A bill to be entitled
An act relating to prevention of tobacco use; amending s. 381.84, F.S.; defining the term "best practices" for purposes of the comprehensive, statewide tobacco education and use prevention program; revising program components and requirements; deleting an obsolete provision; revising membership of the Tobacco Education and Use Prevention Advisory Council; providing applicability of public meetings and state ethics requirements to council meetings; revising council duties and responsibilities; providing for direction by the Department of Health; providing for the department, rather than the State Surgeon General, to award certain contracts and grants for the program; providing for peer review panels; exempting the grant award process from the requirements of ch. 287, F.S., relating to procurement of personal property and services, and s. 120.57(3), F.S., relating to protests over contract solicitations or awards; permitting the department to advance funds for program startup and contracted services under certain conditions; providing an effective date.

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

Section 1. Section 381.84, Florida Statutes, is amended to read:

381.84 Comprehensive Statewide Tobacco Education and Use Prevention Program.—
(1) DEFINITIONS.—As used in this section and for purposes of the provisions of s. 27, Art. X of the State Constitution, the term:

(a) "AHEC network" means an area health education center network established under s. 381.0402.

(b) "Best practices" means the Best Practices for Comprehensive Tobacco Control Programs as established by the CDC.

(c) "CDC" means the United States Centers for Disease Control and Prevention.

(d) "Council" means the Tobacco Education and Use Prevention Advisory Council.

(e) "Department" means the Department of Health.

(f) "Tobacco" means, without limitation, tobacco itself and tobacco products that include tobacco and are intended or expected for human use or consumption, including, but not limited to, cigarettes, cigars, pipe tobacco, and smokeless tobacco.

(g) "Youth" means minors and young adults.

(2) PURPOSE, FINDINGS, AND INTENT.—It is the purpose of this section to implement s. 27, Art. X of the State Constitution. The Legislature finds that s. 27, Art. X of the State Constitution requires the funding of a statewide tobacco education and use prevention program that focuses on tobacco use by youth. The Legislature further finds that the primary goals of the program are to reduce the prevalence of tobacco use among youth, adults, and pregnant women; reduce per capita tobacco consumption; and reduce exposure to environmental tobacco smoke.
Further, it is the intent of the Legislature to base increases in funding for individual components of the program on the results of assessments and evaluations. Recognizing that some components will need to grow faster than inflation, it is the intent of the Legislature to fund portions of the program on a nonrecurring basis in the early years so that those components that are most effective can be supported as the program matures.

(3) PROGRAM COMPONENTS AND REQUIREMENTS.—The department shall conduct a comprehensive, statewide tobacco education and use prevention program consistent with the recommendations for effective program components contained in the 1999 Best Practices for Comprehensive Tobacco Control Programs of the CDC, as amended by the CDC. The program shall include the following components, each of which shall focus on educating people, particularly youth and their parents, about the health hazards of tobacco and discouraging the use of tobacco:

(a) State and community interventions.—State and community interventions shall include, but are not limited to, establishing a statewide tobacco control program that combines and coordinates community-based interventions that focus on preventing the initiation of tobacco use among youth; promoting quitting among youth, adults, and pregnant women; eliminating exposure to secondhand smoke; identifying and eliminating tobacco-related disparities among population groups; and promoting a range of collaborations with public and private entities to prevent and alleviate the effects of chronic diseases linked to tobacco use. Counter-marketing and advertising; cyberspace resource center. The counter-marketing
and advertising campaign shall include, at a minimum, Internet, print, radio, and television advertising and shall be funded with a minimum of one-third of the total annual appropriation required by s. 27, Art. X of the State Constitution. A cyberspace resource center for copyrighted materials and information concerning tobacco education and use prevention, including cessation, shall be maintained by the program. Such resource center must be accessible to the public, including parents, teachers, and students, at each level of public and private schools, universities, and colleges in the state and shall provide links to other relevant resources. The Internet address for the resource center must be incorporated in all advertising. The information maintained in the resource center shall be used by the other components of the program.

(b) Health communication interventions.—Media and health communication intervention efforts shall include, but are not limited to, audience research to define themes and execute messages for influential, high-impact, and specifically targeted campaigns; market research to identify the target market for tobacco control programs and the behavioral theory that best motivates change regarding tobacco use; counter-marketing surveillance; community tie-ins to support and reinforce the statewide campaign; technologies such as viral marketing, social networks, personal web pages, and web logs; traditional media; the evaluation of the process and outcomes of the communication efforts; and the promotion of available services, including the state toll-free tobacco use cessation Quit-For-Life Line.

