department.

As a result of each agency utilizing their own procurement officers for certain purchases, many agencies award different contracts to different vendors for the same item at varying prices. By consolidating and requiring the purchase of *all* goods and services conducted by state agencies to go through one centralized purchasing authority, a benchmark for procurement of certain items could be established whereby one vendor is awarded a contract for certain items and no agency spends more than another on the same commodity or service. The state could save more funds through reduced overhead costs associated with procurement practices.

Recommendation: *The legislature should establish a central purchasing authority to handle the procurement needs of agencies for all goods and services to streamline the purchasing of all goods and services.*

74. Increase penalty for P-card misuse/abuse

Currently many state employees receive purchasing cards (also referred to as P-cards), which are essentially “company” credit cards, to make payments for the procurement of certain goods and services. In FY 2009-10, state employees purchased nearly \$200 million through the use of P-cards.¹⁵⁶ In some cases, employees make purchases that are irrelevant to the satisfactory completion of their tasks without reimbursing the state for these expenses. Although the Department of Financial Services does not record the dollar value of P-card misuse, this number could represent significant state funds, annually. Furthermore, each agency enforces its own penalties for the abuse of these cards. Standardizing and increasing the penalties for P-card abuse could provide a greater disincentive for employees to misuse P-cards.

¹⁵⁶ Florida Department of Financial Services Bureau of Auditing

Recommendation: *The legislature should standardize penalties and require state agencies to enforce them for the misuse of P-cards to dissuade employees from using them for any purposes that are not relevant to work. Additionally, the legislature should require all state agencies to report the misuse of P-cards to the Department of Financial Services. A simple 1% reduction in P-card abuse due to better tracking and enforcement of penalties would save the state approximately \$2 million, annually.*

75. Study/Review the bid challenge process for cost efficiencies

Bid protests and challenges to competitive contract procurement and awards in Florida are controlled by a myriad of unique and complex statutes, rules, policies, and law. Florida's competitive procurement process is aimed at the protection of the public against collusive contracts, fraud, bias, and favoritism. Among other things, it is designed to secure fair competition on equal terms to all bidders, to secure the best values at the lowest possible expense, to provide an opportunity for an exact comparison of bids, and to assure that the most responsive bid is accepted.

Florida's Administrative Procedure Act at Section 120.57(3), Florida Statutes, and Rules found in Chapter 28-110, Florida Administrative Code, generally govern state agency competitive bidding disputes including notice requirements, the time frames for protests, and hearing procedures. Section 120.56, Florida Statutes, authorizes the Division of Administrative Hearings ("DOAH") to conduct hearings on bid protests from agencies that are subject to the Florida Administrative Procedure Act ("APA").

Vendors (bidders, proposers) may challenge the published bid specifications and the ultimate award of the bid itself. As to each, a separate 72-hour deadline applies. If a bidder wishes to challenge the terms, conditions, or specifications contained in the solicitation (including any provisions governing the methods for ranking bids, awarding contracts, reserving rights for further negotiation, or modifying or amending any contract) the notice of protest must be filed within 72 hours after posting of the solicitation.

Subsequent to the filing of any protest, a formal written protest must be filed within 10 days after the notice of protest is filed. The following is listings of some of the more common categories of grounds for protest that commonly arise in bid protest cases:

- *Sunshine Act Violations*
- *Improper Ex Parte Communications*
- *Non-Responsive Bids: Material Variances vs. Minor Irregularities*
- *"Non-Responsible Bidder" Issues*
- *Arbitrary Scoring and Evaluation Errors and Methodologies*

Once the protest is filed, and assuming there are disputed issues of fact, the agency refers the matter to Florida's Division of Administrative Hearings (DOAH) for an expedited formal hearing before an administrative law judge (ALJ) pursuant to the detailed provisions of Section 120.569 (decisions affecting substantial interests), Section 120.57. The hearings are full evidentiary hearings that will typically take 1-3 days. In highly complex procurements the hearings can sometimes last for a week or more. Following the hearing, proposed recommended orders are submitted (additional procedures), and Section 120.57(3) (additional requirements as to hearings involving bid protests).

Recommendation: *The Legislature should require DMS to conduct a study of the bid protest process for state procurement activities. Consideration should be given to providing less cumbersome and expensive options, such as utilization of mediation services for procurement valued below an established dollar threshold. Simplification of the bid protest process would reduce the overall cost of participating in the state's procurement process and help to ensure Florida received the best value for the goods and services it purchases.*



Government Cost Savings Task Force

Chapter 6: Revenue Enhancement

Report.....p. 144

Recommendations.....p. 145

Section I: Maximize State Revenue Collections

- 76. Improve collection of sales tax on remote sales – Streamlined Sales Tax**
- 77. Adding Department of Revenue tax auditors to increase tax compliance**
- 78. Create a financial incentive to file tax returns electronically**
- 79. Implement a cigarette and tobacco audit and compliance system**

Section II: Maximize Federal Revenues

- 80. Reestablish and enhance the Grants Clearinghouse Office within the Governor’s Office**
- 81. Contingency contract to drawdown federal funds already earned by Florida**
- 82. Improve oversight of indirect cost allocation plans**

Section III: Generate New Revenues

- 83. Sell ads on DOT Dynamic Messaging Highway signs**
- 84. Charge a fee for automatic notice of government bid opportunities**

Introduction

The State of Florida collects approximately \$40 billion in taxes and fees every year, the largest portion of which comes from the state sales and use tax. Although many agencies have a role in levying and collecting various revenues, the Florida Department of Revenue (DOR) is the main state agency responsible for administering and collecting state taxes.

DOR is an effective and well-run state revenue agency; however, there is always a difference between what is owed and what is actually collected, known as the “tax gap.”

A tax gap is inevitable and every state and the federal government, as well as every other discernable taxing entity in history, suffers some lost percentage due to a variety of factors. The key is to work toward shrinking the gap.

Additionally, the federal government provides approximately \$20 billion in federal assistance to the state of Florida annually. This figure grew to \$25 billion in FY 2009-10 when the federal stimulus package started sending more money states’ way. That year, almost 40% of the state’s total direct revenue came from the federal government, up from 34% the prior year. While this is a large sum of money, Florida has never fared well in terms of getting a “fair share” of federal aid funds in comparison with other states. This is another place where Florida is leaving millions, if not billions, of dollars “on the table.”

As with Florida’s families and businesses, the state’s budget has been hit hard by the recession and falling revenues have significantly contributed to the continuing series of budget shortfalls. Some have called for tax and fee increases to help balance the budget, but Florida cannot tax its way out of a recession.

Raising taxes will make economic recovery even harder, not to mention further burdening already struggling citizens and businesses. Enhancing state revenues by improving revenue collection and ensuring compliance with the rule of law will help the state address the budget shortfall without adding undue tax burdens. It also promotes fairness.

The state should ensure everyone is paying their fair share before those taxpayers that are already doing their part are asked to pay more.

The tax gap can be minimized by providing DOR with the tools and law changes necessary to both increase voluntary compliance and then to pick up where voluntary compliance ends: auditing and enforcement. Modernizing the state’s tax laws can also be of tremendous help. Technological changes, especially the internet, were not contemplated when the state’s tax laws were developed.

Revenue Enhancement Recommendations

Along with the other budget efficiencies and cost savings in this report, the state must make every effort to collect as much as possible of the revenue that is already due and legally owed to the state under the current tax and fee structure. Similarly, the state should make every effort to receive its fair share of federal funding – especially funding Florida has already earned.

The following recommendations are offered to help the state ensure the collection of all it should be collecting from both the current state revenue laws and federal grant programs, before taxpayers who are already fulfilling their obligations are asked to contribute more.

Section I: Maximize State Revenue Collections

76. Improve collection of sales tax on remote sales – Streamlined Sales Tax

By far, the most significant tax compliance and collection issue facing Florida and other states is the application of sales and use taxes to sales by remote vendors. Remote vendors are those without a physical presence — or nexus — in the state. These transactions can be performed by telephone, mail and internet.

The U.S. Supreme Court has ruled (*Bellas Hess v. Illinois* and *Quill Corp. v. North Dakota*) that a retailer must have a physical presence in a state for that state to require the out-of-state retailer to collect sales and use taxes from in-state purchasers. This is because differing local taxing schemes were too complicated and forcing collection would place an undue burden on interstate commerce. The Court ruled that only Congress had the authority to require collection, but only after states have simplified their sales tax laws.

When a Floridian makes a purchase from a seller located outside of Florida, the remote seller does not have to collect the sales and use tax at the time of the transaction, although the tax is still legally owed to the state by the Floridian. However, few Florida residents know that they are required to pay the sales tax owed on remotely conducted transactions directly to the Florida Department of Revenue, and even fewer actually make such payments. This situation is costing the state and local governments hundreds-of-millions, if not billions, of dollars. A 2004 study by the University of Tennessee estimated Florida's tax losses at more than \$2 billion in 2008.

Not requiring internet sellers to collect sales tax not only erodes Florida's tax base, but also creates an unfair advantage over “bricks-and-mortar” retailers and “clicks and bricks” retailers with both online and traditional stores. A 6% to 7.5% price break is hard to overcome for Florida's retailers. These businesses have invested in stores and employees and collect our taxes, as well as contribute property and other taxes, but compete against vendors who do not.

While federal action is needed to mandate that all remote sellers collect and remit state sales taxes, the Streamlined Sales and Use Tax Agreement (SSUTA) provides an opportunity for Florida to begin collecting money from a compact of sellers that voluntarily collect the tax and remit to SSUTA states. The SSUTA is the result of the cooperative effort of 44 states, the

District of Columbia, local governments and the business community to simplify sales and use tax laws and minimize costs and administrative burdens on retailers that collect sales tax. It levels the playing field so that local "brick-and-mortar" stores and remote sellers operate under the same rules.

At the federal level, the Main Street Fairness Act (MSFA) has been introduced. The MSFA encourages more states to adopt the SSUTA by providing that any state that has simplified its tax laws through SSUTA would be authorized by Congress to require collection of sales and use taxes by remote retailers. Florida full-membership in SSUTA can surely spur federal action on the MSFA.

Florida joined the coalition in 2002 but, despite broad support, legislation to bring Florida fully into the SSUTA has not been enacted. Twenty-four other states (representing more than one-third of the nation's population) have passed such a law, which Georgia being the most recent addition. Several pieces of SSUTA-compliance legislation have been introduced over the years in Florida but have not been passed – although the Senate approved one such bill in 2004. Last session, two bills (HB 165 and SB 204) did not receive a committee hearing.

Along with the mistaken perceptions by some that it is a tax increase or an attack on states' sovereignty, the main resistance to SSUTA legislation in Florida has been the negative fiscal impact to the state – a roadblock of serious consequence in the current fiscal climate. While states joining the compact retain general autonomy over what is taxed and what is exempt, they are required to change state laws to adopt such provisions as uniform definitions. The latest available estimates (2005) place the cost of adopting the changes at \$41.5 million to the state; however, the changes would have a positive fiscal impact on local governments of \$41.1 million.

A 2009 Florida TaxWatch report shows that adjusting the formula for sharing sales tax revenues with local governments would make the SSUTA legislation revenue-positive for both state and local governments. Then, any money remitted to Florida from the voluntary compact would be additional revenue for Florida and its local governments (and this additional revenue has not been included in state fiscal impact estimates of the legislation).

To accomplish this revenue-neutrality, Chapter 212.20(6), *Florida Statutes*, would have to be amended. The following language could be added to paragraph (d) 3: "Beginning July 1, 2010, the amount to be transferred pursuant to this subparagraph to the Local Government Half-cent Sales Tax Clearing Trust Fund shall be reduced by \$41.1 million for each fiscal year and that amount shall remain with the General Revenue Fund."

The Revenue Estimating Conference would have to complete a new "scoring" of the bill for the more current numbers, but the following is based on the 2005 estimate. Since the first-year cash impact was estimated at only -\$17.4 million for the state (+\$17.2 million for locals), the revenue

share reduction could be phased-in as follows: \$17.2 million in FY 09-10 and \$41.1 million in subsequent years.¹⁵⁷

Other Approaches:

The collection of sales and use taxes is a big issue for many states and some of these states have become bolder in challenging the presumption of *Quill*. These approaches are:

Reporting and Notice Requirements – Some states are looking at requiring vendors to notify customers of their tax obligations or even requiring vendors to submit transaction data to states. Colorado has passed legislation requiring both and Oklahoma has passed notification-only legislation.

Affiliate Nexus Provisions – Oklahoma recently joined other states such as Georgia and New York in passing legislation to assert nexus over remote retailers that are related to in-state companies, such as an out-of-state retailer that holds a substantial interest in an in-state retailer.

“Click-Through” Nexus Provisions – New York, Rhode Island and North Carolina have taken the affiliate idea even further, saying nexus exists if an out-of-state internet retailer pays an in-state agent for advertising or referring customers from their website.

Refute *Quill* – Oklahoma is the first state to simply deny *Quill*'s “physical presence” nexus-standard by asserting its revenue laws no longer pose an undue burden on out-of-state retailers.

SSUTA is the Best Approach at this Time

All these approaches have at least some basis for constitutional challenges and several lawsuits have been filed. These approaches warrant close monitoring by Florida but the cost of legal challenges should give the state pause. If one of these approaches is upheld by the court, then Florida should consider similar action. But in the meantime, Florida TaxWatch agrees with a recent *State Tax Notes* article¹⁵⁸ that examined these approaches and concluded that the Main Street Fairness Act – along with the SSUTA – “is the only vehicle that provides a comprehensive approach to addressing the states’ concerns with the physical presence nexus standard.” It is the “most appropriate avenue to simplify sales and use tax burdens and to simultaneously gain congressional authorization to impose the collection burden on out-of-state vendors.”

There are already more than 1,100 retailers voluntarily collecting and remitting sales tax revenue to SSUTA member states. The amount these retailers have remitted to the state has grown from \$69 million in 2006 to \$106 million in 2007, and it is estimated to be \$167 million in 2008. Since the detailed information on the voluntary vendors is confidential, a reliable estimate of Florida’s collections is difficult; however, Florida would be the largest full-member state of the

¹⁵⁷ Note: These amounts are based on the state’s 2005 estimate. A new analysis by the state’s Impact Conference must be completed to bring the estimated fiscal impact up to date.

¹⁵⁸ Stephen P. Kranz, Lisbeth A. Freeman, and Mark W. Yopp, “Is *Quill* Dead? At Least One State Has Written the Obituary,” *State Tax Notes*, August 10, 2010.

SSUTA and would comprise almost one-sixth of the 23-member states' total population, so it is likely a significant amount of revenue would be remitted to Florida through voluntary compliance. It is not unreasonable to expect collections to grow to at least \$200 - \$300 million by FY2011-12, especially if Florida joins the compact.

If Florida collects one-sixth on the total (based on its population), it could bring in \$35 - \$50 million in additional sales taxes in FY2011-12. Given the rate of growth in internet sales transactions, it is not unreasonable to assume a 15 percent growth per year in collections thereafter. Moreover, state and local governments could collect significantly more revenue if the federal government requires remote retailers to collect and remit the sales and use tax.

Recommendation: *Florida should adopt legislation to become fully compliant with the Streamlined Sales and Use Tax Agreement (SSUTA) in a revenue-neutral manner as recommended by Florida TaxWatch in its April 2009 report How to Make Streamlined Sales Tax Legislation Revenue Neutral. The sales tax revenue sharing formula would have to be adjusted to make the necessary changes revenue-neutral to state and local governments. Florida officials should then encourage Congress to pass the Main Street Fairness Act, proposed federal legislation that would grant states that are in compliance with SSUTA the authority to require out-of-state retailers to collect the use tax on sales made to Florida residents.*

77. Adding Department of Revenue tax auditors to increase tax compliance

The Florida Department of Revenue (DOR) currently audits only 0.54% of its taxpayer accounts. The federal government's audit coverage is approximately 1.5% – a number it considers low.

The Government Cost Savings Task Force recommended the Legislature provide an additional 50 auditors. It provided 25 new positions the second year in a row that it added 25 auditors. However, the number of auditor positions is still much below its historical average.

The state cut a total of 146 DOR tax auditor positions (a 22% decrease) between FY 2001/02 and FY 2009/10. While the average number of audit positions for the last 20 years was 600 Full Time Equivalents (FTEs), as of January 2009, the staffing level was at the all-time low of 482.5 FTEs. During the same period, at least eleven other states have increased the number of auditors available to enhance its collections.¹⁵⁹ Additional auditors can help ensure compliance and generate more revenue. As seen in the table below, the average number of auditor positions was 673 FTEs for the years FY 1991/92 – 2000/01 and 524 FTEs for the FY 2001/02 – 2009/10. With the additional recent hiring of 25 auditors, the current number of FTE auditor positions is 478 FTEs, while the average number for the years FY 1991/92 – 2009/10 is 606.7 FTEs. In other words, the current number of auditor positions is 195 FTEs below its average level for the

¹⁵⁹ "Iowa Efficiency Review Report to Governor Chet Culver and Lieutenant Governor Patty Judge", Public Works LLC, 2009.

years FY 1991/92 – 2009/10 and 129 FTEs below its average for the years FY 1991/92 – 2009/10.

Figure 63: Average FTE auditor positions by time period and difference compared to the number of FTE positions in 2009,¹⁶⁰

	Number of FTE Auditor Positions		
	1991/92 - 2000/01	2001/02 – 2009/10	1991/92 – 2009/10
Average	672.9	523.75	606.6
Difference from 2009 FTE (478)	-194.9	-45.75	-128.6

Based on the data from DOR, the table below shows the estimate of cost and revenues for hiring additional number of auditors. After the cost of hiring the new auditors, every 50 new auditors would increase revenue collections by an estimated \$871,000 in FY 2011-12, and nearly \$7.5 million annually in subsequent years.

Figure 64: Estimated cost, annual collections, and net revenues for new auditor positions, FY 2010-11

New Positions	Annual Cost	Annual Collections		Net Revenues	
		First Year*	Second Year and After	First Year*	Second Year and After
50	\$3,082,146	\$3,953,269	\$10,542,050	\$871,123	\$7,459,904
100	\$6,164,292	\$7,906,538	\$21,084,100	\$1,742,246	\$14,919,808
150	\$9,246,438	\$11,859,806	\$31,626,150	\$2,613,368	\$22,379,712
200	\$12,328,584	\$15,813,075	\$42,168,200	\$3,484,491	\$29,839,616

*Based on the information from DOR, it is assumed that half of new positions will be productive within 6 months and the other half within 9 months due to hiring process and training.

