

REVENUE ESTIMATING CONFERENCE

Tax: Ad Valorem

Issue: Agricultural Lands Classification

Bill Number(s): CS/SB 1310 CS/HB 749

Entire Bill

Partial Bill: Section 2

Sponsor(s): Sen. Hutson / Rep. Raburn

Month/Year Impact Begins: 7/1/2016

Date of Analysis: 2/4/2016

Section 1: Narrative

a. Current Law: Section 193.451(1), Florida Statutes, provides: Annual growing of agricultural crops, nonbearing fruit trees, nursery stock; taxability.—

(1) Growing annual agricultural crops, nonbearing fruit trees, nursery stock, and aquacultural crops, regardless of the growing methods, shall be considered as having no ascertainable value and shall not be taxable until they have reached maturity or a stage of marketability and have passed from the hands of the producer or offered for sale. This section shall be construed liberally in favor of the taxpayer.

Section 193.461 (7)(a), Florida Statutes, provides: (7)(a) Lands classified for assessment purposes as agricultural lands which are taken out of production by a state or federal eradication or quarantine program shall continue to be classified as agricultural lands for the duration of such program or successor programs. Lands under these programs which are converted to fallow or otherwise nonincome-producing uses shall continue to be classified as agricultural lands and shall be assessed at a de minimis value of up to \$50 per acre on a single-year assessment methodology; however, lands converted to other income-producing agricultural uses permissible under such programs shall be assessed pursuant to this section. Land under a mandated eradication or quarantine program which is diverted from an agricultural to a nonagricultural use shall be assessed under s. [193.011](#).

Section 196.26, Florida statutes, provides: 196.26 Exemption for real property dedicated in perpetuity for conservation purposes.—

(1) As used in this section:

(a) "Allowed commercial uses" means commercial uses that are allowed by the conservation easement encumbering the land exempt from taxation under this section.

(b) "Conservation easement" means the property right described in s. [704.06](#).

(c) "Conservation purposes" means:

1. Serving a conservation purpose, as defined in 26 U.S.C. s. 170(h)(4)(A)(i)-(iii), for land which serves as the basis of a qualified conservation contribution under 26 U.S.C. s. 170(h); or

2.a. Retention of the substantial natural value of land, including woodlands, wetlands, watercourses, ponds, streams, and natural open spaces;

b. Retention of such lands as suitable habitat for fish, plants, or wildlife; or

c. Retention of such lands' natural value for water quality enhancement or water recharge.

(d) "Dedicated in perpetuity" means that the land is encumbered by an irrevocable, perpetual conservation easement.

(2) Land that is dedicated in perpetuity for conservation purposes and that is used exclusively for conservation purposes is exempt from ad valorem taxation. Such exclusive use does not preclude the receipt of income from activities that are consistent with a management plan when the income is used to implement, maintain, and manage the management plan.

(3) Land that is dedicated in perpetuity for conservation purposes and that is used for allowed commercial uses is exempt from ad valorem taxation to the extent of 50 percent of the assessed value of the land.

(4) Land that comprises less than 40 contiguous acres does not qualify for the exemption provided in this section unless, in addition to meeting the other requirements of this section, the use of the land for conservation purposes is determined by the Acquisition and Restoration Council created in s. [259.035](#) to fulfill a clearly delineated state conservation policy and yield a significant public benefit. In making its determination of public benefit, the Acquisition and Restoration Council must give particular consideration to land that:

(a) Contains a natural sinkhole or natural spring that serves a water recharge or production function;

(b) Contains a unique geological feature;

(c) Provides habitat for endangered or threatened species;

(d) Provides nursery habitat for marine and estuarine species;

(e) Provides protection or restoration of vulnerable coastal areas;

(f) Preserves natural shoreline habitat; or

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(g) Provides retention of natural open space in otherwise densely built-up areas.

Any land approved by the Acquisition and Restoration Council under this subsection must have a management plan and a designated manager who will be responsible for implementing the management plan.

(5) The conservation easement that serves as the basis for the exemption granted by this section must include baseline documentation as to the natural values to be protected on the land and may include a management plan that details the management of the land so as to effectuate the conservation of natural resources on the land.

(6) Buildings, structures, and other improvements situated on land receiving the exemption provided in this section and the land area immediately surrounding the buildings, structures, and improvements must be assessed separately pursuant to chapter 193. However, structures and other improvements that are auxiliary to the use of the land for conservation purposes are exempt to the same extent as the underlying land.

(7) Land that qualifies for the exemption provided in this section the allowed commercial uses of which include agriculture must comply with the most recent best management practices if adopted by rule of the Department of Agriculture and Consumer Services.

(8) As provided in s. 704.06(8) and (9), water management districts with jurisdiction over lands receiving the exemption provided in this section have a third-party right of enforcement to enforce the terms of the applicable conservation easement for any easement that is not enforceable by a federal or state agency, county, municipality, or water management district when the holder of the easement is unable or unwilling to enforce the terms of the easement.