Cessation programs, counseling, and treatment. This program
component shall include two subcomponents:

1. A statewide toll-free cessation service, which may include counseling, referrals to other local resources and support services, and treatment to the extent funds are available for treatment services; and

2. A local community-based program to disseminate information about smoking cessation, how smoking cessation relates to prenatal care and obesity prevention, and other chronic tobacco-related diseases.

(c) Cessation interventions.—Cessation interventions shall include, but are not limited to, sustaining, expanding, and promoting the program's services through population-based counseling and treatment programs; encouraging public and private insurance coverage for counseling and medication treatments for tobacco-use cessation approved by the federal Food and Drug Administration; eliminating financial and other barriers to treatment for underserved populations; and making health care system changes. Cessation interventions shall be designed to prevent the initiation of and encourage the cessation of tobacco use among youth and to encourage a social environment that supports tobacco-free norms. Community-based programs and school-based policies and interventions shall be components of a statewide comprehensive effort to create tobacco-free social norms that includes increasing the unit price of tobacco products, sustaining anti-tobacco media campaigns, making environments tobacco free, and engaging in other related efforts. Surveillance and evaluation.—The program shall conduct ongoing epidemiological surveillance and shall
contract for annual independent evaluations of the effectiveness
of the various components of the program in meeting the goals as
set forth in subsection (2).

(d) Surveillance and evaluation.—The department shall
conduct surveillance and evaluation of all program components
and shall monitor and document short-term, intermediate, and
long-term intervention outcomes to inform program and policy
direction and ensure accountability. The surveillance and
evaluation shall be conducted using a scientifically sound
methodology. Youth school programs. School and after-school
programs shall use current evidence-based curricula and programs
that involve youth to educate youth about the health hazards of
tobacco, help youth develop skills to refuse tobacco, and
demonstrate to youth how to stop using tobacco.

(e) Administration and management.—Administration and
management activities shall include, but are not limited to,
strategic planning to guide program efforts and resources in
order to accomplish program goals; recruiting and developing
qualified and diverse technical, program, and administrative
staff; awarding and monitoring program contracts and grants to
coordinate implementation across program areas; developing and
maintaining a fiscal management system to track allocations and
the expenditure of funds; increasing capacity at the community
level through ongoing training and technical assistance;
creating effective communications internally among chronic
disease prevention and control programs and local coalitions and
partners; and educating the public and decisionmakers on the
effects of tobacco and evidence-based effective program and
policy interventions. Community programs and chronic disease prevention. The department shall promote and support local community-based partnerships that emphasize programs involving youth, including programs for the prevention, detection, and early intervention of smoking-related chronic diseases.

(f) Training.—The program shall include the training of health care practitioners, smoking-cessation counselors, and teachers by health professional students and other tobacco-use prevention specialists who are trained in preventing tobacco use and health education. Smoking-cessation counselors shall be trained by specialists who are certified in tobacco-use cessation.

(g) County health departments Administration, statewide programs, and county health departments.—Each county health department is eligible to receive a portion of the annual appropriation, on a per capita basis, for coordinating tobacco education and use prevention programs within that county. Appropriated funds may be used to improve the infrastructure of the county health department to implement the comprehensive, statewide tobacco education and use prevention program. Each county health department shall prominently display in all treatment rooms and waiting rooms, counter-marketing and advertisement materials in the form of wall posters, brochures, television advertising if televisions are used in the lobby or waiting room, and screensavers and Internet advertising if computer kiosks are available for use or viewing by people at the county health department.

(h) Enforcement and awareness of related laws.—In
coordination with the Department of Business and Professional Regulation, the program shall monitor the enforcement of laws, rules, and policies prohibiting the sale or other provision of tobacco to minors, as well as the continued enforcement of the Clean Indoor Air Act prescribed in chapter 386. The advertisements produced in accordance with paragraph (b) may also include information designed to make the public aware of these related laws and rules. The departments may enter into interagency agreements to carry out this program component.

(i) AHEC smoking-cessation initiative. For the 2009-2010 fiscal year, the AHEC network shall expand the AHEC smoking-cessation initiative to each county within the state and perform other activities as determined by the department.

(4) ADVISORY COUNCIL; MEMBERS, APPOINTMENTS, AND MEETINGS.—The Tobacco Education and Use Prevention Advisory Council is created within the department.