The state currently has 0.54 percent audit coverage rate, which means that less than 1 percent of sales tax accounts are being audited. The table below shows the estimated cost and revenue of increasing the coverage rate to up to 3 percent.

Figure 65: Actual and estimated cost and net revenues at given audit rate percentages, FY 2010-11

Coverage Rate	Auditors	New Hiring	Cost	Average collection*	Total Collection	Net Revenues
0.54%**	453	0	-	\$210,841	-	-
1%	839	386	\$28,544,781	\$168,673	\$65,088,959	\$36,544,178
2%	1678	1225	\$75,498,879	\$158,131	\$193,675,029	\$118,176,150
3%	2517	2064	\$127,210,439	\$147,589	\$304,573,881	\$177,363,441

*Due to the diminishing marginal return, the average tax collection per auditor is assumed to drop by 20% for the 1% coverage rate, 25% for the 2% coverage rate, and 30% for the 3% coverage rate compared to the current average collection.

**This row presents the actual current situation; all estimates are based on these collections and costs

¹⁶⁰ Florida Department of Revenue

The savings for the first year might be up to 50 percent less than estimated amounts for each scenario above due to the cost of the hiring process and training.

The Revenue Estimating Conference estimated the 25 new auditors added last year would bring in \$6 million annually in additional state and local taxes.

Recommendation: *The Legislature should direct the DOR to increase its audit coverage by adding at least 50 new auditors. Once fully operational, these auditors could increase state and local revenues by \$12 million annually.*

78. Create a financial incentive to file tax returns electronically

Since processing electronic returns is less expensive for the state than paper processing, a small fee (\$5) for filing a paper return could be established to encourage electronic filing of tax returns and offset the added cost to processing paper ones. Alternatively, instead of a fee, the sales tax collection allowance could be eliminated for paper filers.

Florida allows taxpayers to file tax returns and remit payments electronically, which can be done over the internet, with commercial software, or through a telephone payment system. DOR requires certain taxpayers to file/pay electronically, including businesses that paid more than \$20,000 in taxes in the previous year and companies that file consolidated returns, although taxpayers that meet those criteria can request a waiver.

Based on DOR estimates, the assessment would produce \$8 - \$16 million the first year, but as e-filing increases, revenue would decrease by about \$3 million a year. Eliminating the collection allowance would also add \$2.2 million in revenue for local governments in the first year.

79. Implement a cigarette and tobacco audit and compliance system

Another area with the potential to increase tax compliance is tobacco taxes, which are administered by the Department of Business and Professional Regulation.

The excise tax on cigarettes and tobacco, along with the recently enacted \$1 surcharge, brings in \$1.3 billion in revenue annually. However, the enforcement of that tax still depends on a largely manual audit capability that may not adequately protect this critical revenue stream. Tax evasion is always a concern with tobacco taxes and black market and grey market cigarettes are an increasing problem. The Federation of Tax Administrators conservatively set an estimate of 3 percent in tax revenues being lost to evasion. With the recent state and federal tax increases, the state can expect an increase in the amount of fraud and abuse that will be attempted. From 2009 to 2010, when the tax increase took effect, the number of taxable cigarettes sold in Florida fell from 1.25 billion to 960 million packs (23%). While some of this is due to reduced consumption, the Revenue Estimating Conference forecasts that tax avoidance would decrease the number of packs by 7%.

The private sector can provide a working inventory management system that tracks the inventory of tax stamps when sold to a distributor/stamper and matches these inventories to their tax returns. Even more importantly, by electronically capturing the information returns filed by the manufacturers upstream from the distributors and the information returns downstream from the distributor such as the retailers or jobbers, the system can detect imbalances that identify potential fraud. The system brackets the numbers reported by the distributor/stamper on its tax return with the information provided by the manufacturers, retailers, and jobbers as a check and balance on the accuracy of the tax return volumes. Improving reporting and management of cigarette and tobacco product taxes will benefit Florida by increasing tax revenues as well as enhancing the accuracy of statistical reports produced by the State for its own use and other agencies.

The State of Michigan implemented a tobacco tax stamp inventory tracking system and identified \$3 million in revenue not previously reported during the first 30 days of operation. According to estimates from industry experts (see table), by moving to an automated inventory control system, the state can expect a 2 to 5 percent increase in revenues by reducing reporting errors by the distributors and fraud. **This translates into added revenue of between \$27 million and \$67 million in FY 2011-12 and annually thereafter.**

**Figure 66: Potential Tobacco Tax Revenue Increase for the State of Florida (in millions)
FY 2011-12 – FY 2013-14**

	Tax Revenue	2% Increase	5 % Increase
FY 2011-12	\$1,338	\$26.7	\$66.9
FY 2012-13	\$1,332	\$26.6	\$66.7
FY 2013-14	\$1,329	\$26.6	\$66.4

Recommendation: The Legislature should explore competitively procuring a cigarette and tobacco tax audit and compliance system. This should be done on a contingency basis, where payment to the vendor is contingent on a certain minimum level.

According to estimates from industry experts, by moving to an automated inventory control system, the state can expect a 2 to 5 percent increase in revenues by reducing reporting errors by the distributors and fraud. **This translates into added revenue of between \$27 million and \$69 million in FY 2010-11 and annually thereafter.**

Section II: Maximize Federal Revenues

80. Reestablish and enhance the Grants Clearinghouse Office within the Governor’s Office

Florida TaxWatch has long reported on Florida’s low ranking among the 50 states in terms of per capita grant receipts and receipts as a percentage of federal taxes paid. For several years, Florida ranked dead last in per capita federal grants received – even the U.S. Territories fared better. One way to look at this is, basically, that some of the money Florida citizens pay to the federal government is subsidizing projects and services in other states.

There was some improvement in the state's grant ranking during the beginning of this decade, but it is on the way back down. A recently release Florida TaxWatch report finds that Florida ranks 48th in the nation in per capita federal grants funding.

Federal grants can be classified as either formula or project grants. Formula grants are allocations of money to states or their subdivisions in accordance with distribution formulas prescribed by law or administrative regulation for activities of a continuing nature not confined to a specific project. There are approximately 185 formula grant programs. Project grants fund specific projects for fixed or known periods of time and can include fellowships, scholarships, research grants, training grants, traineeships, experimental and demonstration grants, evaluation grants, planning grants, technical assistance grants, survey grants, and construction grants. There are approximately 1,000 federal project grant programs.

While Florida fares poorly in most federal grant schemes, transportation funding is a glaring and costly example. States collect federal gas tax money and then send it to the federal highway trust fund – the main source of federal money for highway and mass transit projects. The U.S. DOT then returns most of the money to state transportation departments, based on formulas that have always disadvantaged Florida. The most recent data for Florida's proportion of federal fuel taxes paid to the highway trust fund is from FY 2008 and reveals that Florida made 5.4% of the total payments into the account but received only 4.3% of apportionment and allocations from the fund . This ranks Florida at dead last for the ratio of apportionments and allocations to payments. Florida received approximately \$1.8 billion in federal funding in FY 2008, but if the state received a share of federal transportation funding that was equal to the share of federal fuel taxes contributed, Florida would have received \$471 million more.

It used to be the case, last noted in 1989, that Florida kept a transportation advocate permanently located in Washington, D.C., working “one end of the pipeline” while another coordinator was based in Tallahassee to work “the other end of the pipeline.” Under this structure, some improvement in the state's funding was achieved. Having a professional and seasoned lobbyist based in Washington, D.C., to secure additional funds for Florida may be a prudent tactic, given the historically low return on investment.

There are many reasons why Florida fares so poorly in federal grants, including historical funding decisions made in Florida as well as factors beyond the state's direct control – such as outdated formulas used in some programs and the politics in Washington. But, with more focus and concentrated effort, the state could successfully attain more federal grant money. Beyond the state's inability to effectively get a “fair share” in some arenas, it also remains that there are additional dollars that the state has already earned but which are not collected.

The amount of money involved is substantial. If Florida received the national average in per capita grants for FY 2009, the Sunshine State would have received an additional \$10.6 billion in federal grants. **If the \$20 billion in federal assistance the state was receiving before the federal stimulus package was increased by just 1%, Florida would receive an additional \$200 million. A 5 percent increase would provide \$1 billion.**

In 1995, Florida established a Grants Clearinghouse within the Department of Community Affairs. The purpose of the Grants Clearinghouse was to maximize federal and private grant funding for the state and Florida's citizens. The Grants Clearinghouse was charged with actively seeking grant opportunities; assisting state agencies in applying for grants; and acting as a single point of contact for all grants management and reporting.

In 2002, the Clearinghouse was moved to the Department of Environmental Protection. A recent report by the Florida CFO found that this iteration of the office merely addresses the grant review processes and further, there no longer exists an office in Florida that "proactively keeps track of upcoming grants and federal funding opportunities and promoting these grants to the appropriate state agencies." The Legislative Committee on Intergovernmental Relations (LCIR) reported that "Florida may not be aggressively pursuing all federal grant opportunities."

One of the CFO's recommendations was to move the statutorily required State Clearinghouse for grant approval from the Department of Environmental Protection to the Governor's Office of Policy and Budget (OPB), and to expand membership to include the DFS and the LCIR.

Each year, Florida misses out on hundreds of millions of dollars in grant funding opportunities because of a lack of information about available grant resources. Furthermore, Florida's grant "capture" efforts are decentralized with very little or no coordination and collaboration between agencies and potential grant recipients. In Iowa, a pilot program to identify and secure federal grants was established and helped to secure \$32 million for the state. Iowa is increasing the number of Full Time Equivalent (FTE's) for this program as the cost of additional staff pays for itself and is expected to increase state revenue by \$100 million over five years.¹⁶¹ Florida could vastly improve its track record and receipt of federal and private grant funds by reestablishing a fully operational, stem-to-stern, Grants Clearinghouse to actively coordinate Florida's grant "capture" efforts.

The role of the Clearinghouse could also be expanded to include the review and approval of state agencies' indirect cost allocation plans prior to submission to the appropriate federal agency for review and approval.

Eligibility for many federal formula grants is contingent upon submission of an indirect cost allocation plan by the lead state agency. Indirect cost allocation plans identify all expenses that contribute to achievement of the objective of the federal program to include indirect expenses that are not dedicated to the program. Indirect cost allocation plans are developed in accordance with federal requirements (OMB A87) and reviewed and approved by an assigned federal agency. The reviewing federal agency will identify expenses that are disallowed, but will not identify potential areas where states are not realizing all eligible expenses.

Requiring state agencies to submit proposed indirect cost allocation plans to the Clearinghouse will help ensure that all eligible expenses – including those expended by other state agencies and

¹⁶¹ "Iowa Efficiency Review Report to Governor Chet Culver and Lt. Governor Patty Judge", Public Works LLC, 2009.

local governments – are identified, and identified expenses are appropriately allocated among indirect and direct costs. This review will include providing policy interpretations and assistance to ensure effective and efficient implementation. This review should help to ensure that indirect and direct costs identified for each federal program makes certain that the state is maximizing its federal funding for each of its formula grants.

Recommendation: *The Legislature should amend Section 216.212(1), F.S., to move the Grants Clearinghouse to the Governor’s Office of Planning and Budgeting, and to expand membership to include the Department of Financial Services and the Legislative Committee on Intergovernmental Relations. The Clearinghouse should also be directed to provide assurances that the state is participating in all eligible grant programs. These assurances could, at least in part, be achieved by comparing participation in federal grant programs by other states with Florida, which would allow the Clearinghouse to ascertain whether Florida is taking full advantage of all available project grant opportunities.*

81. Use a contingency contract to drawdown federal funds already earned by Florida

Currently, there are federal dollars that the state has already earned but are not collected. In 2003, Florida TaxWatch recommended that the state collect the federal revenues that the state has earned, but has not applied for. These monies do not require additional spending or commitment by the state. In 2003, the Chief Financial Officer of Florida issued a five-year (competitively selected) contract to find and help secure federal funds to which the state was legally entitled. Under this contract, the state collected approximately \$150 million with a minimal amount of effort and no out-of-pocket costs to secure the funds. There likely remain, however, hundreds-of-millions of dollars of federal money to which Florida is legally entitled and which could be collected without expending any additional state revenues if the agencies dedicate appropriate effort to achieve.

The state should either undertake a similar expanded contract or attempt to collect this money in-house. In order to encourage the agencies to focus appropriate attention and effort, the Legislature could both require the agencies to collect this revenue and provide incentives for the agencies to maximize or capture revenue. This contract or inhouse project would be a top priority of a re-established Grants Clearing House.

Prior to the 2003 contract, the vendor compiled a list of such funds that exceeded \$900 million. The contract resulted in \$150 million. **With a similar effort, the state should be able to collect at least \$150 million in FY 2011-12, with most of the revenue being recurring.**

Recommendation: *Every practical effort should be taken to collect all the federal funds that are due Florida. The state should either undertake an expanded contract similar to a successful one executed in 2003 or take steps to ensure the collection of this money in-house. If this effort is contracted again, the vendor should be obligated to meet a certain target (for example \$50 million) before the state makes payment, and then, the payments should come out of the successful recoveries. With the alternative, in-house method, in order to encourage the*

agencies to focus appropriate attention and effort, the Legislature should both require the agencies to collect this revenue and provide incentives for the agencies to maximize or capture such revenue. This contract or in-house project would be a top priority of a re-established Grants Clearing House.

82. Improve oversight of indirect cost allocation plans

Eligibility for many federal formula grants is contingent upon submission of an indirect cost allocation plan by the lead state agency. Indirect cost allocation plans identify all expenses that contribute to achievement of the objective of the federal program to include indirect expenses that are not dedicated to the program. Indirect cost allocation plans are developed in accordance with federal requirements (OMB A87) and reviewed and approved by an assigned federal agency. The reviewing federal agency will identify expenses that are disallowed, but will not identify potential areas where states are not realizing all eligible expenses.

The role of the State Clearinghouse should also be expanded to include the review and approval of state agencies' indirect cost allocation plans prior to submission to the appropriate federal agency for review and approval. Requiring state agencies to submit proposed indirect cost allocation plans to the State Clearinghouse will help identify all eligible expenses, including those expended by other state agencies and local governments, and ensure that identified expenses are appropriately allocated among indirect and direct costs. This review will include providing policy interpretations and assistance to ensure effective and efficient implementation and will make certain that the state is maximizing its federal funding for each of its grants.

Recommendation: *The role of the State Clearinghouse should be expanded to include the review and approval of state agencies' indirect cost allocation plans prior to submission to the appropriate federal agency for review and approval.*

Section III: Generate New Revenues

83. Sell ads on DOT Dynamic Messaging Highway signs

States are looking for alternate sources of revenue to help fund needed transportation infrastructure improvements. Advertising is one approach. States, including Florida, have long used Logo Sign Programs to provide information to motorists about available services at interstate interchanges. These services include gas, food, lodging, camping and attractions, and are identified by the display of business logos. In Florida, this program is run by a private company that contracts with the Department of Transportation (DOT).

Georgia has also recently begun placing logos on its 511 signs, the blue highway signs that inform motorists that they can dial 511 to receive traffic information. Florida is also pursuing this idea, which needs approval from the Federal Highway Administration (FHWA).

Another new idea, and potentially very lucrative, idea in this area is that states allowing advertising on their dynamic messaging signs, which are also called changeable message signs (CMS). These are the signs that stretch horizontally over the highway and show travel times, AMBER (America's Missing: Broadcast Emergency Response) Alert messages, or national security or emergency messages with a LED display. The private sector has shown an interest in advertising on these signs. Current FHWA regulations currently prohibit such advertising.

In April 2010, the California Department of Transportation, in partnership with the Florida and Pennsylvania DOTs, submitted an application to the FHWA for a waiver to implement a demonstration project installing 50 “next generation” dynamic messaging signs. These signs have graphic capabilities that can improve current uses of DMS and also allow for advertising.

Florida DOT has not produced a revenue estimate from advertising on DMS, but California has estimated \$150 million could be raised annually.

There are some concerns with next generation DMS, especially safety. The American Automobile Association has warned of driver distraction and Scenic America opposes DMS because of highway clutter. However, studies by the National Highway Traffic Safety Administration and the Virginia Technology Transportation Institute have shown that digital billboards outside of the right-of-way do not distract the driver. FHWA has also been conducting a study on digital billboards. More study on DMS signs is needed.

California estimates advertising on DMS could raise \$150 million annually. Since Florida is roughly half the size of California, revenue of \$75 million is possible.

Recommendation: *Florida should continue moving forward with advertising on dynamic messaging highway signs. Florida DOT should work with FHWA and the California and Pennsylvania DOTs to get the waiver application approved. If approved, and safety concerns can be addressed, Florida should implement a DMS advertising program. Since Florida law currently prohibits advertising on these signs, the legislature would have to pass legislation to allow them. Florida should also implement a logo program for 511 signs.*

84. Charge a fee for automatic notice of government bid opportunities

The state of Florida offers vendors customizable, automatic, email notifications of potential government bid opportunities through MyFloridaMarketplace. Georgia charges vendors \$199 annually for a similar subscription notification service through the Team Georgia Marketplace. If Florida were to implement a charge to cover the cost of the subscription service, it could help off-set the overall cost of the procurement system and increase revenues to the state.