(9) The Acquisition and Restoration Council, created in s. 259.035, shall maintain a list of nonprofit entities that are qualified to enforce the provisions of a conservation easement.

Section 704.06, Florida Statutes, provides: 704.06 (in part) Conservation easements; creation; acquisition; enforcement.—

(1) As used in this section, “conservation easement” means a right or interest in real property which is appropriate to retaining land or water areas predominantly in their natural, scenic, open, agricultural, or wooded condition; retaining such areas as suitable habitat for fish, plants, or wildlife; retaining the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance; or maintaining existing land uses and which prohibits or limits any or all of the following:

(a) Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground.

(b) Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials.

(c) Removal or destruction of trees, shrubs, or other vegetation.

(d) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface.

(e) Surface use except for purposes that permit the land or water area to remain predominantly in its natural condition.

(f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.

(g) Acts or uses detrimental to such retention of land or water areas.

(h) Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.

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b. **Proposed Change:** Section 2 of the bills revises S. 193.461(7)(a) to provide: (7)(a) Lands classified for assessment purposes as agricultural lands which are taken out of production by a state or federal eradication or quarantine program, including the Citrus Health Response Program, shall continue to be classified as agricultural lands for 5 years after the date of execution a compliance agreement between the landowner and the Department of Agriculture and Consumer Services, or a federal agency, as applicable, pursuant to the duration of such program or successor programs. Lands under these programs which are converted to fallow or otherwise nonincome-producing uses shall continue to be classified as agricultural lands and shall be assessed at a de minimis value of up to \$50 per acre on a single-year assessment methodology while converted. Lands under these programs which are replanted in citrus pursuant to the requirements of the compliance agreement shall continue to be classified as agricultural lands and shall be assessed at a de minimis value of up to \$50 per acre, on a single-year assessment methodology, during the 5-year term of the agreement.; However, lands converted to other income-producing agricultural uses permissible under such programs shall be assessed pursuant to this section. Land under a mandated eradication or quarantine program which is diverted from an agricultural to a nonagricultural use shall be assessed under s. 193.011.

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Section 2: Description of Data and Sources

Data provided by Department of Agricultural and Consumer Services Staff
USDA Florida Citrus Acreage

Data provided by the Property Appraisers Association of Florida Staff
2015-16 Aggregate School and Non-School Millage

Section 3: Methodology (Include Assumptions and Attach Details)

The analyst was provided a total acreage that was participating in the Citrus Health Response Program (CHRP) and for abandoned groves. Discussed with the DACS staff the expectation for percent of acreage that would be replanted citrus within the forecast period. Due to the need for a science based solution to the underlying issues crating the need for the CHRP program, it was assumed that only a subset of these acres would be replanted during the forecast period. Conversations with staff of the Property Appraisers Association of Florida provided that during the period where the trees are not fruit bearing the land valuation is typically \$1500 per acre.

It was assumed based on conversations with DACS staff that there is a limit of 800,000 trees annually that can be made available to replant acreage under compliance agreements. Average density for new groves is 200 trees per acre. The tree is not producing maturely until the fifth season following planting. As such it is assumed that acreage that was replanted would be valued under the proposed language for only 4 years.

There are currently 24,262 acres subject to compliance agreements. There are approximately an additional 130,000 acres of abandoned groves with trees still on them. To be eligible for a compliance agreement this acreage would need to be cleared of trees and stumps.

Four scenarios were developed. The first two alternative forecasts were developed using only the 24,262 acres currently under compliance agreements. It was assumed that 25% of the acreage would be replanted during the forecast period for the high, 18% for the middle and 10% for the low with the only difference between the first two alternatives being how the planting would occur year to year to get to the respective 25%, 18% and 10% of the total participating acreage assumed to be replanted. Alternative 1 assumed equal replanting activity in each year and Alternative 2 assumed the replanting would occur occur 10% in Year 1, 15% in Year 2, 20% in Year 3, 25% in Year 4 and 30% in Year 5.

The second sets of alternatives assume that some portion of the 24,262 are replanted and some part of the 130,000 acres are replanted. For these scenarios it was assumed that 15% of the acreage would be replanted during the forecast period for the high, 10% for the middle and 5% for the low For the high, it was constrained to a total of 3900 additional acres in any given year. It was further assumed that in the first year, only the pool of those 24,262 acres wuld be available to replant and that none of he 130,000 acres was able to be replanted until year 2. . Alternative 3 assumed equal replanting activity in each year and Alternative 4 assumed the replanting would occur occur 10% in Year 1, 15% in Year 2, 20% in Year 3, 25% in Year 4 and 30% in Year 5.

The difference between \$1500 and acre and \$50 an acre was multiplied by the assumed replanted acres to get the Taxable Value Impact. The respective 2015-16 School and NonSchool Millage rates were applied to estimate a tax impact.