(a) The council shall consist of 23 members, including:

1. The State Surgeon General, or his or her designee who is the Deputy Secretary or the Director of the Division of Health Access and Tobacco, who shall serve as the chairperson.

2. One county health department director, appointed by the State Surgeon General.

3. Two members appointed by the Commissioner of Education, of whom one must be a school district superintendent.

4. The chief executive officer of the Florida Division of the American Cancer Society, or his or her designee.

5. The chief executive officer of the Greater Southeast Affiliate of the American Heart Association, or his or her
6. The chief executive officer of the American Lung Association of Florida, or his or her designee.

7. The dean of the University of Miami School of Medicine, or his or her designee.

8. The dean of the University of Florida College of Medicine, or his or her designee.

9. The dean of the University of South Florida College of Medicine, or his or her designee.

10. The dean of the Florida State University College of Medicine, or his or her designee.

11. The dean of Nova Southeastern College of Osteopathic Medicine, or his or her designee.

12. The dean of the Lake Erie College of Osteopathic Medicine in Bradenton, Florida, or his or her designee.

13. The chief executive officer of the Campaign for Tobacco Free Kids, or his or her designee.

14. The chief executive officer of the Legacy Foundation, or his or her designee.

15. Four members appointed by the Governor, of whom two must have expertise in the field of tobacco-use prevention and education or smoking cessation and one individual who shall be between the ages of 16 and 21 at the time of his or her appointment.

16. Two members appointed by the President of the Senate, of whom one must have expertise in the field of tobacco-use prevention and education or smoking cessation.

17. Two members appointed by the Speaker of the House of
Representatives, of whom one must have expertise in the field of tobacco-use prevention and education or smoking cessation.

(b) The appointments shall be for 3-year terms and shall reflect the diversity of the state's population. A vacancy shall be filled by appointment by the original appointing authority for the unexpired portion of the term.

(c) An appointed member may not serve more than two consecutive terms.

(d) The council shall meet at least quarterly and upon the call of the chairperson. Meetings may be held via teleconference or other electronic means.

(e) Members of the council shall serve without compensation, but are entitled to reimbursement for per diem and travel expenses pursuant to s. 112.061. Members who are state officers or employees or who are appointed by state officers or employees shall be reimbursed for per diem and travel expenses pursuant to s. 112.061 from the state agency through which they serve.

(f) The council shall adhere to all state ethics laws.

Meetings of the council are subject to chapter 119, s. 286.011, and s. 24, Art. I of the State Constitution. The department shall provide council members with information and other assistance as is reasonably necessary to assist the council in carrying out its responsibilities.

(5) COUNCIL DUTIES AND RESPONSIBILITIES.—The council shall advise the State Surgeon General as to the direction and scope of the Comprehensive Statewide Tobacco Education and Use Prevention Program. The responsibilities of the council may
include, but are not limited to:

(a) Providing advice on program priorities and emphases.
(b) Providing advice on the overall program budget.
(c) Providing advice on copyrighted material, trademark, and future transactions as they pertain to the tobacco education and use prevention program.
(d) Reviewing broadcast material prepared for the Internet, portable media players, radio, and television advertisements, as requested by the department as it relates to the advertising component of the tobacco education and use prevention program.
(e) Participating in periodic program evaluation, as requested by the department.
(f) Assisting the department in developing guidelines to ensure fairness, neutrality, and adherence to the principles of merit and quality in the conduct of the program.
(g) Assisting the department in developing administrative procedures relating to solicitation, review, and award of contracts and grants in order to ensure an impartial, high-quality peer review system.
(h) Assisting the department in developing panels to review and evaluate potential fund recipients the development and supervision of peer review panels.

(i) Assisting the department in reviewing reports of peer review panels and making recommendations for funding allocations contracts and grants.

(j) Reviewing the activities and evaluating the
(j) (k) Recommending specific measurable outcomes
meaningful outcome measures through a regular review of
evidence-based and promising tobacco-use prevention and
education strategies and programs of other states and the
Federal Government.

(k) (l) Recommending policies to encourage a coordinated
response to tobacco use in this state, focusing specifically on
creating partnerships within and between the public and private
sectors.