Recommendation: *The Legislature should examine the possibility of charging a subscription fee for automatic vendor notification of government bid opportunities.*

Government Cost Savings Task Force

Chapter 7: General Government Reform

Introduction..... 159

Recommendations.....162

Section I: Utilize Available Guidelines and Benchmarks to Increase Efficiency

- 85) Adjust annual budget appropriations to reduce “fourth quarter dumping”
- 86) Benchmark operating expenses for each state agency

Section II: Optimize the State Real Estate Portfolio

- 87) Fully utilize state-owned space
- 88) Maximize use of leased space
- 89) Significantly increase the use of competitive procurements for leased space
- 90) Consolidate and co-locate
- 91) Lease renegotiation
- 92) Improve the negotiation of tenant improvements (“TI”) for private sector leases

Section III: Standardize the business process

- 93) Standardize sick and annual leave accrual
- 94) Standardize payroll cycle

Section IV: Reduce cost of communications (with vendors or payees)

- 95) Expand the use of debit cards to eliminate, to the fullest extent possible, the use of paper checks for state disbursements
- 96) Further increase use of electronic receipts
- 97) Implement a statewide web-based mass notification system for messages and general communications
- 98) Create an eLearning-based Centralized Learning Academy
- 99) Modernize printing and mailing operations through outsourcing

Section V: Reduce state travel expenditures

- 100) Reduce state travel costs

- 101) Explore potential to consolidate boards and administrative support costs**
- 102) Expand use of teleconferencing (including online meetings and video conferencing) to reduce state travel expenses**
- 103) Consolidate management of small state vehicle fleets**
- 104) Increase use of rental vehicles instead of purchased vehicles**
- 105) Revise F.S. 286.29 to include rental vehicles**
- 106) Explore metrics for fleet fuel efficiency and implement a minimum standard**
- 107) Improve oversight of state air fleet (and non-vehicular fleet)**

Section VI: Other

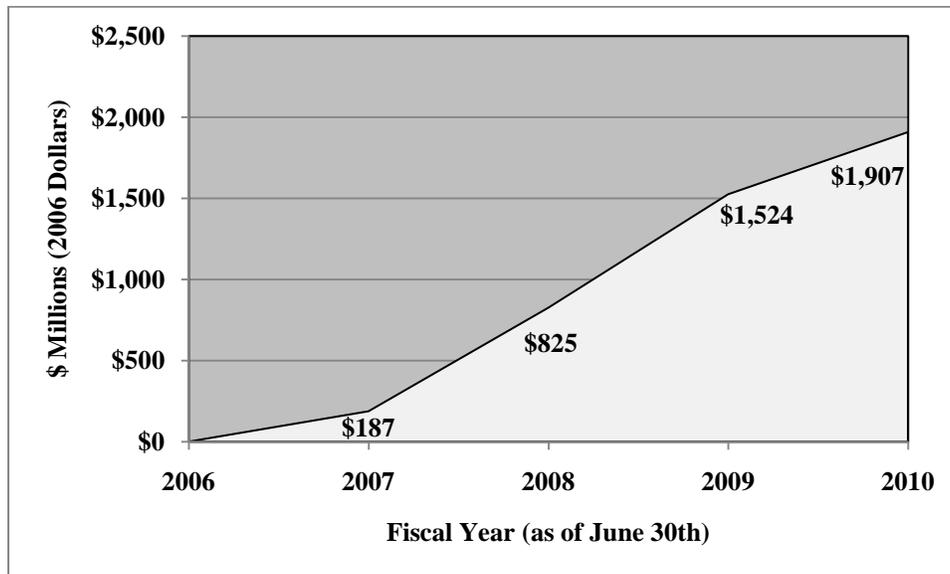
- 108) Increase use of owner controlled insurance programs (OICPs) for construction projects**
- 109) Implement managed print services to reduce cost and improve service in state office print environments**
- 110) Increase state employee parking fees to make the parking system self sufficient**
- 111) Expand use of Department of Correction land for agriculture and other productive purposes**
- 112) Form compensation commission to determine actual competitiveness of state compensation with other states, local governments, and private sector (weighing each differently to determine an actual comparison)**
- 113) Implement fraud deterrent system for child care providers**
- 114) Require reimbursement of the training costs for certified law enforcement/corrections officers that terminate employment with the state prior to completing two years of service with the state**
- 115) Implement centralized statewide power monitoring/management for PCs**
- 116) Manage and control the use of overtime through the implementation of a statewide integrated time and scheduling system**
- 117) Modernization and outsourcing of call centers**
- 118) Transition to a four-day workweek**
- 119) Implement a web-based volunteer management system for K-12 through Higher Education System**

Introduction

While Florida’s state agencies offer a myriad of valuable services to the state’s residents, there is always room for improvement when it comes to making agencies more efficient and accountable in terms of the value they add for Florida taxpayers. Absent the market incentives that determine how private businesses distribute their resources, agencies must take it upon themselves for the benefit of all Floridians to improve the efficiency of their operations. During these fiscally trying times, it is crucial that we reexamine the day-to-day operations of state agencies to ensure that Floridians are receiving the best value for their hard-earned tax dollars.

Many state employees strive to improve the methods by which government functions; however, during the past five years, as Florida’s general revenue collections have declined by more than 22%, controllable¹⁶² spending (adjusted for inflation and changes in the state workforce) by state agencies has grown considerably. Following are a few examples illustrating the growth in discretionary spending by state agencies.

Figure 67: Aggregate Spending by State Agencies in Florida Exceeds the Growth in Inflation and Full Time Equivalent Employees (FTE)



Source: Florida Accounting Information Resource (FLAIR) data provided by the Department of Management Services.

Figure 67 shows that the growth in spending by agencies during the previous five years has outpaced the growth in inflation and full time equivalent employees (FTE) using 2006 as a base year. Had state agencies’ combined controllable expenditures remained perfectly in balance with the growth in inflation and the state workforce, spending above the 2006 established baseline would be equal to zero. Yet, in FY 2009-10, agencies expended more than \$1.9 billion above the 2006 baseline on various discretionary goods and services. While some of these increases may

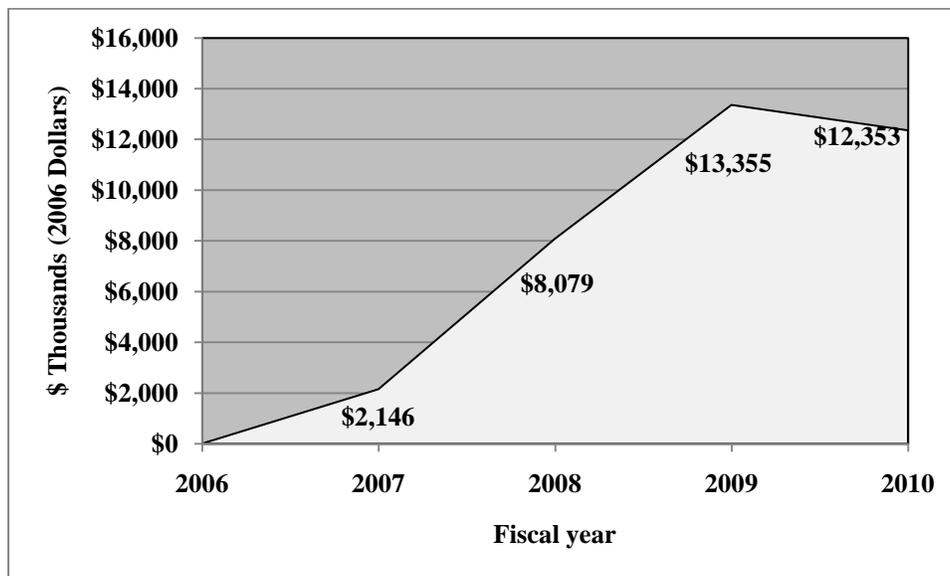
¹⁶² “Controllable expenditures” refers to spending on those items which agencies have discretion over spending (e.g. office supplies, travel, fees and services, etc.) as identified by object codes assigned to these items in Florida Accounting Information Resource (FLAIR) data provided by the Florida Department of Management Services.

be rationalized as changes in scope of work of certain agencies, a sizeable portion of this escalation is likely due to insufficient cost controls and inefficient operations.

The state currently has multiple processes across state agencies to perform the same function. Eliminating redundancy by standardizing and/or consolidating these processes to achieve best practices can result in cost savings. In addition to the duplication of certain functions, in many instances, agencies could benefit from harnessing available technology and exercising more prudence in the acquisition and utilization of resources to accomplish their respective missions.

As an example, **Figure 68** shows that total expenditures on office supplies in FY 2009-10 were \$12.4 million above the 2006 baseline. In fact, during four out of the previous five years spending on office supplies continuously outpaced growth in inflation and FTEs. Taking a more conscientious approach to how office resources are allocated and limiting spending on surplus or otherwise unnecessary items could significantly reduce the expenses incurred by the state and taxpayers.

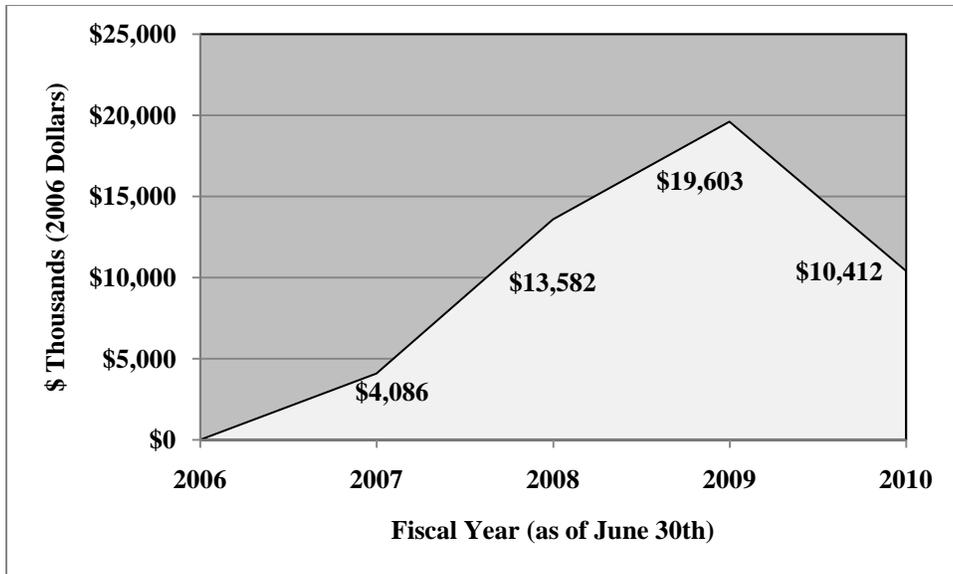
Figure 68: Aggregate Spending on Office Supplies by State Agencies in Florida Exceeds the Growth in Inflation and Full Time Equivalent Employees (FTE)



Source: Florida Accounting Information Resource (FLAIR) data provided by the Department of Management Services.

As an additional illustration, **Figure 69** shows that travel spending in FY 2009-10 was \$10.4 million above the 2006 baseline. The recent advances in telecommunications technology could serve as successful cost-saving alternatives to the high expenses associated with land and air travel in many cases. For example, replacing costly long-distance travel with teleconferencing in certain instances could mean more funds for other important purposes. Additionally, improved oversight and greater discretion regarding travel expenses could further save taxpayer dollars.

Figure 69: Aggregate Spending by State Agencies in Florida on Travel Exceeds the Growth in Inflation and Full Time Equivalent Employees (FTE)



Source: Florida Accounting Information Resource (FLAIR) data provided by the Department of Management Services.

Reducing costs and increasing efficiency can be done without compromising the quality and level of services provided to Floridians. Rather than implement across-the-board cuts, the state's bureaucracy would benefit through the review and implementation of innovative practices already used in other states, as well as in the private sector.

In this section, Florida TaxWatch offers ideas and recommendations to help rein in superfluous spending and make Florida's government agencies function more efficiently. The following recommendations combine proven-successful private market practices with measures undertaken by other states to ensure greater efficiency in state government, now and in the future.

General Government Reform Recommendations

Section I: Utilize Available Guidelines and Benchmarks to Increase Efficiency

85. Adjust annual budget appropriations to reduce “fourth quarter dumping”

The common “use it or lose it” budget mindset is a pervasive disincentive to saving money for most governments. Such practice in Florida encourages state agencies to spend all unused funds at the end of the fiscal year or otherwise risk having future budgets reduced. This creates a phenomenon known as “fourth quarter dumping,” when the end of the fiscal year reveals a spike in spending on agency discretionary funds.

Transaction-level payment data from FLAIR data, as provided by the DFS, shows that “controllable” spending in June was \$159.6 million more than the overall monthly average during FY 2008-09. “Controllable spending” is the discretionary spending of state agencies that is related to their operation.

Considerable savings could be realized if the Legislature accounted for this overage by benchmarking “controllable” expenditures at the end of the fiscal year in June to the yearly average and then allocating funds accordingly. Certainly, not all of the spending is due to the last minute spending of state agencies; some of the “excess” spending in June is likely appropriate and may represent the agencies simply waiting to purchase lower priority items. Still, if only 50% of the June overage is attributable to true “fourth quarter dumping,” and future appropriations were reduced by that amount, **\$80 million in savings could be realized.**

Recommendation: *The Legislature should adjust the total budget appropriations to account for the practice of overspending in June. The adjustment can be made through an examination of how much over the yearly average in relation to agencies’ total controllable spending occurred in June during the previous fiscal year and subsequently reducing the following fiscal year’s appropriation by a reasonable percentage (such as 50 percent) of that amount.*

86. Benchmark operating expenses for each state agency

Creating a benchmark against which to compare expenditures over time illuminates where discretionary operating expenses have grown more than would be expected due to normal inflation and increased workforce.

In the state’s accounting system (the FLAIR maintained and managed by the DFS) object codes identify the nature of goods and services purchases by agencies or agency subdivisions, known as budget entities (which are essentially business units within agencies).¹⁶³ This analysis focuses on object codes that represent goods and services for which process owners (i.e., budget entity

¹⁶³ According to the Florida Department of Financial Services: “Expenditure object codes are used to identify the type of services, materials, or other charges for which funds are expended using the State’s accounting system - Florida Accounting Information Resource (FLAIR). Six digits are defined for the code...”

decision makers) have procurement selection authority, and which directly contribute to the services provided by the budget entity.

A benchmark was created by determining the total payment amounts for all of the selected object codes for each budget entity, and for each fiscal year starting with FY 2005-06 payments. Using FY 2005-06 payment data as a baseline, inflation and changes in the number of employees working in each budget entity were controlled to establish the benchmark amount for every budget entity's 2008-09 expenditures.

The Urban Consumer Price Index (CPI) was used to adjust for price inflation between 2005 and 2010. Changes in the number of employees were accounted for by observing the changes in authorized Full Time Equivalents (FTE) during the period of review, as identified in the associated appropriations bill. The below exhibit depicts this methodology:

$$\left(\frac{\text{Base year Expenditures} \times \text{Inflation rate}}{\text{Base year FTEs}} \right) * \text{FY 2009-10 FTEs} = \text{FY 2009-10 Benchmark}$$

The purpose of the analysis is to identify budget entities with increases in expenses that exceeded their benchmark amounts, and therefore are higher than would be expected if real expenses (i.e., expenses accounting for inflation) had remained consistent at FY 2005-06 levels per employee.

Approximately 30% of the budget entities had operational expenditures above their benchmark. The difference between the actual and benchmark values of purchases of 'operational' goods and services for all these budget entities totaled \$1.489 billion (this amount represents differences for those budget entities where the FY 2009-10 actual amounts exceeded the FY 2009-10 benchmark amount).

While the increases in these expenditures may be for valuable and important functions and services, and some are uncontrollable changes such as the ebb and flow of federal money to the state or to a rise in entitlement-related expenditures, the examination of these budget entities and the object codes that drove billion dollar increases (compared to the benchmark) will likely identify areas for targeted budget cuts. . For all of these government expenses, Florida was able to survive and thrive in FY 2005-06 by spending nearly **\$1.5 billion less on these functions in real per employee spending. Reinvesting just 10 percent of the increase directed to these budget entities in just four years (FY 2005-06 – FY 2009-10) would mean an extra \$149 million for other functions.**

Recommendation: *The Legislature should utilize benchmarking as tool to conduct further analysis on where budget cuts may be most palatable. For those budget entities where actual FY 2008-09 expenditures exceeded the calculated benchmark, appropriated amounts should be closely scrutinized for potential reductions.*

Section II: Optimize the State Real Estate Portfolio

The State of Florida owns or occupies more than 59 million square feet. Its portfolio includes numerous uses in addition to traditional office functions, including recreation centers, dormitories, clinics, laboratories, prisons and over a dozen other categories. According to the Department of Management Services' ("DMS") *2010 Strategic Leasing Plan and Master Leasing Report*, DMS oversees only a portion of the entire portfolio, with 72 buildings totaling more than 5.1 million square feet that are leased to state agencies throughout the state. It also manages another 41 owned buildings that are not available for lease and consist of properties like the Historic Capitol. In addition to its owned portfolio responsibility, DMS has oversight authority for a leased portfolio totaling more than 8.3 million square feet. Many leasing functions are de-centralized, however, allowing agencies considerable decision-making authority for those occupancy decisions.

The estimated savings identified for each of the listed optimization strategies assumes the strategy is employed independent of any other strategy. It is recommended that all strategies be implemented in a comprehensive manner to achieve maximum effectiveness, however, the resulting savings may differ from the sum of these estimates.

Furthermore, the estimated savings identified in these recommendations assume these strategies are employed on a distinct group of leases (i.e. leases expiring in the next two to three fiscal years) since many of the recommendations are most effective at or near lease expiration. If the state adopts these strategies and makes them the operational standard by applying them to future lease activity, additional recurring and cumulative savings could be achieved in future years.

87. Fully utilize state-owned space

Of the more than 5.1 million square feet the DMS owns and actively leases to agencies, only 3 percent is currently vacant, which outperforms typical vacancy rates for a portfolio of this size. However, significant amounts of space still remain vacant in major markets such as Orlando, Pinellas County and Ft. Myers. The low vacancy rate also assumes that the Department of Corrections will relocate in the near future. Otherwise vacancy will increase by more than 210,000 square feet. Despite low vacancy, efforts should still be placed on backfilling the 153,759¹⁶⁴ square feet that is available in the DMS owned portfolio.

Significant recurring savings could be achieved if all 153,759 square feet of space were backfilled; however, it is important to note that initial savings will be offset by relocation and renovation costs. If those costs are limited to truly minor renovations totaling no more than \$10.00 per square foot, **savings in the first year could be approximately \$1 million with recurring annual savings of \$2.5 million thereafter if all available space is backfilled.**¹⁶⁵

¹⁶⁴ DMS 2010 Strategic Leasing Plan and Master Leasing Report

¹⁶⁵ Further due diligence would be needed to get actual costs to complete minor renovations to backfilled space needed to accommodate incoming tenants and relocation costs, and if major renovations are required, savings would

Even though these owned buildings have a low vacancy rate, based upon analyses as part of the studies completed earlier this year for the Senate Ways & Means Policy Council, they are utilized less efficiently than private sector leases. While improving the density of state-owned buildings will require capital expenditures, TaxWatch recommends DMS be directed to complete a study to identify those costs and to determine how a reasonable payback period can be achieved with higher utilization. It should also be noted that more than 45 million square feet owned by the state is not managed by DMS.

Recommendation: *The Department of Environmental Protection and DMS complete the database of all state-owned space pursuant to SB 1516, other opportunities to backfill or dispose of state-owned facilities should be fully explored and implemented.*

88. Maximize use of leased space

According to the 2010 DMS Strategic Leasing Plan and Master Lease Report, state agencies are expected to spend \$150.6 million on 979 private and other government leases totaling approximately 8.3 million square feet. These leases are primarily used to house approximately 32,000 FTEs¹⁶⁶ resulting in an overall current average of 255 square feet per FTE, and 235 square feet per FTE for only office-type spaces. State agencies would achieve greater cost savings by reassessing and updating space standards where feasible in order to ensure more efficient use of leased space.

While the savings can be significant, unfortunately right-sizing locations does not happen overnight or even over a single fiscal year. Right-sizing can typically only happen at lease expiration, since it frequently requires either a renovation or relocation to new space. Consequently, potential savings must be projected over a number of years. However, once these efficiencies are achieved, recurring savings will continue to be generated, and the savings should grow each year with improved efficiencies.

Previous studies have suggested that space utilization standards should be approximately 180 square feet per FTE. Subsequent work completed pursuant to Senate Bill 44A in 2009 revealed the potential to reduce required space to an average of 206 square feet per FTE. This target of 206 square feet per FTE was calculated utilizing the methodology found in DMS' Space Allocation Worksheet ("SAW"). The SAW targets 180 square feet per FTE but then adds square footages for public use and special use spaces.

Recommendation: *The Legislature should direct DMS to review and develop new space standards appropriate to each agency. It is anticipated that the actual space needs of each agency will vary, with some locations requiring more space while others achieve even greater efficiency, but the overall target of 180 square feet per FTE should be achievable. Once*

be reduced. Savings based on the 2010 DMS report average lease cost for office-type space of \$19.99 (excluding nominal leases) less an estimated increase of \$3.50 in operating expenses due to increased utilities and janitorial multiplied by the vacant square footage of 153,759.

¹⁶⁶ According to the 2010 Master Leasing Report data for private and government leases of all space types.

adopted, those standards should be enforced by DMS, and agencies should be required to justify any exceptions to the space standard requirements. Exceptions should only be granted when they are in the best interest of the state.

Looking at the current portfolio, DMS has estimated that there are 217 leases for office-type space with a total area of 1.75 million square feet that will expire in fiscal years 2011/2012 and 2012/2013.¹⁶⁷ If an aggressive program is implemented in 2010 and an average of 180 square feet per FTE is achieved, the following potential savings could be realized, even while accounting for estimated relocation costs:

Figure 70: Estimated Savings

Fiscal Year	Potential savings¹⁶⁸
FY 2012/2013	\$1.9 million
FY 2013/2014	\$5.2 million
FY 2014/2015 and years thereafter	\$6.6 million

89. Increase the use of competitive procurements for leased space

In order to achieve the best value for the taxpayers on property leases, Florida law requires agencies to competitively bid contracts for leased space of 5,000 square feet or more. However, two primary non-competitive practices exist. First, some leases include renewal options that are negotiated at the time of lease execution and can be executed upon expiration without further competitive solicitation or negotiation. Secondly, s. 255.25 (3)(c), *Florida Statutes*, allows agencies to avoid competitive bidding once the base lease term and renewal options have been used (with only minimal restrictions).¹⁶⁹ This scenario is referred to as a replacement lease

¹⁶⁷ Based on 2010 Master Leasing Report data for private and other government leases of office-type space expiring 7/1/2011 – 6/30/2013, excluding nominal leases.

¹⁶⁸ The current efficiency in these locations averages approximately 222 square feet per FTE. Improving efficiency to 180 square feet per FTE would result in a reduction of approximately 42 square feet per FTE, for a total of 330,164 square feet in potential excess space that could be eliminated over two fiscal years. The impact of those savings can be estimated by multiplying that square footage by the average private leased rate for these office-type spaces of \$19.94 per square foot. Assuming 165,082 square feet are eliminated during FY 2011/2012, the FY 2012/2013 savings could be \$3,291,735.08 less an estimated \$2.00 per square foot of remaining space in relocation and other costs (\$1,423,980). The savings in FY 2013/2014 include the recurring savings from the previous fiscal year plus the savings from rolling over the other half of the leases that would be right-sized in FY 2012/2013. Future year savings are estimated based only upon improving efficiency in those spaces leased in FY 2012/2013 and FY 2013/2014. If additional square footage is right sized, then additional savings are possible.

¹⁶⁹ *Florida Statutes*, 255.25(3)(c): “The department may approve extensions of an existing lease of 5,000 square feet or more of space if such extensions are determined to be in the best interests of the state, but in no case shall the total of such extensions exceed 11 months. If at the end of the 11th month an agency still needs that space, it shall be procured by competitive bid in accordance with s. 255.249(4)(b). However, an agency that determines that it is in its best interest to remain in the space it currently occupies may negotiate a replacement lease with the lessor if an independent comparative market analysis demonstrates that the rates offered are within market rates for the space

action, more commonly known as a “stay-in-place” lease action. Additionally, for leases less than 5,000 square feet that do not have any remaining renewal options, agencies have the ability to complete a lease modification, which allows a lease to be extended without the requirement of any competition.

Prior to utilizing a stay-in-place lease, agencies frequently exercise renewal options. While renewal terms are competitively negotiated at the time of lease execution, frequently those terms are not in line with market terms by the time the lease expires, which is typically 3 to 10 years from the time of the initial solicitation. This is especially true during times of declining markets such as that currently being experienced. Despite favorable market dynamics, many of these renewal options are exercised without any consideration of current market conditions, and they only require justification for the amount of space, not the rate. While a full new competitive procurement may not always be advisable or beneficial, state agencies should allow enough time to assess market options and determine whether a competitive solicitation would produce savings or if the current renewal options can be improved.

Since Florida TaxWatch first raised this issue last year, some agencies such as the DOR, have voluntarily eliminated the use of stay-in-place leases. However, even with the reduction in use by some agencies, stay-in-place leases are still frequently used by most agencies.

Given the two exceptions for leases over 5,000 square feet and typical practices for leases under 5,000 square feet, it is estimated that 60 to 70 percent of all lease activity currently utilizes less competitive practices such as renewals, modifications and stay-in-place leases. Enhanced competition is estimated to reduce lease rates by 5 to 15 percent compared to less competitive approaches. Given the amount of time it takes to competitively solicit for space and given the number of commitments that have already been made for leases expiring in FY 2011/2012, it will take several years to realize the full impact of these savings. However, aggressively applying competitive approaches to most lease transactions could result in potential recurring annual savings of \$1.1 million to \$4.0 million by FY 2013/2014, depending on how many leases are more competitively bid and the success of those negotiations.¹⁷⁰

Recommendation: *DMS should work with agencies to reduce the use of stay-in-place leases, modifications and renewals that do not sufficiently consider market dynamics and ensure that in all instances where a stay-in-place lease, modification or renewal is approved by DMS that it is due to the fact that it produces savings to the state and/or it can be clearly demonstrated by the agency to be in the best interest of the state.*

and the cost of the new lease does not exceed the cost of a comparable lease plus documented moving costs. A present-value analysis and the consumer price index shall be used in the calculation of lease costs. The term of the replacement lease may not exceed the base term of the expiring lease.”

¹⁷⁰ Using DMS data from November 2010, the lower end of this range assumes 50 percent of the leases expiring 7/1/2011 through 6/30/2013 (1,153,827 of 2,307,655 total square feet) achieve savings of 5 percent of the average lease rate of \$19.35. The higher end of this range assumes 60 percent of expiring leases achieve 15 percent savings from the average lease rate. The DMS data set is used in this case rather than the *2010 Master Leasing Report* because the latter includes other government leases, which would likely not be competitively procured.

90. Consolidate and co-locate

The *2010 DMS Strategic Leasing Plan and Master Leasing Report* provides an overview of the state's lease portfolio, external factors affecting the state's leasing goals, a market analysis, and recommendations for achieving leasing goals and cost reductions.

The report discusses consolidations, which are opportunities for an agency to combine two or more existing locations into a single location, and co-locations, which are when two different agencies locate in the same space but frequently under separate lease commitments. The following are some of criteria that could be used to determine if a consolidation or co-location is viable for both leased and owned locations:

- Existing excess space in either owned or leased locations
- Located within several miles of each other or other favorable geographic areas (such as the entire county, same ZIP code, etc.)
- Compatible uses (i.e. probation offices would not be compatible with Department of Children and Families programs)

Maintaining numerous separate locations is typically more costly for the following reasons:

- Each location typically has common areas such as reception, copy rooms, filing, hallways, etc., and those spaces can be more efficiently utilized in larger locations since they significantly impact efficiency of smaller locations
- Equipment such as copiers, servers and phone systems are required for each location and those costs can typically be reduced with the elimination of each office
- Many state offices require a receptionist and other administrative support functions and those positions can typically be better leveraged at larger locations

While the number of viable consolidations or co-locations cannot be estimated without further due diligence, currently there are 38 ZIP codes where the state has five or more private sector leases and 98 ZIP codes that have three or more private sector leases. The proximity suggests there may be numerous opportunities for consolidation or co-location.

Recommendation: DMS continue to identify opportunities to reduce the number of locations leased by the state and that the Legislature grant DMS the authority to consolidate and co-locate multiple agencies or multiple offices of the same agency in the same facilities where it is feasible and in the best interest of the state.

91. Lease renegotiation

Lease renegotiations allow the state to modify lease provisions that are no longer in the state's best interest, such as cost per square foot, leased square feet and facility design. DMS's 2010 *Strategic Leasing Plan and Master Leasing Report* identified numerous leases that are suitable candidates for lease renegotiation.

To narrow the list of candidates for renegotiation or consolidation, DMS organized private leases into four categories: (1) leases that are **below** the 180 square foot per FTE standard and the

current rental rate is **below** the target rate; (2) leases that are **below** the square foot standard and the current rental rate **exceeds** the target rate; (3) leases that **above** the square foot standard and the current rental rate is **below** the target rate; (4) leases that are **above** the square foot standard and the current rental rate **exceeds** the target rate. Leases in category 4 have the most room for improvement.

Recommendation: *DMS should aggressively renegotiate leases in locations that make sense for longer term occupancy. In order to properly leverage these potential opportunities, it is important to commence with such efforts immediately on leases that are within 36 months of expiration. Furthermore, in February 2010, OPPAGA issued a report on the Tenant Broker program stating that the program was underutilized and that the results of transactions negotiated by the Tenant Brokers were producing significant savings for the state. When renegotiating leases or when utilizing a competitive solicitation, the Legislature should require agencies to work with one of the state’s three Tenant Brokers.*

92. Improve the negotiation of tenant improvements (“TI”) for private sector leases

Florida law currently forbids the use of state funds for TI in space not owned by the state unless the state is granted a security interest in the property, which is not feasible in most cases¹⁷¹. Consequently, as private sector leases are negotiated, agencies outline their space requirements and landlords responding to the solicitation must agree to provide a “turnkey” build out, which allows for the agencies’ specifications to be met at no out-of-pocket cost to the state. The cost of these improvements can be significant at times, and those improvement costs are factored into the lease rate that is quoted by the prospective landlords, thus while they are not paid for directly, these costs impact the lease rates paid by the state. Working in cooperation with its Tenant Brokers, several agencies such as the Department of Health and the Agency for Workforce Innovation have identified opportunities to reduce those costs related to TI.

Recommendation: *The following opportunities to reduce rental rates through improved negotiation of TI should be more fully implemented:*

- *As DMS identifies new space standards for agencies, it should also work with agencies to modify specifications and identify opportunities to “value engineer” them and reduce their cost.*
- *The following concepts should be added to solicitations for new space:*
 - *A standard form with the breakdown of estimated TI costs so that it is clear what portion of the rate is rent and what portion is amortized TI*

¹⁷¹ 287.05805 “Contract requirement for use of state funds to purchase or improve real property. Each state agency shall include in its standard contract document a requirement that any state funds provided for the purchase of or improvements to real property are contingent upon the contractor or political subdivision granting to the state a security interest in the property at least to the amount of state funds provided for at least 5 years from the date of purchase or the completion of the improvements or as further required by law.”

- *A shared savings provision that allows the state to receive a portion of savings from the initial estimates provided in the Invitation to Negotiate (“ITN”) response should actual costs be lower*
- *Include a reconciliation provision that allows the state to review costs to validate savings and outlines the timing for the reconciliation that could occur both during and after construction*
- *A provision that allows savings from TI to be utilized as free rent*
- *A provision that requires the landlord to bid the improvements (or at least bid the major subcontractor components)*
- *Provisions to ensure the renewal rate no longer amortizes TI from the initial term*

Estimated savings of \$1 million to \$3 million could be achieved in any given year without significant changes to the type of space being built out. Those savings could be increased if the specifications currently utilized by many agencies are further modified.

The state should also consider placing certain construction items such as glass, light fixtures, and reusable signage on state contract and allowing landlords building space on behalf of the state to access those contracts so that savings would be realized by the state agencies.

Section III: Standardize the Business Process

93. Standardize sick and annual leave accrual

State employees with the pay plan designations of Select Exempt Service (SES) and SMS are permitted to accrue a total 480 hours of unused annual leave for which they receive a reimbursement upon voluntary or involuntary separation. Departing employees are paid 100 percent of their hourly wage at the time of termination for every hour of annual leave accumulated. The payout scheme for Career Service (CS) employees is the same; however, the maximum amount of accruable hours is capped at 240.

SES and SMS employees receive 176 hours of annual leave at the start of each fiscal year. In addition to the maximum accruable 480 hours, SES and SMS employees also receive a remittance for any unused hours during the year of separation, bringing the maximum possible hours of payable annual leave to 480. This amount is the same for CS employees; however, they do not receive 176 hours of annual leave at the beginning of each fiscal year but rather accrue annual leave at 8.667 to 13 hours per month, depending on their years of service.

More importantly, accrued annual leave hours are factored into pension benefit payouts using the following formulas:

$$\text{SMS: } \frac{\text{total payout for accrued annual leave}}{5} * (\text{years of service} * 0.02)$$

$$\text{SES and CS: } \frac{\text{total payout for accrued annual leave}}{5} * (\text{years of service} * 0.016)$$

Limiting the total annual leave hours permitted for accretion by all SMS, SES, and CS employees to 240 will result in \$1.76 million annually in cost savings for the state (\$1.4 million in annual leave payouts; \$360,000 in pension benefits). If annual leave reimbursement is completely eliminated, as is common in the private sector, the state would save \$10.1 million annually (\$9.6 million in annual leave payouts; \$430,000 in pension benefits).

***Recommendation:* The Legislature should make one of the following two amendments to the current annual leave accrual policy: Cap the maximum amount of accrued annual leave hours permitted for CS, SES, and SMS employees at 240; or adopt a “use it or lose it” policy, in which all unused annual leave hours are wiped out at the end of each fiscal year with no reimbursement for any unused hours.**

94. Standardize payroll cycle

Florida currently has more than 10 different payroll cycles. Simplifying the number of payroll cycles and payrolls produced throughout state government will reduce costs. Additionally, the state should evaluate options reducing the number of pay periods because fewer paychecks (for the same annual salary) produce savings and increase interest earned without adversely affecting employee pay levels.

Figure 71: Annually Per 10,000 Employees Migrated From Weekly to New Pay Cycle

	Cost Savings Per Paycheck ¹		Est. Interest Gain
	\$2.00	\$10.00	2.50%
Weekly to Bi-Weekly	\$530,400	\$2,652,000	\$2,629,500
Weekly to Semi-Monthly	\$571,200	\$2,856,000	\$2,436,100
Weekly to Monthly	\$816,000	\$4,080,000	\$3,747,700

¹ Including materials, production, systems, 2% reissues, and distribution.

***Recommendation:* The Legislature should direct the DFS to reduce the number of payroll cycles and evaluate opportunities for reducing the number of pay periods without adversely affecting employee salary levels.**

Section IV: Reduce Cost of Communications (with vendors or payees)

95. Expand the use of debit cards to eliminate, to the fullest extent possible, the use of paper checks for state disbursements

Disbursing payments via paper checks is more expensive than using electronic payment disbursements. Thus, increasing the use of electronic payments saves money by eliminating costs for check printing, check stock, and postage.

The state disburses payments for a variety of reasons, including payroll and retirement benefits to employees and retirees, unemployment compensation payments, child support payments collected on behalf of custodial parents and payments to vendors for goods and services

purchased by state agencies. A number of these payments are already being made electronically; however, the use of electronic payments could be increased.¹⁷²

The traditional form of electronic payments used by the state has been electronic transfers, often known as direct deposits; however, this option is not always available for all payment recipients, especially individuals (as opposed to vendors) who may not have checking accounts or ready access to traditional banking institutions. The rise in prominence of the debit card provides an alternative form of electronic payment that can serve this population and allow the state to shift almost entirely away from paper checks.

Electronic payment cards (EPC) are essentially prepaid, rechargeable, debit cards that the recipient can use at most retailers or ATMs. Once the recipient has the EPC, direct deposits can be made to the EPC account at almost no cost to the state.

Florida already has a near-universal electronic payment program in place for Child Support Enforcement (CSE) payments through the Department of Revenue (DOR). Current law requires that outbound child support enforcement payments be made either by direct deposit or electronic payment card, except for exceptional cases.

Electronic payments through EPCs have been implemented for a variety of payments in numerous states and at the Federal level.