(6) CONTRACT REQUIREMENTS.—Contracts or grants for the
program components or subcomponents described in paragraphs
(3)(a), (b), (c), (d), and (f) (3)(a)–(f) shall be awarded by
the department State Surgeon General, after consultation with
the council, on the basis of merit, as determined by an open,
competitive, peer-reviewed process that ensures objectivity,
consistency, and high quality. The department shall award such
grants or contracts no later than October 1 for each fiscal
year. A recipient of a contract or grant for the program
component described in paragraph (3)(d)(e) is not eligible for a
contract or grant award for any other program component
described in subsection (3) in the same contract term state
fiscal year. A school or college of medicine that is represented
on the council is not eligible to receive a contract or grant
under this section. For the 2009-2010 fiscal year only, The
department shall award a contract or grant in the amount of $11
$10 million to the AHEC network for the purpose of developing
the components described in paragraph (3)(i). If the department
uses a competitive procedure to procure vendors, it shall use
the process outlined in chapter 287. If the department uses a
competitive procedure to select grantees, it shall use the
process outlined in this subsection. The AHEC network may apply
for a competitive contract or grant after the 2009-2010 fiscal
year.

(a) In order to ensure that all proposals for funding are
appropriate and are evaluated fairly on the basis of merit, the
department State Surgeon General, in consultation with the
council, shall use appoint a peer review system involving panels
panel of independent, qualified experts in the field of tobacco
control to review the content of each proposal and establish its
priority score. The priority scores shall be forwarded to the
council and must be considered in determining which proposals
will be recommended for funding.

(b) The department may contract with an appropriate entity
to administer the peer review system for grant management
pursuant to chapter 287. The peer review system shall be
operated in such a manner to ensure that only the most qualified
experts in the field of tobacco control are chosen to act as
reviewers of grant proposals. To ensure fairness and
impartiality, the system shall be designed to protect the
anonymity of proposers during the review.

(c) The council and the peer review panels panel shall
establish and follow rigorous guidelines for ethical conduct and
adhere to a strict policy with regard to conflicts of interest.
Council members are subject to the applicable provisions of
chapter 112. A member of the council or panel may not participate in any discussion or decision with respect to a research proposal by any firm, entity, or agency with which the member is associated as a member of the governing body or as an employee or with which the member has entered into a contractual arrangement. Meetings of the council and the peer review panels are subject to chapter 119, s. 286.011, and s. 24, Art. I of the State Constitution.

(d) Grants awarded under this subsection are funds intended to benefit the people of the state and are not considered to be purchases of commodities or services for purposes of chapter 287. Accordingly, the grant award process is not subject to protest pursuant to s. 120.57(3).

(e) The department's distribution of grant awards is not subject to the requirements of chapter 120.

(f) In each contract or grant agreement, the department shall limit the use of food and promotional items to no more than 2.5 percent of the total amount of the contract or grant and limit overhead or indirect costs to no more than 7.5 percent of the total amount of the contract or grant. The department, in consultation with the Department of Financial Services, shall publish guidelines for appropriate food and promotional items.

(g) In each advertising contract, the department shall limit the total of production fees, buyer commissions, and related costs to no more than 10 percent of the total contract amount.

(h) Notwithstanding the competitive process for contracts prescribed in this subsection, each county health
department is eligible for core funding, on a per capita basis, to implement tobacco education and use prevention activities within that county.

(7) ANNUAL REPORT REQUIRED.—By January 31 of each year, the department shall provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report that evaluates the program's effectiveness in reducing and preventing tobacco use and that recommends improvements to enhance the program's effectiveness. The report must contain, at a minimum, an annual survey of youth attitudes and behavior toward tobacco, as well as a description of the progress in reducing the prevalence of tobacco use among youth, adults, and pregnant women; reducing per capita tobacco consumption; and reducing exposure to environmental tobacco smoke.

(8) LIMITATION ON ADMINISTRATIVE EXPENSES.—From the total funds appropriated for the Comprehensive Statewide Tobacco Education and Use Prevention Program in the General Appropriations Act, an amount of up to 5 percent may be used by the department for administrative expenses.

(9) ADVANCES.—For any contracts or grants awarded under this section, the department may make advances for program startup or advances for contracted services, in total or periodically, to other governmental entities and not-for-profit corporations. The amount that may be advanced shall not exceed the expected cash needs of the contractor or recipient within the initial 3 months. Any agreement that provides for advances may contain a clause that permits the contractor or recipient to temporarily invest the proceeds, provided that any interest...
income shall either be returned to the agency or be applied against the agency's obligation to pay the contract or grant amount. RULEMAKING AUTHORIZED. By January 1, 2008, the department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.

Section 2. This act shall take effect July 1, 2010.