Unemployment Insurance: More than 20 states currently operate an outbound electronic payment program, including Alabama, Alaska, Arkansas, Colorado, Connecticut, Idaho, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nevada, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Texas, and Virginia.

Child Support Enforcement: In addition to Florida, most states disburse child support payments through electronic payments, including: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Payroll and retirement benefits: While Florida currently uses direct deposit when the option is available, several states also disburse payroll and retirement benefits via an electronic payment card when direct deposit is not available, including Virginia, Indiana, and Georgia. Requiring all payroll and retirement benefits to be distributed through electronic payments (by incorporating EPCs) would produce significant savings.

¹⁷² The exact percentage of electronic payments compared to paper checks was not determinable with the information available.

Supplemental Social Security Income (SSI) and Supplemental Social Security Assistance (SSA): Benefits are currently being disbursed via electronic payment card by the US Treasury. Assuming a \$2.00 per check savings using electronic payment disbursements, the estimated savings for Florida are shown in the following table by major program area.

Figure 72: Estimated savings by increasing the use of electronic payments compared to paper checks, FY 2010-11

Program	Payments per Month	Cases/Volume per Month	Monthly Savings	Annual Savings
TANF	1	52,000 ¹	\$104,000	\$1,248,000
Unemployment Insurance	2	800,000 ²	\$1,600,000	\$19,200,000
Foster Care	2	30,000 ¹	\$60,000	\$720,000
Pensions	2	50,000 ¹	\$100,000	\$1,200,000
Payroll	2	30,000 ¹	\$60,000	\$720,000
Total				\$23,088,000

¹Based on population-adjusted estimates for Florida extrapolated from national averages.

²Currently 50% of 800,000 UI claimants receive paper checks twice per month [(400,000 paper checks x 2) = 800,000 checks per month]. Assumes paper checks are no longer allowed and that all UI payments be made by direct deposit or debit card.

Recommendation: *The legislature should require government agencies and programs to use electronic payments unless justification is provided for the use of hard payment.*

96. Further increase use of electronic receipts

Processing electronic payments to the state is significantly more cost effective than processing paper checks. Processing a check received via mail costs state agencies over \$4; whereas, the cost of processing an electronic payment is less than \$1, a savings of approximately \$3.¹⁷³ Requiring electronic payments would reduce processing costs and therefore produce considerable cost savings for the state.

In addition, electronic payments generate more interest from deposits than payments received via paper check because electronic payments are deposited by the state within one business day, whereas the time to deposit for paper checks often exceeds 5 days.

Analysis of payment receipts provided by DFS shows that state agencies other than DOR received 1.46 million payments (i.e., transactions) in FY 2008-09. Assuming that 40% of these payment receipts were submitted via paper, there are approximately 584,000 paper payment transactions received each year by agencies other than DOR.¹⁷⁴ **If half of these paper**

¹⁷³ Estimate based on: Florida Department of Financial Services Office of Inspector General, “Payment Receipts Safeguards Can Be Improved While Achieving Significant Cost Savings,” March 13, 2009 (Audit Number 09004), available at www.myfloridacfo.com/OIG/images/CashReceiptsAudit.pdf.

¹⁷⁴ Ibid.

payments were converted to electronic payments, the state would save nearly \$1 million annually, assuming a \$3 reduction in processing cost per transaction.¹⁷⁵ If 90 percent of paper payments were electronically processed, the state would save \$1.5 million annually. If the additional interest, which would result from reduction in payment processing time, were to be considered, the savings would be even greater. The implementation of a small fee to process paper payments would deter the use of paper payments while increasing the net cost savings.

Recommendation: *The legislature should mandate electronic payments for all state payments, except in extraordinary cases, through direct deposit or EPCs. The legislature should direct that all payments made to the state must be made electronically, where feasible, and those payment receipts that continue to be received via paper check should be assessed a monetary charge to reflect the increased processing costs, as authorized in s. 215.322(3)(c), Florida Statutes.*

97. Implement a statewide web-based mass notification system for messages and general communications

Currently, agencies communicate with constituents through traditional print, fold and mail services. Establishing a web-based mass notification system capable of pushing information to residents would improve communication and employee efficiency while decreasing the need for direct mail, printing, postage and other associated administrative costs. Such a communication system would also allow for critical information to rapidly reach a broad number of employees during emergencies.

Federal agencies and other states have implemented web-based notification systems. such as the Federal Emergency Management Agency (FEMA). The implementation of a web-based notification system has allowed FEMA to provide real-time communication to the public eliminating delays and increasing citizen safety in emergency situations. The State of Indiana has also had great success with their web-based notification system and reported a positive return on investment of \$200 to \$250 million within 6 months of implementation.

In FY 2009-10, state entities spent an aggregate spent \$58.7 million on postage, mailing, and printing costs. A 1% reduction in these costs due to the implementation of a web-based notification system could save nearly \$600,000 for the state, annually; however, the savings could be potentially greater.

Recommendation: *To reduce costs and improve citizen communication, the Legislature should pass legislation requiring agencies to implement web-based mass notification system for all mission critical messaging.*

¹⁷⁵ \$876,000 based on FY 2008-09 data.

98. Create an eLearning-based Centralized Learning Academy

Currently, state employee training is decentralized and each agency is responsible for providing technical and non-technical training to its own employees. However, many training courses, especially the non-technical courses, are common to employees across state agencies. In the existing system, agencies individually develop or outsource, which results in waste and inefficient use of taxpayers' money.

Creating a "Centralized Learning Academy" using "eLearning" technologies will reduce training costs. Online eLearning can cut overall training costs by reducing employees' time away from work during training, the overhead associated with maintaining multiple education departments, and the costs of producing physical materials. For instructor-led training (ILT), the savings also includes program materials, meals/refreshments, facilities, cost of coordination, cost of job coverage during training, overhead of instructors, and any other cost incurred in providing traditional training. Furthermore, there are additional savings associated with the economies of scale by serving more state employees from multiple agencies simultaneously.

Studies that compare traditional classroom instruction to equivalent computer-based training instruction at Xerox, IBM, and Federal Express have shown that training time for the typical worker can be reduced by 40 percent through use of eLearning.¹⁷⁶

Even though the state training budget has been reduced from \$50.1 million in FY 2003-2004 to \$37.4 in FY 2007-2008,¹⁷⁷ there is likely still a potential 10 to 20 percent savings if training services are centralized using eLearning technology, which would produce \$3.7 – \$7.4 million in cost avoidance annually beginning in FY 2010-11, not considering any potential upfront costs.¹⁷⁸

Recommendation: *The legislature should direct the DMS to coordinate state training functions, in conjunction with the State College System where possible, in order to help eliminate duplication in employee training and expand services with existing resources. The training center should work with higher education institutions to develop appropriate learning strategies and programs for state employees. The central training office should design uniform training curricula for issues that affect all agencies.*

The training office should offer customized training, ILT, online learning, and employee certificate programs to all state employees, and agencies should be required to participate in existing programs rather than developing and offering courses in-house whenever the central courses can reasonably meet the agency's need.

¹⁷⁶ "E-Learning Benefits and ROI Comparison of E-Learning vs. Traditional Training", David Boggs, CEO, SyberWorks, Inc [Internet]. Version 5. Knol. 2008 Dec 23. Available at <http://knol.google.com/k/mary-kaylofurno/e-learning-benefits-and-roi-comparison/nti9bs9a4lxe/16>.

¹⁷⁷ "State Personnel System Annual Workforce Report 2007-2008," Florida Department of Management Services.

¹⁷⁸ For the further information about eLearning and an example of the potential savings, see: "Return-on-Investment (ROI) from eLearning, CBT and WBT," *Ron Kurtus' School for Champions* website, revised October 2002; www.school-for-champions.com/elearning/roi.htm, accessed on January 28, 2010.

99. Modernize printing and mailing operations through outsourcing

The state of Florida operates a wide range of inbound and outbound mail operations. Some agencies outsource basic print and mail functions, while others have in-house facilities. Print and mail requirements and statements of work differ from agency to agency, and efficiencies could be gained by creating an environment for sharing print and mail capabilities across agencies, which would result in greater synergies and cost savings.

The business of government remains paper-driven. States have attempted to reduce the flood of paper through the use of online services and user-friendly websites. However, there remains an over-reliance on paper and the delays caused by moving that paper through and across agencies and to and from citizens. End-to-end management of digital and paper business processes has the potential to bring significant operational efficiencies that can deliver substantial cost savings.

Inbound Mail

- Consolidate/upgrade operations to save equipment and manpower costs
- Scan mail and use work flow software to move the images to the proper work station
- Use bar code mailings to facilitate return document processing

Outbound Mail

- Reduce the frequency of mailings or combine mailings
- Reduce the weight of mail by changing the size of the envelope or its contents
- Increase postal rate discounts by adding zip+4, delivery point automation, and address correction
- Redesign documents to facilitate processing
- Automate return mail processing
- Convert to digital communication, email, for outbound

Consolidated Print Facility

- Consolidate/upgrade operations to save equipment and manpower costs
- Approach print requirements from an enterprise-wide perspective to gain shared efficiencies and savings

The consolidation and/or outsourcing of the inbound and outbound mailrooms, as well as the print facility, has the potential to generate substantial savings from postage costs, eliminated/combined mailings, upgraded hardware efficiencies and manpower reductions. The use of imaging and workflow software can eliminate the movement of documents through the agency while lowering the overall processing time by reducing the number of touch points in the process. Also, industry experts report that postage savings of 10% to 15% are standard.

In FY 2008-09, the state of Florida spent \$47 million on postage, so a 10-15 percent savings on postage **would generate \$4.7 million to \$7 million** (assuming no upfront or implementation costs because outsourcing can eliminate the need for a capital outlay by having the vendor spread the costs over the contract duration) and annually thereafter.

A leading U.S. health insurance company with more than 30 million members outsourced its print and mail function and is gaining substantial efficiencies and cost savings. It has reduced print and mail operations costs by 20 percent, decreased postage costs by 25 percent and increased liquidity and balance sheet relief due to more predictable budgeting – a total savings of \$9 million in the first year. The approach is a true partnership based on shared risk and rewards and involved a phased migration to a new, more efficient central processing center; implementing new technology and processes to evolve member communications from paper to electronic channels; and redesigning documents to reduce paper and postage. Member fulfillment services involving over 1 billion communications per year are now handled effectively and seamlessly.

The United Kingdom's largest central and civil government department, the Department for Work and Pensions (DWP), revamped its entire document supply chain to make information clearer and more easily accessible to UK citizens. Faced with stringent new government requirements, DWP looked to eliminate unnecessary duplication of print and mail functions by integrating document services across all 1,000+ offices. DWP transformed a fragmented supply chain for all its core print and related requirements. As a result, for the first time, all business print and marketing materials, stationery and reprographics are available to DWP staff through a single point of contact via the Government e-procurement exchange. The modernization will also result in substantial savings for DWP, in line with the UK Government's Efficiency Review targets, and the solution is providing a flexible, best-value shared service that serves as a government model.

Efficient print and mail operations can also be found in U.S. government operations – from Medicaid claims operations to child support payment processing operations and federal government operations. For example, the Department of Education Federal Student Aid Direct Loan program serves more than 12 million borrowers and uses a partner to manage mail operations bringing efficiency and cost savings to the operation. Outbound communications to borrowers regarding paying off loans have also improved with sophisticated email campaigns, well designed financial literacy programs, and other outreach to borrowers to provide education and counseling. As a result, the number of students defaulting on their Federal Direct Student Loans remains low at 4.8 percent, even in these tough economic times. And the FSA's borrower customer satisfaction scores are among the highest in the government and the financial services industry.

Recommendation: *The state should modernize and outsource inbound and outbound mailrooms and printing operations. Most importantly, the State should NOT view outbound mail as commodity service. Rather the state should focus competitive bids for modernizing business processes, digitizing outbound mail, combining mailings where possible, implementing mail scanning and workflow and centralizing all mail operations and modernizing equipment.*

Section V: Reduce State Travel Expenditures

100. Reduce state travel costs

The state incurs significant travel costs for state advisory boards. The Florida Legislature should permanently end, or temporarily suspend, the practice of paying the travel expenses for individuals servicing on state boards.

In 2010, the state spent nearly \$63 million on in-state and out-of-state travel expenses. **A 1% reduction in this figure due to the implementation of a more discretionary travel system for state boards, such as instituting a needs based “hardship fund”, could save the state over \$600,000, annually.**

Recommendation: *The state should create a ‘hardship fund’ that will continue to fund the travel of certain individuals serving on advisory boards on a needs basis.*

101. Explore potential to consolidate boards and administrative support costs

The state government currently has more than 70 major boards and commissions that regulate industries and professions in Florida.¹⁷⁹ Several states have gone through a substantial revision and reorganization of their boards and commissions. For instance, the State of Washington recently eliminated and consolidated the functions of 45 boards and commissions.¹⁸⁰ Similar efforts have occurred or are currently underway in several other states, including Connecticut, California, Utah, Iowa, Oklahoma, New York, Michigan, Maine, and West Virginia. These entities should be considered for consolidation or possible abolishment if they are longer crucial to effective state government.

Recommendation: *The legislature should require a comprehensive review of existing state boards and commissions for potential consolidation and elimination. Furthermore, the subsistence, lodging, and travel allowances given to the board and commission members should be reviewed as well as a means to reduce taxpayer expenses on these entities.*

The Legislature should review state boards and work to reduce the number of state boards and the associated administrative costs.

102. Expand use of teleconferencing (including online meetings and video conferencing) to reduce state travel expenses

Teleconferencing is now being used by the private sector to reduce travel costs associated with in-person meetings. The technology is well-established, inexpensive, and already widely available throughout state agencies and the Legislature. Increasing the use of teleconferencing for state government meetings would produce significant savings for the state, especially where

¹⁷⁹ <http://dlis.dos.state.fl.us/fgils/boards.html>, accessed on November 11, 2010.

¹⁸⁰ <http://apps.leg.wa.gov/documents/billdocs/2009-10/Pdf/Bill%20Reports/House/2617-S2.E%20HBR%20PL%2010%20E1.pdf> accessed on November 11, 2010.

the technology to conduct teleconferences already exists in state facilities. According to a 1999 report by Kentucky’s Legislative Research Commission, at least twelve states use video conferencing for committee meetings involving state legislators and/or witnesses testifying from a remote location.¹⁸¹

During FY2008-09, the Florida Legislature spent approximately \$5.4 million on expenses related to in-state travel. More than \$2 million (approximately 35 percent) of these expenditures took place between November and February, the time period where committee week meetings are held prior to session. Nearly all of the remaining expenditures were spent between March and May when the Legislature holds its annual General Session.

Telephone conferences, online meeting technology, and video conferencing systems are readily available and would save travel time, increase employee productivity, and maintain employee/management or group interaction.

Given the available technology, the Legislature could conduct some early committee hearings using teleconferencing. For example, if the Legislature held one out of every four meetings using teleconferencing, the state would save approximately \$500,000 per year in travel costs (not including any implementation costs). If one in ten committee meetings were held using teleconferencing, the savings would be \$200,000 per year in travel costs. If the same examples were applied to the Legislature’s annual travel budget, the state would save \$540,000 to \$1.35 million annually (not including any implementation costs). Furthermore, expanding teleconferencing to replace a portion of all in-state travel across all state entities, including statutorily or constitutionally created advisory bodies, would increase the savings dramatically. In FY2008-09, the state spent approximately \$75.4 million total on in-state travel. **A 10 to 25 percent reduction of in-state travel costs would yield a savings of \$7.5 million to \$18.9 million annually** (not including any implementation costs).

Figure 73: The Annual Savings from reducing In-state Travel Costs

Entity	Current Expenditures	25% Reduction	10% Reduction
Legislature: November – February	\$2 million	\$500,000	\$200,000
Legislature: Total Year	\$5.4 million	\$1.3 million	\$540,000
All State Entities	\$75.4 million	\$18.9 million	\$7.5 million

Recommendation: *The Legislature electronically conduct at least one in four meetings during committee week electronically to reduce travel costs and reduce travel-related appropriations for all state entities by at least 10%. The Legislature should also direct that each entity conduct their meetings remotely whenever possible without disrupting the quality of the services provided to taxpayers.*

¹⁸¹ “Videoconferencing and the Kentucky General Assembly,” Research Report #287, Legislative Research Commission, Frankfort, KY (November 1999), p.11.

103. Consolidate management of small state vehicle fleets

Florida's Division of Fleet Management (DFM), a branch of the DMS, oversees and sets the basic standards for the acquisition, maintenance, and replacement of state vehicles.¹⁸² Each state agency is then responsible for managing their respective fleets and referring to DFM when needed. In agencies with small fleets, vehicle management is typically performed by individuals who have other responsibilities and may lack pertinent training. Pooling smaller fleets composed of similar vehicles under a single, knowledgeable managing entity, and allowing vehicles to be shared between agencies, would promote more efficient allocation and reduce unnecessary costs. The management of these pooled fleets could be performed by the state (possibly by agencies with larger fleets and professional fleet managers) or through an outsourced contract with a private company. A study conducted by the state of Iowa found significant savings when large state agencies provided budget, accounting, and pre-audit support free of charge to smaller state agencies which only had a minimal effect on the staff's workload.¹⁸³ Additional fuel efficiency savings could be achieved through management of vehicle location and placement of newer and/or more fuel efficient vehicles in the areas with the largest travel routes. Industry experts estimate that fuel and maintenance costs of small fleets could be reduced significantly within two years if management of these fleets were consolidated and/or outsourced.

In FY 2009-10 there were 3,735 vehicles that were part of state fleets with fewer than 500 vehicles; the total combined fuel and maintenance costs for these fleets is approximately \$7.3 million during this period. **If at least half of these vehicles were outsourced and the fuel and maintenance costs decreased by just 10 percent over the two-year period, then the state would realize a \$365,500 savings over two years. If a 50 percent decline in fuel and maintenance costs were achieved for half of the vehicles in the small fleets, then the savings would be approximately \$1.8 million over two years.** As the number of state-owned vehicles managed in fleets with fewer than 500 vehicles is reduced to zero, annual savings could more than double.

Recommendation: *The legislature require a contract for a private vendor or agencies with larger fleets be competitively bid to provide and maintain the vehicles of eligible agencies with fleets of 500 vehicles or fewer.*

104. Increase use of rental vehicles instead of purchased vehicles

In 2006, the Virginia Office of Fleet Management Services (OFMS) contracted with a private rental company to provide the state with vehicles on demand for "short-term" travel by state employees at discounted rates. "Short-term" travel refers to temporary use of vehicle but has no

¹⁸² In FY2008-09 the state spent \$13.3 million on the acquisition of 648 new vehicles.¹⁸² A significant portion of this acquisition cost could be averted if certain vehicles were rented instead of bought. Further, maintenance and fuels costs could be reduced significantly through the rental of vehicles. In FY2008-09, the state paid approximately \$18.3 million on fuel and \$11 million on maintenance.

¹⁸³ "Iowa Efficiency Review Report to Governor Chet Culver and Lt. Governor Patty Judge", Public Works LLC, 2009.

limited time period, as long as the vehicle is not a stable part of the job (e.g. police vehicle), it can be considered for short-term use.

Additionally, the OFMS website has a “trip calculator” that allows state employees to compare the cost of obtaining a short-term trip vehicle from the contracted rental company versus the cost of using a state vehicle to aid in the decision of whether a vehicle should be rented or not. The calculator also factors in the cost of fuel; however, fuel is not included in services provide andstate employees using rental vehicles must purchase fuel from third party.

This system reduced Virginia’s state fleet by 130 units, or 3.25%. Outsourced vehicles were older. Thus, the total cost avoidance for the state of Virginia in the reduced purchasing of new vehicles since the inception of the program has been \$1,950,000, using an average value of \$15,000 (figure provided by OFMS) as the cost of a new vehicle. Furthermore, in FY09, Virginia avoided \$910,526 in additional operational costs including: fuel costs and reimbursement costs. **A 3.25% reduction of vehicles in Florida’s fleet (excluding the top six largest fleets) is about 121 units, with \$1.8 million cost avoidance in the purchase of new vehicles.** This savings would be in addition to significant operational cost-savings that would be incurred.

Recommendation: *The legislature require a contract for a private vendor be competitively bid to provide rental vehicles to employees for “short-term” trips where the use of such vehicles would constitute reduced costs over the use of state-owned vehicles.*

105. Revise F.S. 286.29 to include rental vehicles

F.S. 286.29 requires state agencies, state universities, community colleges, and local governments that purchasing or leasing vehicles to select vehicles with “the greatest fuel efficiency available for a given class when fuel economy data are available.” When rental vehicles are used for “short-term” travel by state employees, further savings can be realized by require rental vehicles to be the most fuel-efficient vehicles available. An exact cost-savings cannot be calculated because future use of rental vehicles cannot be determined, but using the most fuel-efficient vehicles will surely produce savings on fuel expenditures. To further the state’s practice of climate-friendly public business, rental vehicles should be hybrid and alternative-fuel vehicles whenever they are available.

Recommendation: *The Legislature should require contracts with private vendors for rental vehicles to use the most fuel-efficient vehicles suitable for the need.*

106. Explore metrics for fleet fuel efficiency and implement a minimum standard

For FY 2009-10, fuel costs for all vehicles that were part of state fleets with fewer than 500 exceeded \$4.65 million¹⁸⁴. The average fuel-efficiency for all vehicles in this category was 18.78

¹⁸⁴ Data provided by the Florida Division of Fleet Management

miles per gallon¹⁸⁵. Reducing fuel consumption by 10% would have saved the state \$465,000 dollars. Although state agencies have diverse needs and require the use of different types of vehicles, vehicles that require replacement should be replaced with hybrid vehicles, alternative fuel vehicles (where the geographic use of such vehicles matches the availability of fuel), or vehicles that are the most fuel efficient in their class to minimize gasoline consumption.

Recommendation: *The legislature should require the Florida Division of Fleet Management (DFM) set a target for reducing fuel consumption and develop a metric for tracking the fuel-efficiency of the vehicle fleet. A minimum fuel-efficiency standard should be established. The metric will help indentify vehicles that do not meet the minimum standard. Since the cost of acquiring new vehicles may outweigh the savings from increased fuel efficiency, DFM should conduct a cost-benefit analysis to determine if it is cheaper to replace the vehicle immediately or wait until the vehicle's usefulness expires. All candidates for replacement should be replaced with hybrid or alternative-fuel vehicles whenever feasible. Exceptions for emergency response vehicles provided by F.S. 286.29 should still apply.*

107. Improve oversight of state air fleet (and non-vehicular fleet)

There is currently no comprehensive oversight of the state's air fleet and agencies are not required to report their use to DMS. Without an accurate inventory of the state's current air and non-vehicular fleet (e.g. watercraft, forklifts) it is impossible to gauge the efficiency of their use and maintenance. By directing state agencies to disclose all non-vehicular operational costs to DMS, significant cost-savings could be achieved through greater oversight and accountability of how these specific assets are utilized and maintained.

Recommendation: *The legislature should require state agencies to report all information on the purchase, maintenance, and use of air vehicles consistent with state automobiles.*

Section VI: Other

108. Increase use of owner controlled insurance programs (OICPs) for construction projects

Presently, many construction projects require each project-related party to provide workers' compensation and general liability coverage. Use of an Owner Controlled Insurance Program (OCIP) where the owner elects to purchase workers' compensation and general liability coverage for all project-related parties can save between 1-2.5% in construction project costs.

In FY2008-09, construction costs were \$628,116,706 (excluding building and construction materials); if the state saved only 1 percent of the total cost by using OCIP, the savings would be approximately \$6.28 million annually.

¹⁸⁵ Calculated as total miles traveled divided by total gallons of fuel consumed by all vehicles.

Recommendation: *The legislature should require agencies to use OCIP where possible for construction projects.*

109. Implement Managed Print Services to Reduce Cost and Improve Service in State Office Print Environments

Managed Print Services (MPS) is the ability for a service provider to take primary responsibility for meeting office output needs, including all equipment, supplies, services, and the overall management of the office output device and printing environment.

MPS has garnered the attention of industry research and consulting firms such as IDC and the Gartner Group. In June 2010, IDC referred to MPS as a “game-changing trend, enabling companies of all sizes to focus on the infrastructure costs associated with printing.”¹⁸⁶ In 2009, the Gartner Group characterized MPS as a generic term for a service offered by external providers designed to drive costs down while increasing productivity and efficiency.¹⁸⁷

Typical Office Environment: In the State of Florida today, each agency is responsible for managing its own print environment. There is little, if any, standardization of process or policy across agencies. Within agencies, printing and related costs are typically spread across numerous divisions and programs with little ability to control and manage costs. In many cases, there is no measurement of management of the cost of printing, especially at the office worker level, where printers are more often than not directly connected to PCs. This is the most expensive means in the industry to print.

While the State simply does not know the characteristics or costs of its printing, the typical office printing environment in the public sector has the following characteristics. The average age of a device is over six years and is utilized only 1.4% of the time. There is one device for every two office workers, little standardization of equipment and many of the devices are not connected to the network so cannot be properly managed or secured. The average cost per employee per year for printing in this environment is \$450. Further, the amount of printing in the office is trending higher each year.

In contrast, a best practice office print environment that can be achieved with a managed print services approach has an employee to device ratio of ten to one. Utilization of the devices is 3 to 4%. Most or all of the devices are attached to the network and model types are standardized. This allows devices to be managed remotely and provides better compliance and security.

MPS is Used Widely in the Commercial and Public Sectors: Numerous commercial and public sector entities have taken advantage of managed print services. It is a mature service offering with a \$5 billion plus market annually and growing at 16% compound annual growth rate. Benefits of this type of service are numerous and include:

¹⁸⁶ IDC Executive Brief, Key Factors in Making an Informed Managed Print Services Decision, June 2010.

¹⁸⁷ Gartner, Magic Quadrant for Managed Print Services Worldwide, August 21, 2009.

- Asset Optimization - Less equipment costs; balanced deployment of assets; consolidation of device types; removal of aging/costly devices; better asset management
- Consumables Management - Proactive supplies management; inventory management; fewer SKUs; economies of scale reduces costs
- Helpdesk - Proactive device management; reduced helpdesk calls; single break-fix supplier
- Technology Refresh – Newer equipment on average and equipment deployed to exceed service level requirements
- Power Consumption - Asset optimization can deliver 50%+ savings in device power consumption

Savings Estimate: Typically entities that move to a managed print services environment save 20 to 30 percent of their output related costs. **For the state of Florida, this would represent savings in the range of \$12 to \$18 million dollars annually calculated as follows.**

- Approximately 220,000 employees in state agencies and entities.
- Assume 60% of the employees are office workers or 132,000 office workers
- \$450 is the average annual cost per office worker for printing
- Based on the above, the state is spending about \$60,000,000 per year on printing
- 20% savings is \$12,000,000 per year
- 30% savings is \$18,000,000 per year

Recommendation: *The state should require all agencies to assess the current costs and status of their print environments and move immediately to a managed print service.*

110. Increase state employee parking fees to make the parking system self sufficient

State employee parking fees have not been raised since 1972 and they are not sufficient to cover the cost of the state owned (taxpayer funded) parking services. A 1999 OPPAGA report found that:

“Annual revenues from these fees do not cover the cost of administering, maintaining, and providing security for parking facilities in the Florida Facilities Pool. Fee revenues also do not cover any of the costs associated with constructing parking facilities and acquiring land on which to build them. Further, the Department of Management Services is not complying with statutory requirements to establish a fee for scramble permits. Raising parking fees would help the Facilities Program recover more of its costs and could have the effect of

reducing employee demand for parking and encouraging use of alternative modes of transportation.”¹⁸⁸

A 2008 OPPAGA Research Memorandum finds that fees have not been raised and they are still insufficient to cover program costs.

Current parking fees for reserved/permit paid parking are as follows:

Covered: Monthly - \$6.00; Biweekly - \$2.77; Daily - 19.8 cents

Uncovered: Monthly - \$4.00; Biweekly - \$1.85; Daily - 13.3 cents

Surface: Monthly - \$2.00; Biweekly - \$ 0.93; Daily - 6.6 cents

The OPPAGA report recommended a new schedule of fees that would cover the costs of operating, maintaining, and constructing the parking facilities. It offered three schedules of fees to cover: 1) the cost of operating and maintaining parking facilities; 2) the cost of operating, maintaining and one-half of constructing the facilities; and 3) the cost of operating, maintaining and all of constructing the facilities. **Increased annual revenues range from \$750,000 for Schedule 1 to \$3.6 million for Schedule 3.**

Recommendation: *The legislature increase state employee parking fees to fully cover the costs of operating, maintaining, and constructing the parking facilities, as per the OPPAGA report, using the following two options:*

Alternative #1: Increase state employee parking fees to cover the costs of operating and maintaining the parking facilities, and half of the cost of construction. This reform would raise \$2.2 million.

Alternative #2: Increase state employee parking fees to only cover the costs of operating and maintaining the parking facilities. This reform would raise \$750,000.

111. Expand use of Department of Correction land for agriculture and other productive purposes

The Department of Corrections (DOC) currently sets aside land for agriculture on which “low-risk” inmates produce crops for self-sustenance. Expanding the use of corrections land for agriculture or other revenue-generating endeavors could reduce the cost of prison upkeep (by producing food or needed items) and/or generate revenue to off-set the cost to the taxpayers of maintaining prisoners.

Recommendation: *The legislature should direct the Office of Program Policy Analysis and Government Accountability (OPPAGA) to identify any idle or underutilized DOC land and determine whether any portion of it could be: turned to agriculture and/or used in the production of renewable energy.*

¹⁸⁸ “Facilities Program Has Privatized More Services; Parking Fees Still Insufficient,” OPPAGA Report #98-82, June 1999.

112. Form compensation commission to determine actual competitiveness of state compensation with other states, local governments, and private sector (weighing each differently to determine an actual comparison)

National data show that state and local government employees earn on average 45% more in total hourly compensation (including wages and, health and other benefits) than their private sector counterparts.¹⁸⁹ Although such figures provide some insight into the existing disparities between public and private industry compensation, there are virtually no comprehensive studies that provide a thorough comparison of Florida's state employee compensation package with those offered by other state governments, local governments, and private sector employers.

Conducting a study that provides a detailed analysis of how Florida's state government employee compensation package compares to those of the state's private sector, local governments, and other state governments is essential to identifying where Florida ranks with regards to its labor expenditures. Comparing the marginal differences in Florida's state wages, sick/annual leave payouts, health insurance contributions, and other benefits by controlling for various employee characteristics (e.g.; educational attainment, job type, age, race, and educational attainment) across these sectors can provide policymakers with a more accurate depiction of the composition of Florida's state workforce and a more adequate vantage point from which to make decisions for making the state's employee compensation package more competitive.

Recommendation: *The legislature should commission a study to determine the actual competitiveness of Florida's state government compensation with other states, local governments, and the private sector. The results of such a study will empower Florida's political leaders to make necessary improvements on how state employees are compensated.*

113. Implement Fraud Deterrent System for Child Care Providers

As of September 2010, Florida pays an average of 9,671 child care providers for services provided to 168,200 children¹⁹⁰. Implementing an automated point-of-sale utilization program rather than relying on provider self-reporting of attendance would reduce the incidence of aberrant payments and save the State of Florida tens of \$millions annually. An automated services program would reduce incorrect payments and fraud while saving administrative funds through the elimination of data entry activities associated with provider invoicing.

Parents or designated caregivers check children in and out of care with attendance verified through the use of a swipe-card or other point-of-sale verification method. Such automated programs are available from reputable contract service providers and are in use in other states. The program could be implemented quickly.

Similar programs are currently fully or partially operational in Oklahoma, Indiana, Texas, Colorado and Louisiana. Ohio, Virginia, New Jersey and Alabama are currently in the

¹⁸⁹ Bureau of Labor Statistics National Compensation Survey

¹⁹⁰ http://factbook.flawwi.com/oel_1.aspx

implementation phase. These services have been documented to reduce state child care provider costs by 10% or more by eliminating payment of fraudulent and errant billings.

Oklahoma also made changes in their child care rules to maximize the savings that could be obtained through automation. Additional administrative savings were realized through reassignment and attrition of data entry and audit staff, and through elimination of paper check printing and mailing. The savings realized in Oklahoma is a product of both the technology and the strengthened rules which require providers to utilize the technology. The use of the technology without strong supporting rules would result in fewer savings.

Assuming a savings estimate of 10%¹⁹¹, the estimated savings for Florida would be \$4.7m¹⁹² per month; based on other States experience the service could be provided for less than \$1m per month, **making the estimated savings to the state in FY 2010-11 \$3.7M per month or a total of \$44.4M per year.**

Recommendation: *The state should immediately contract for an automated point-of-sale child care utilization verification service and the legislature should require all providers in the state system to utilize the service.*

114. Require reimbursement of the training costs for certified law enforcement/corrections officers that terminate employment with the state prior to completing two years of service with the state

Florida expends significant resources on training and certifying state law enforcement and correctional officers each year. These newly trained and certified officers are often recruited and hired away from state service by local governments who then enjoy the benefit of not having to incur training and certification costs for new personnel. State government could reduce its training and certification expenditures by requiring local governments to reimburse the state for training and certification costs for all certified officers who terminate their employment with the state for a job with local government prior to completing two years of service. Alternatively, the state agencies could require employment agreements, obligating the officers to reimburse such costs should they terminate state employment prior to completing 2 years of state service. This would ensure reimbursement regardless of the benefitting agency or government.

Recommendation: *The Legislature should statutorily require reimbursement for training and certification costs incurred for all state law enforcement/corrections officers terminating employment prior to completing a minimum of 2 years of state service. Reimbursement could be required from the officer or a local government hiring the officer.*

¹⁹¹ Oklahoma projected savings as published in the Hearing before the Health and Human Services Committee on Ways and Means, One Hundred and Ninth Congress

¹⁹² Administration of Children and Families – 2008 Child Care and Development Fund Expenditure Report

115. Implement centralized statewide power monitoring/management for PCs

Reducing personal computer (PC) energy consumption across agencies through power management could produce immediate and long-term savings for the state. Any organization that uses a large number of individual computers runs the risk of energy waste when individuals choose to turn off a machine's power-conserving settings or leave their computers running unnecessarily during off-hours. Implementing an automatic computer shutoff program would enable IT administrators to centrally manage and continuously enforce power management policies on all state-owned PCs without sacrificing manageability, usability, and security.

Power management solutions have been implemented in numerous states by outsourced contractors who can program automatic computer shut off throughout the entire network for a low cost. Examples include Miami-Dade County Public Schools, which also used the same idea to manage their air conditioning systems. IT administrators may be able to set up automatic shutoff in-house, either network wide or on individual computers.

Power management through automatic computer shutoff can provide a quick return on investment by reducing a single desktop computer's power consumption by as much as 60 percent, potentially saving \$25 per computer per year by reducing energy costs.¹⁹³ **Based on the \$25 annual savings per computer, the estimated savings for Florida would be more than \$3.1 million annually.**¹⁹⁴

Recommendation: *The Legislature should direct the DMS to implement a power management through automatic computer shutoff program on or before July 1, 2010, either through an outsourced contract or internally.*

116. Manage and control the use of overtime through the implementation of a statewide integrated time and scheduling system

If state agencies do not know how much overtime their employees are accumulating, then they cannot control or predict how much overtime pay will cost their agency. Implementing a web-based, statewide integrated time and scheduling system will increase payroll budgetary controls through uniform application of scheduled and non-scheduled overtime pay. In some agencies, an improved scheduling process is needed to both control the payroll function and to schedule appropriately in order to avoid overtime, which can be very expensive for the taxpayers. According to industry experts, overtime can be reduced by at least 2-3 percent through the implementation of an advanced, integrated scheduling system.

Additionally, implementing an integrated system will reduce costly payroll errors. Manual time card error rate usually runs at .005 percent, which can cost the state hundreds of thousands of

¹⁹³ "Big Fix Power Management Lowers Power Bills and Shrinks Carbon Footprint", Miami Dade County Schools, 2007. http://www.energystar.gov/ia/products/power_mgt/MDCPS_Power_Mgt.pdf.

¹⁹⁴ Savings estimate based on 125,000 state owned computers.

dollars per month. According to the American Payroll Association (APA), automated scheduling systems alone are able to reduce overtime in any organization by an average of 2-3 percent.¹⁹⁵

A) Reduce overtime expenditures by 1 percent:

In FY 2008-09, Florida state agencies paid \$22.9 million in overtime to 16,329 employees. Therefore, if Florida were able to realize even a 10 percent reduction in overtime expenditures, **the state would save approximately \$2.3 million in FY 2010-11 and every year thereafter** (not including implementation costs).

B) Reduce overtime expenditures by 50 percent:

In FY 2008-09, Florida state agencies paid \$22.9 million in overtime to 16,329 employees. Therefore, if Florida were able to cut its overtime expenditures by 50 percent, **the state would save approximately \$11.45 million in FY 2010-11 and every year thereafter** (not including implementation costs).

Recommendation: *The legislature should direct the creation, either in-house or through contract, of an improved statewide payroll system that increases the state's payroll budgetary controls through uniform application of scheduled and non-scheduled overtime pay.*

117. Modernization and Outsourcing of call centers

State agency call centers typically provide information about agency services, offer guidance on regulations, respond to consumer complaints, provide help in completing processes (e.g., obtaining a business license, applying for unemployment benefits), and refer customers to other agencies.

For a number of reasons, it is very difficult for the state to operate efficient call centers. In many cases, the demands on call centers can vary widely and change quickly due to external factors. For example, the demand placed on AWI's call centers sky-rocketed as the unemployment rate increased to record levels. Similarly, the demands on DHS&MV increased beyond their ability to respond effectively due to the implementation of RealID. Most recently, DCF has submitted a Legislative Budget Request (LBR) for \$17.4M to hire 354 call center agents for the ACCESS program. According to the LBR, the demand for food stamps has increased by 127% since 2007. As a result, 2.3 million calls come into the DCF-operated call centers each month (a 900,000 increase compared to April 2008). Only 38% of these calls are handled by the Automated Response Unit. The others are transferred to the call centers where 2/3's (over 940,00 calls) ring busy or are dropped(x footnote).

Situations such as this and others including hurricanes and epidemics and federal mandates can place extreme demands on call centers and result in very poor service to Florida citizens. When this happens, state-operated call centers cannot respond. Agencies cannot hire the incremental

¹⁹⁵ This statistic is based on average U.S. corporate employee mix, which typically has a much higher percentage of exempt status employees.

staff that is needed nor implement additional technology that may be required. Further, when demand goes down, agencies are sometimes reluctant to release staff.

It is a business not well-suited for the State. Private industry does not have the same constraints. There are numerous firms that have expertise in this area that can provide best-practices and state-of-art technology. Some are already providing service to the State. The State generally implements strict Service Levels Agreements (SLA's) that must be met by the contractor. Agencies that outsource call centers typically require an average speed to answer of two minutes or less. By contrast, it is not unusual to be hold for 15 minutes or longer in state-operated call centers with many calls that never get through. Outsourcers can rapidly move staff levels up and down as needed – where as the State cannot. **It is important to note that outsourcing does not mean off-shore.** The State routinely requires that all call centers performing state business be located within the State of Florida or at least within the United States.

Consolidating call centers can further reduce costs while improving service. Consolidated call centers can reduce redundant calls to multiple numbers, call center transfer costs, and staff hours spent handling routine requests, all of which help lower costs. A central facility allows for cross training of customer service representatives for routine customer assistance thereby reducing total staff requirements while providing surge capacity when a program within the call center experiences unusual demand.

According to OPPAGA's analysis, 21 state agencies spend \$149 million annually to operate 49 call centers in FY 2008-09. At least 11 of these agencies operate multiple centers (which focus on different subjects or provide different types of services based on the different functions of the agency) and nine centers operate multiple locations (i.e., the same call center function operates out of multiple physical locations). These state agencies' 49 contact centers utilize 2,882 FTE.¹⁹⁶

Call center consolidation is becoming more common in the public sector, including department-wide consolidations at the state level and county- or city-wide consolidations such as 311 services. Although 39 state agencies have made efforts to consolidate these centers, the Legislature should consider further opportunities to achieve efficiencies and cost-savings.

Maximum benefits are achieved when centers that have similar functions are consolidated according to studies of contact center consolidation in New York City and Georgia which include server and data center sharing as well as physical location consolidation of specialty services.¹⁹⁷ Examples of efficient, effective consolidations include the State of Louisiana's human services call center, and a similar call center for human services in Denver, Colorado.¹⁹⁸

X LAS/PBS Report, Exhibit D-3A, October 15, 2010

¹⁹⁶ OPPAGA, "Several Option Exist for Streamlining State Agency Contact Centers", Report No.09-43, Dec. 2009, p.1,5 available at: www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0943rpt.pdf

¹⁹⁷ New York City consolidated all of its 55 call centers into 2 in 2009 and expects \$300 million in cost savings. http://www.govtech.com/gt/731589?id=731589&full=1&story_pg=2

¹⁹⁸ See Reference 20.

Microsoft conducted data center and server consolidation within its company in 2004 and found a 40 percent reduction in spending when the numbers of sites were reduced by 54 percent and servers were reduced by 27 percent through consolidation.

Assuming a 1 percent spending reduction due to appropriate consolidation of call centers, the state would save approximately \$1.5 million annually. However, the greater savings and benefit of vastly improved service would come from outsourcing to vendors with this expertise. Additionally, enhanced long term cost savings for the state will be achieved due to a reduction of management, facility, implementation, and equipment costs. Other cost savings may result from streamlined operations that save time and money due to reduced training and overall duplication.¹⁹⁹

Recommendation: *The Legislature should require that agencies with large call centers that are unable to provide acceptable service (specifically DCF and DHS&MV) to issue competitive bids to privatize the call centers within the state of Florida. Funding can be provided by transferring budget dollars for current FTEs. If the proposal responses indicate better service levels and lower costs, these agencies should enter into privatized contracts. This will be far more expedient and far more accurate, that asking agencies to do “feasibility studies”.*

Concurrently, the Legislature should require the AEIT to evaluate the following: Consolidation of multiple call centers in the same agencies into a single call center, consolidation of call centers that have similar functions across multiple agencies into a single call center; and consolidation of all call centers into a single statewide center. It is imperative that the consolidated centers have accompanying websites with support information and duplicate content that is provided by call centers to reduce routine calls and provide easier access to information.

118. Transition to a four-day workweek

As a means of reducing overhead, some private sector firms are transitioning from a 5-day, 8-hour workweek to a 4-day, 10-hour workweek. The four-day workweek would allow state office buildings to be closed one day per week (presumably Fridays), which means that the buildings do not have to be heated, cooled, cleaned, or lit. Potential operational cost savings include utilities (i.e., energy costs), janitorial services, and maintenance as well as a reduction in the state’s carbon footprint.

In some cases, compressed workweeks may produce modest energy cost savings by closing state office buildings an additional one day each week. The Department of Management Services constructed two models to assess the potential savings from a mandatory compressed workweek and estimated savings ranging from 2% to 4% (\$203,834 to \$407,667 annually) for buildings in

¹⁹⁹ Mitchell, Ike. “Call Center Consolidation”, Computer Sciences Corporation, 2001.
http://www.usaservices.gov/pdf_docs/843_1.pdf

the Tallahassee Capitol Complex.²⁰⁰ However, it is important to mention that department officials reported that these models assume a direct link between building operational hours and energy consumption, which may overestimate savings because some functions such as data center operations cannot be shut down during compressed workweeks.²⁰¹

The use of a 4 day-10 hour workweek has been considered in a number of states, with Utah being the only example of a statewide implementation with a full year of experience.

- Utah – Statewide with full year results
- Hawaii – Limited pilot program
- Washington – Limited pilot program
- Virginia & West Virginia – Under consideration
- Iowa – Recently recommended as part of efficiency review conducted for the Governor

The state of Utah saved more than \$4.8 million in the first year from implementing the four-day workweek. Most of the savings associated with the transition to a four-day workweek in Utah was due to the resulting reduction of employee overtime – Utah realized 161,000 fewer hours of overtime resulting in a savings of \$4.1 million.²⁰² In FY 2008-09, Florida state agencies paid \$22.9 million in overtime to 16,329 employees. Savings realized from overtime alone could be significant. Based on Utah’s experience and factoring the savings to Florida based on employee populations, the state would be able to save nearly \$30 million annually in overtime costs if transitioning all state employees to the four-day workweek achieved the overtime savings realized by Utah.²⁰³

In addition to overtime-related savings, Utah also achieved a 13 percent reduction in energy usage.²⁰⁴ A 13 percent reduction in energy usage in Florida would generate \$18,058,997

²⁰⁰ The first model estimates savings by assuming there is a direct link between the reduction in building operational hours and potential energy cost savings. The second model performs a standard linear regression using national-level data predicting the building energy use intensity based on building operational hours. The second model also assumes that there is a direct relationship between the reduction in energy use intensity and cost savings.

²⁰¹ “Some Alternative Work Arrangements Can Reduce Costs and Provide Employee Benefits,” OPPAGA Report #10-04, January 2010.

²⁰² Some experts have ventured that the longer work days enabled employees to complete more work even with fewer days and thus reduce the need for overtime. “The 4-Day Work Week: Is it Good for Business?”, Center for Competitive Management, Brigham Young University, 2008.

²⁰³ Florida has 7.25 times the number of Utah state employees transitioned to the four-day workweek. Florida estimates are calculated based on the savings experienced by Utah applied to the ratio of employees in Florida excluding higher education (124,963), thus Florida savings: \$4,100,000 * 7.25 = \$29,725,000.

²⁰⁴ “Utah 4-Day Workweek Cuts Energy Usage by 13 percent,” The Salt Lake City Tribune, 5 August 2009.

www.sltrib.com/news/ci_12997595?source=rss

annually in savings for the state. If a similar decrease in the use of water and sewage are factored in, the savings would be \$21,321,705.²⁰⁵

Utah also realized savings and benefits that were not necessarily expected, including:

- A significant reduction in employee sick days;
- With DMV offices open earlier and staying open later, lines were shorter
- 85% of state employees were enthusiastic about the new schedule.²⁰⁶

The four-day workweek also has a “green” goal and a financial benefit for state employees. Greenhouse gas emissions were reduced by an estimated 12,000 metric tons in Utah due to the commuting decrease and office building shutdowns, and state employees saved as much as \$6 million in gasoline costs due to reduced commutes.

It is uncertain what percentage of the employees would be able to be transitioned to a four-day workweek. Additionally, these estimates are based on full participation of working units within a facility and would not necessarily apply proportionately to partial participation. Nonetheless, combining the overtime savings and the utility cost savings based on Utah’s successful experiment (not including any associated implementation costs or diminished savings due to partial participation), **Florida would save between \$4.7 million and \$5.1 million if just 10 percent of (non-higher education) employees were transitioned to the 10-hour, four-day workweek.**

The state would need to ensure that lease agreements reflect the savings, especially where the agreements include certain overhead costs.

Recommendation: *The Legislature should direct state agencies to increase utilization of a four day workweek for employees where practical. Alternatively, the Legislature should direct DMS to evaluate the possibility of transitioning some government functions to four-day workweeks and develop a pilot program to be analyzed by OPPAGA.*

119. Implement a web-based volunteer management system for K-12 through higher education

Presently, high school students must track and report volunteer hours worked as part of Bright Futures scholarship requirements. In addition, college students must track internship hours and hours worked to meet certain Degree work-experience requirements. Overall, the tracking of ‘student hours’ is a laborious, paper/time-intensive task involving the processing of tens of thousands of paper timesheets and redundant data entry – in short, the current process is inefficient and time consuming.

²⁰⁵ Energy usage as shown by Florida Accounting and Information (FLAIR) data for FY2008-09 expenditures for the following utilities items: electricity, natural gas, and steam.

²⁰⁶ A survey is being conducted by Utah to determine whether the general public found the availability of state offices open more hours outside of the work day was better than the additional day.

Some educational institutions have implemented a web-based application to account for volunteer hours/hours worked. The K-12 and Higher Education System could greatly increase efficiency and reduce costs by implementing a statewide web-based volunteer management system. These cost savings could be achieved through decreased staff time, it is estimated that staff could reduce time spent on volunteer management by 3-5 hours a week.

To reduce costs and improve operating efficiencies, the Legislature should pass legislation requiring all Florida school districts and the Florida Board of Governors to implement a statewide web-based application to account for volunteer hours/hours worked.

Government Cost Savings Task Force

Chapter 8: Productivity Enhancement and Workforce Optimization

Report..... p. 196 - 202

Recommendations..... p. 202

120. **Implement “organically grown efficiencies” program**
121. **Expand participation in the Prudential – Davis Productivity Awards program**
122. **Increase implementation of adaptable Prudential – Davis Productivity Awards program achievements throughout state government**
123. **Expand use of agency savings-sharing program**
124. **Require each agency to review size and structure of workforce**
125. **Create benchmarks for administrative costs and overhead across agencies**

Introduction

The state could achieve significant savings through increasing productivity and optimizing the state workforce. The first step to improving productivity is to establish a “culture of innovation” within state government.

Establish a “Culture of Innovation” within state government

A culture of innovation in government can provide the bedrock for organically growing efficiencies which are critical to providing world class public services while containing unit costs. A culture of innovation emphasizes continuous quality improvement, including benchmarks for performance, incentives, and recognition. Productivity is a desired outcome of, but not a proxy for, innovation.

The late management guru Peter Drucker cited seven sources of innovation in work environments: The unexpected, incongruities, process needs, changes in organizational structure, demographics, changes in public mood or perception, and new knowledge.

Innovation, according to Drucker, involves six steps:

- identify an opportunity,
- create a new possibility to address it,
- create a business plan that includes costs, benefits, risks, responses to risk, and key milestones,
- listen to fellow employees and customers,
- fine tune and execute the business plan, and
- focus attention on a simple idea behind a change to minimize distractions.

In an Innovation Culture...

Innovation is embedded in the social and physical environment, language, day-to-day operating procedures, and routines. Innovation is a value that is accepted by employees for guiding and motivating behavior. Basic underlying assumptions and patterns of belief are taken for granted to the point that they are not questioned.

Ingredients of a Culture of Innovation

With consistency, persistence, and over time, build an organizational culture that makes innovation the norm.

- Remove constraints from people by sharing knowledge and decision making.
- Foster expanding horizons, not internal needs.
- Create an environment of creativity and intellectual satisfaction – identify those who fit and those who do not.
- Set up benchmarks for performance, action, and continuous improvement.
- Use measurement to change behavior.
- Share ideas in a team.

- Hold annual innovation education boot camps.
- Make front-line supervisors better coaches of their teams.
- Stages of Creating an Innovation Culture

Foundation Level – A hierarchical and risk-focused organization typically concentrates on transactions, providing more services, and keeping costs in check.

Advanced Level – Organizational silos are integrated so that departments work with each other for productivity improvements and increased flexibility of response. Operating decisions are pushed down to the front line.

Breakthrough Level – Strategy alignment is extended to goal alignment. There is an increased emphasis on customer behavioral factors.

Obstacles to overcome in creating a culture of innovation:

- Lack of a shared vision, purpose, and/or strategy
- Constantly shifting priorities
- Rewarding crisis management rather than crisis prevention
- Absence of idea management processes
- Lack of innovation in the performance review process
- Lack of incentives for innovation and cost-saving
- Penalizing organizations that create savings by cutting their budget the following year
- Lack of reward and recognition programs

One key element of creating a culture of innovation is to reward innovation.

Innovation incentive programs

Incentive programs increase efficiency and effectiveness in the workplace. Employee incentive programs (EIP) have become extremely popular in the private sector due to increased cost-savings, and are now increasing in popularity in the government arena. EIPs incorporate employee influence and involvement in decision making to improve efficiency. Employees and employers alike reap the benefits of EIPs.

“One method of achieving a more efficient and effective state government is to encourage the involvement of state employees in the development of innovative ideas that will increase the productivity and service of state government while decreasing the costs of state government.”²⁰⁷ EIPs that reward state employees for innovations by allowing the employees to share the cost savings will help encourage employee involvement in making state government more efficient and effective.

Today, employees are looking for active participation in the workplace and want fulfilling responsibilities. Innovations such as a suggestion program offer employees a chance to make a

²⁰⁷ House Bill 04-1020 Chapter 19, State of Colorado, http://www.state.co.us/gov_dir/leg_dir/olls/sl2004a/sl_91.htm

difference in their workplace. Employee suggestions tend to be high quality, insightful, and allow organizations to tap into their best resource, employees.²⁰⁸ Suggestion programs capitalize on employee knowledge and expertise by providing not only a vehicle to express those innovative ideas, but an incentive. While compensation, eligibility, and procedures differ among programs, eligible suggestions usually include those ideas that improve:

- Cost savings,
- Safety,
- Efficiency,
- Productivity,
- Conditions,
- Services,
- Energy resources, and,
- Employee moral.

Other States

The procedure for application submission includes the submission of a specific form, and often, a committee review. A common structure of the incentive program is to reward the employee with a percentage of the savings. For example, in North Carolina, monetary awards are calculated as 20 percent of annual savings for the first year of implementation, up to \$20,000 per person or \$100,000 per group.²⁰⁹

Washington has developed an incentive program where the agency savings are redistributed to the agency and public schools. Agencies are rewarded by retaining, "...half of their unspent general revenue funds, except funds related to caseloads in entitlement programs or enrollment in higher education institutions²¹⁰." The savings that are returned to agencies can be used for any one-time expenditure that will improve efficiency and effectiveness within the agency.

Some examples of improvements are staff, customer service, and child welfare training, upgraded fire protection in the Office of Financial Management computer room, and an informational pamphlet for voters on state primary candidates. These savings can be rolled over into the next year. Public schools benefit through the other half of the general revenue savings by redirecting savings towards building new schools, improving technology in schools, and higher education.

Florida

For more than 20 years, Florida TaxWatch has administered the Prudential-Davis Productivity Awards program to recognize and reward innovation and cost savings by Florida government

²⁰⁸ Freda Turner, "Employee Suggestion Programs Save Money," Chart Your Course International, Accelerating Workplace Performance, <http://www.eianet.org/about>

²⁰⁹ "State Employee Incentive Bonus Program," Human Resources, UNC Chapel Hill, <http://hr.unc.edu/Data/benefits/recognition/seibp>

²¹⁰ "Create Budget Incentives for State Agencies," Limited Government, Unlimited Opportunity, E-Texas GG 17, <http://www.window.state.tx.us/etexas2003/gg17.html>

employees. The program has saved the taxpayers more than \$6 billion. The same concept should be extended to government. Incentivizing cost savings by allowing agencies to keep a portion of the appropriated but unspent funds would produce significant savings for the taxpayers.

Incentive programs established in other states have proven that given the correct set of incentives, and support throughout the organization, incentive programs do work. Continuing to incorporate EIPs into Florida's public sector will be instrumental in become the employer of choice. The current budget crunch and the economic outlook both call for creative ways to maximize the use of our limited resource pool. The current program gives us the opportunity to do so, without having to participate in the legislative process.

Workforce Optimization

The Legislature needs to take a closer look at reducing the size of the bureaucratic workforce by ensuring that manager-to-employee ratios fall within accepted best practices. While this may be a politically sensitive issue, state employment can no longer be viewed as an entitlement by those holding state jobs. Between 2007 and 2010, private sector employers in Florida have reduced their payrolls by 10%, while public sector employers in Florida have cut their payrolls by only 1% in comparison.

By restructuring the number of employees a manager directly oversees, state government can see positive results, including increased work efficiency, information flow, and cost savings due to less salary and benefits being paid out.

In Fiscal Year 2008-09, Florida tied with Illinois as having the lowest state government workforce staffing level of the 50 states, with a ratio of 118 state employees per 10,000 population.²¹¹ This is well below the national average, which was 216 state employees per 10,000 population. Florida also has the lowest state government workforce payroll cost per state resident (\$38 per capita), as compared to other states. This too is well below the national average of \$69 per capita. Despite these low state government workforce ratios, there is still a perception that the Florida state government workforce is too large.²¹²

Governor-Elect Scott has and numerous legislative leaders have committed to reducing the size of the workforce and the number of managerial/supervisory positions.

Caution should be exercised when reducing the size of the state government workforce. The traditional approach is to implement across-the-board cuts, where each agency must reduce its workforce by a designated percentage. Agencies traditionally respond by eliminating as many lower pay grade positions as possible, thereby affording greater protection to mid-level and

²¹¹ Florida Department of Management Services, State Personnel System Annual Workforce Report 2008-09.

²¹² Some knowledgeable observers contend that the comparison to other states does not accurately reflect the relative 'leanness' of Florida government because Florida state government performs fewer functions compared to local governments (i.e., counties and cities) than state governments in other states – i.e., Florida does a lot less with only a little fewer resources.

upper managers. As long as the target reduction is reached, little attention is given to the remaining agency structure.

The better approach to workforce optimization is to focus on reducing employee-manager ratios with the goal of streamlining the bureaucracy, and identifying and eliminating duplicate or unnecessary functions to improve productivity.

Case study of workforce optimization: The Florida Lottery

Consider the approach taken by the Florida Lottery in early 2000. In 1998, the Florida Lottery (“Lottery”) was the largest of all North American lotteries, with 715 full-time equivalent employees (FTEs). With total revenues of \$2.1 billion and profits of \$807 million, the Florida Lottery was widely viewed as a fat, bloated bureaucracy that was no longer playing to win. The perception was that the Lottery could perform better with far fewer employees. This perception was based upon the performance of comparable state lotteries (e.g., Ohio, Texas, Pennsylvania and Massachusetts) that were generating \$3-4 billion in annual revenues with only 300-400 FTEs.

At the direction of Governor Jeb Bush, and under the leadership of Secretary David Griffin, the Florida Lottery began a systematic evaluation of its structure and staffing. The challenge facing Lottery leadership was trimming away so much fat without trimming away any muscle (or worse, hitting an artery). The Lottery used the following process:

First, all vacant non-critical positions were identified. Detailed organizational charts showing every position and every reporting relationship were reviewed. Every direct supervisor was given an opportunity to defend the need to fill each vacant position. Any vacant position deemed non-critical was targeted for elimination.

Second, the reporting relationships of managers and supervisors were reviewed. The Lottery saw a number of “silos”, where one manager might supervise 3-4 employees, each of whom might supervise 3-4 employees. These extra supervisory positions were identified and targeted for elimination. This targeted reduction expanded the span of control for the remaining supervisors so they would supervise more employees.

Third, the Lottery looked at eliminating duplication and anything that did not add value. Program units with similar duties and responsibilities were combined and any extra mid-manager positions were eliminated. Unnecessary program units (e.g., travel office, Lottery store, redemption centers, etc.) were eliminated. Performance measures and standards (300+) were reviewed. Most were eliminated and most of those that remained were revised to be more realistic.

Fourth, the Lottery looked at anything that didn’t make sense and fixed it. All of the revised and updated organizational charts were combined into one composite Lottery organizational chart. The Lottery then looked for things that just didn’t look right (e.g., too many mid-managers, etc.) and did what was necessary to make it look right and function properly.

The “first pass” through this process identified 220 FTEs that could be eliminated. Lottery officials were concerned that cutting 30% of the workforce might be too deep an initial cut. Recognizing that the Lottery could always eliminate more positions if needed and that it is very difficult to get positions back once they have been eliminated, the Lottery’s executive leadership met one last time to review the workforce reduction plan.

In an abundance of caution, the Lottery workforce was reduced from 715 FTEs to 525 FTEs (a reduction of 190 FTEs). This represented 26% of the Lottery workforce. Of these 190 FTEs:

- 65 were supervisors/managers and 125 were non-supervisory positions.
- 76 positions were vacant and 114 positions were filled.
- The ratio of managers-to-staff increased from 1 manager for every 4-5 employees to 1 manager for every 7 employees.

The process used by the Lottery was both systematic and rational. Managers at all levels were involved and the executive leadership “owned” the workforce reduction plan. Roughly one-third of the positions eliminated were managers/supervisors, thereby increasing the span of control for the remaining managers.

Applying this workforce optimization process, or one that is substantially similar, may not yield similar results in every agency throughout Florida government. Recent budget shortfalls have thinned out many agencies, and most agencies have never been quite as “out of shape” as the Lottery was prior to 1998. However, using this process, or one that is substantially similar, will give insight into where additional efficiencies can be realized and validate whether the agency is sized and organized properly.

Epilog: The Florida Lottery did not stop here. Under the leadership of Secretaries David Griffin, Rebecca Mattingly, and Leo Dibenigno, the Lottery has continued to reduce the size of its workforce and improve its performance. As of June 30, 2009, an additional 89 FTEs had been eliminated, reducing the size of the Lottery’s workforce to 436 FTEs. Of these 436 FTEs, only 31 are managerial/supervisory positions (Source: State Personnel System Annual Workforce Report 2008-09). This represents a ratio of managers-to-staff of 1 manager for every 13 employees.

Case study of workforce optimization: The Florida Department of Financial Services

According to CFO Alex Sink, the state could save million if all state agencies in Florida streamlined their middle management. In the Florida Department of Financial Services, positions are eliminated as agency managers retire or resign. Furthermore, the structure of the agency has been reengineered using existing staff to cut unnecessary layers in government. By achieving a 7:1 employee to manager ratio, DFS will be in line with best business practices and save an estimated \$8 to \$10 million annually and as much as nearly \$300 million if adopted throughout state government. Streamlining management jobs will protect funding for essential services for the citizens of Florida and frontline positions.

In 2009, DFS's overall ratio of managers to employees was 1:5.2, including OPS employees, and 1:4.7, excluding OPS employees. The goal is to achieve a 1:7 ratio.

This streamlining will be accomplished through attrition so that DFS can restructure itself to achieve greater efficiency and cost-savings through its remaining employees. Because DFS has hired 110-120 managers annually since January 2007 on average, the achievement of a 1:7 ratio through attrition is expected to be completed in 12-18 months. A 1:7 ratio of managers to employees across all state agencies could achieve a savings to Florida taxpayers of nearly \$300 million.²¹³ To measure the level of compliance, report cards could be issued to each agency annually.

Applying workforce optimization statewide

An exact employee-to-manager ratio for all state personnel is not currently available; however, a reasonable estimation of this ratio can be calculated using information from the *State Personnel System Annual Workforce Report 2008-09*. The report breaks state personnel into three categories: Career Service, Selected Exempt Service (SES), and Senior Management Service (SMS). Career Service personnel are the "employee" component of the employee-to-manager ratio. SES personnel are managers, supervisors, confidential employees, and certain professional positions (such as attorneys and doctors). SMS is comprised of policy making positions in upper management.

In FY 2008-09 the state had 610 SMS positions, 19,679 SES positions, and 89,187 career service positions. The actual number of employees is as follows: 85,460 Career Service employees, 19,115 SES employees, and 599 SMS employees.²¹⁴ By combining SMS and SES personnel into one category, an approximate employee-to-manager ratio can be calculated. The state of Florida has approximately 4.33 employees for every manager.

Florida CFO Alex Sink recommended a 7:1 ratio for Florida in February 2010. This level of workforce optimization would save an estimated \$277 million if adopted statewide.²¹⁵

Measures could be determined and ratios of managers to employees and administrative cost to direct services costs could be established and enforced throughout state government.

²¹³ See "CFO Sink Reforms Government by Streamlining Middle Management," CFO Press Release, Florida Department of Financial Services, 2/16/10.

²¹⁴ Florida Department of Management Services, *State Personnel System Annual Workforce Report 2008-09*.

²¹⁵ Florida Department of Financial Services, "CFO Sink reforms government by streamlining middle management: Sink's reform will create greater efficiencies, save state nearly \$300 million," *Consumer eViews* (Volume 7, Number 8), February 19, 2010, www.myfloridacfo.com/PressOffice/Newsletter/2010/021910/February_1910.htm (last retrieved November 6, 2010).

Productivity Enhancement and Workforce Optimization Recommendations

120. Implement “organically grown efficiencies” program

The Legislature and/or the Governor should require each agency to plan, budget and report quarterly to the Legislative Budget Commission on its progress of achieving costs savings and efficiencies of 1% in year one, 2% in year two, 3% in year three, 4% in year four and 5% in year five and at least one percent annually thereafter. Ideas for cost savings could originate from agencies individual employees and teams, from suggestions from legislators, legislative analysts and auditors, or from research institutes such as Florida Tax Watch, and the Prudential Financial-Davis Productivity Awards Program.

Savings are redirected to higher priorities and demands of today and tomorrow, not those of yesteryear. This is an essential way for agencies to be responsive and productive, and to create a culture of cost-effectiveness and increasingly better public stewardship.

Florida TaxWatch recommends that each quarter, agencies should be required to explain, for better or worse, how well they achieved or missed their target cost reductions. To provide incentives, bonuses and/or raises could be connected to such accomplishments, together with increased flexibility and management discretion. This is an essential way to keep our public institutions more responsive and productive and create a culture of efficiency and increasingly better public stewardship.

To ensure that this process has accountability, state agency Inspectors General include an attestation with each quarter report relative to the accuracy of the information. In addition, OPPAGA should be tasked with performing an annual compilation of agency savings results. Finally, as part of its regularly scheduled operational audit of each agency, the Auditor General should be required to validate each agency’s reports cost reductions.

To help ensure that mandated cost savings are established in a fair and equitable manner among each organizational unit within an agency, each agency should establish efficiency benchmarks based on the inflation adjusted cost-incurred in FY 2001-02 for each of its budget entities. Specified reductions in expenditures for each budget entity would vary and be based on the difference between the actual expenditure in the previous year and the FY 2001-02 inflation-adjusted amount. This methodology would not punish those budget entities that had produced efficiencies in recent years, but would demand greater reductions for those budget entities that have experienced cost increases that substantially exceed the inflation- adjusted amount. Exceeding their benchmarks would be entitled to a percentage of the above-targeted savings achieved to be dispersed as merit pay for excellence in performance.

The productivity and efficiency improvements must be incorporated into the annual budget. The reported reduction in the unit costs for each activity must include an assertion as to the validity and reliability of the information.

121. Expand participation in the Prudential – Davis Productivity Awards program

Recommendation: *The Legislature and/or the Governor should require all state agencies to participate in the Prudential – Davis Productivity Awards program and to appoint a program coordinator. Expanding participation in the Prudential – Davis Productivity Awards program would help to develop a culture of innovation where employees and managers are incentivized, recognized, and rewarded for identifying and implementing program and process improvements that add value to services while producing unit cost savings. Rewards to employees include cash bonuses that reflect their contribution to productivity improvements.*

122. Increase implementation of adaptable Prudential – Davis Productivity Awards program achievements throughout state government

Recommendation: *The Legislature and/or the Governor should direct each state agency to implement all previously recognized award-winning cost-savings and productivity improvements applicable to their agencies, generated by the annual Florida TaxWatch Prudential Financial-Davis Productivity Awards. More than 1,000 achievements from the since the 2003 awards cycles are posted on the Florida TaxWatch website. This is a practical, common sense suggestion that could save countless millions of dollars by checking the Florida TaxWatch website before setting out to, perhaps, “reinvent the wheel.”*

Each agency should be required to report on its progress in implementing adaptable cost savings ideas.

123. Expand use of agency savings-sharing program

In 2001, the State of Florida Legislature passed Chapter 110.1245, Florida Statutes, (F.S.), granting the Department of Management Services (DMS) rule-making authority (60L-37) over a savings sharing program. These statutes allow agencies to retain savings gained through the implementation of programs that promote internal efficiencies. Although most agencies are able to participate in the program, few agencies participate.

Recommendation: *The legislature and/or the Governor should increase agency participation in this program and ensure that identified savings are shared with the agency.*

124. Require each agency to review size and structure of workforce

Recommendation: *The Legislature should require each agency of state government to achieve a 1:7 ratio of managers to employees with report cards issues to each agency annually to measure compliance levels. Agencies should follow the process used by the Florida Lottery, or one that is substantially similar, to determine the most appropriate size and structure of its workforce, and the most appropriate ratio of managers to staff, either under the direction of the agency’s senior management or the agency’s Office of the Inspector General. Each agency should report its findings and recommendations to the Governor, President of the*

Senate, Speaker of the House of Representatives, and the Executive Director of the Office of Program Policy Analysis and Government Accountability no later than December 31, 2011.

125. Create benchmarks for administrative costs and overhead across agencies

Public sector programs usually have higher administrative costs than comparable private sector programs because the cost of more bureaucracy in the public sector. However, due to the limitation of resources, public sector is expected to be as efficient as private sector. This means that the state could/should provide maximum of public goods and services with the given limited resources by controlling the administrative costs.

Recommendation: *The legislature should require all state agencies to measure the ratio between the outcome obtained and the resources allocated for their programs. The ratio should be comparable among government and private agencies with a similar sort and size. Likewise, all agencies should be required to measure and benchmark the ratio of administrative cost to the general cost by programs.*



Government Cost Savings Task Force

Florida TaxWatch and the Government Cost Savings Task Force for FY2011-12 extends its deepest gratitude to all of the state agencies, departments, public officials and their staff that helped to make these recommendations possible.

We would particularly like to thank:

The Agency for Health Care Administration

Mr. Bob Nave, Fmr. Chief of Staff, The Florida Lottery

The Department of Corrections

The Department of Financial Services

The Department of Juvenile Justice

The Department of Management Services

The Department of Revenue

The Office of the Florida Attorney General

The Office of the Florida Chief Financial Officer

**The leadership and staff of the Florida Senate
and Florida House of Representatives**



More information on the Government Cost Savings Task Force for FY 2011-12,
as well as this report, is available electronically at
www.FloridaTaxWatch.org/costsavings

For more information on the Government Cost Savings Task Force for FY2011-12
or Florida TaxWatch, please visit:
www.FloridaTaxWatch.org

About Florida TaxWatch

Florida TaxWatch is a statewide, non-profit, non-partisan taxpayer research institute and government watchdog that over its 31 year history has become widely recognized as the watchdog of citizens' hard-earned tax dollars. Its mission is to provide the citizens of Florida and public officials with high quality, independent research and education on government revenues, expenditures, taxation, public policies, and programs, and to increase the productivity and accountability of Florida Government.

Florida TaxWatch's research recommends productivity enhancements and explains the statewide impact of economic and tax and spend policies and practices on citizens and businesses. Florida TaxWatch has worked diligently and effectively to help state government shape responsible fiscal and public policy that adds value and benefit to taxpayers.

This diligence has yielded impressive results: in its first two decades alone, policymakers and government employees implemented three-fourths of Florida TaxWatch's cost-saving recommendations, saving the taxpayers of Florida more than \$6.2 billion -- approximately \$1,067 in added value for every Florida family, according to an independent assessment by Florida State University.

Florida TaxWatch has a historical understanding of state government, public policy issues, and the battles fought in the past necessary to structure effective solutions for today and the future. It is the only statewide organization devoted entirely to Florida taxing and spending issues. Its research and recommendations are reported on regularly by the statewide news media.

Supported by voluntary, tax-deductible memberships and grants, Florida TaxWatch is open to any organization or individual interested in helping to make Florida competitive, healthy and economically prosperous by supporting a credible research effort that promotes constructive taxpayer improvements. Members, through their loyal support, help Florida TaxWatch bring about a more effective, responsive government that is accountable to the citizens it serves.

Florida TaxWatch is supported by all types of taxpayers -- homeowners, small businesses, large corporations, philanthropic foundations, professionals, associations, labor organizations, retirees -- simply stated, the taxpayers of Florida. The officers, Board of Trustees and members of Florida TaxWatch are respected leaders and citizens from across Florida, committed to improving the health and prosperity of Florida.

With your help, Florida TaxWatch will continue its diligence to make certain your tax investments are fair and beneficial to you, the taxpaying customer, who supports Florida's government. Florida TaxWatch is ever present to ensure that taxes are equitable, not excessive, that their public benefits and costs are weighed, and government agencies are more responsive and productive in the use of your hard-earned tax dollars.

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◆ *Integrity* ◆ *Productivity* ◆ *Accountability* ◆ *Independence* ◆ *Quality Research*



*Improving Taxpayer Value,
Citizen Understanding, and Government Accountability*

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