No impact was attributed to the change in law in section 5. The requirments for the 50% and 100% exemption provided in section 196.26 were not affected by the proposed change to section 704.06 and as such no revenue impact was identified.

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Section 4: Proposed Fiscal Impact

Alternative 1 - School

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2016-17	-\$12,831	-\$51,325	-\$9,238	-\$36,954	-\$5,132	-\$20,530
2017-18	-\$25,662	-\$51,325	-\$18,477	-\$36,954	-\$10,265	-\$20,530
2018-19	-\$38,493	-\$51,325	-\$27,715	-\$36,954	-\$15,397	-\$20,530
2019-20	-\$51,325	-\$51,325	-\$36,954	-\$36,954	-\$20,530	-\$20,530
2020-21	-\$51,325	-\$51,325	-\$36,954	-\$36,954	-\$20,530	-\$20,530

Alternative 1 - NonSchool

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2016-17	-\$19,177	-\$76,708	-\$13,808	-\$55,230	-\$7,671	-\$30,683
2017-18	-\$38,354	-\$76,708	-\$27,615	-\$55,230	-\$15,342	-\$30,683
2018-19	-\$57,531	-\$76,708	-\$41,423	-\$55,230	-\$23,013	-\$30,683
2019-20	-\$76,708	-\$76,708	-\$55,230	-\$55,230	-\$30,683	-\$30,683
2020-21	-\$76,708	-\$76,708	-\$55,230	-\$55,230	-\$30,683	-\$30,683

Alternative 2 - School

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2016-17	-\$6,416	-\$57,740	-\$4,619	-\$41,573	-\$2,566	-\$23,096
2017-18	-\$16,039	-\$57,740	-\$11,548	-\$41,573	-\$6,416	-\$23,096
2018-19	-\$35,286	-\$57,740	-\$25,406	-\$41,573	-\$14,114	-\$23,096
2019-20	-\$44,909	-\$57,740	-\$32,335	-\$41,573	-\$17,964	-\$23,096
2020-21	-\$57,740	-\$57,740	-\$41,573	-\$41,573	-\$23,096	-\$23,096

Alternative2 - NonSchool

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2016-17	-\$9,589	-\$86,297	-\$6,904	-\$62,134	-\$3,835	-\$34,519
2017-18	-\$23,971	-\$86,297	-\$17,259	-\$62,134	-\$9,589	-\$34,519
2018-19	-\$52,737	-\$86,297	-\$37,971	-\$62,134	-\$21,095	-\$34,519
2019-20	-\$67,120	-\$86,297	-\$48,326	-\$62,134	-\$26,848	-\$34,519
2020-21	-\$86,297	-\$86,297	-\$62,134	-\$62,134	-\$34,519	-\$34,519

Alternative 3 - School

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2016-17	-\$41,251	-\$165,004	-\$27,501	-\$110,003	-\$13,750	-\$55,001
2017-18	-\$82,502	-\$165,004	-\$55,001	-\$110,003	-\$27,501	-\$55,001
2018-19	-\$123,753	-\$165,004	-\$82,502	-\$110,003	-\$41,251	-\$55,001
2019-20	-\$165,004	-\$165,004	-\$110,003	-\$110,003	-\$55,001	-\$55,001
2020-21	-\$165,004	-\$165,004	-\$110,003	-\$110,003	-\$55,001	-\$55,001

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Alternative 3 - NonSchool

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2016-17	-\$61,653	-\$246,610	-\$41,102	-\$164,407	-\$20,551	-\$82,203
2017-18	-\$123,305	-\$246,610	-\$82,203	-\$164,407	-\$41,102	-\$82,203
2018-19	-\$184,958	-\$246,610	-\$123,305	-\$164,407	-\$61,653	-\$82,203
2019-20	-\$246,610	-\$246,610	-\$164,407	-\$164,407	-\$82,203	-\$82,203
2020-21	-\$246,610	-\$246,610	-\$164,407	-\$164,407	-\$82,203	-\$82,203

Alternative 4 - School

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2016-17	-\$20,625	-\$154,691	-\$13,750	-\$123,753	-\$6,875	-\$61,876
2017-18	-\$51,564	-\$154,691	-\$34,376	-\$123,753	-\$17,188	-\$61,876
2018-19	-\$92,815	-\$154,691	-\$61,876	-\$123,753	-\$30,938	-\$61,876
2019-20	-\$134,066	-\$154,691	-\$96,252	-\$123,753	-\$48,126	-\$61,876
2020-21	-\$154,691	-\$154,691	-\$123,753	-\$123,753	-\$61,876	-\$61,876

Alternative 4 - NonSchool

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2016-17	-\$30,826	-\$231,197	-\$20,551	-\$184,958	-\$10,275	-\$92,479
2017-18	-\$77,066	-\$231,197	-\$51,377	-\$184,958	-\$25,689	-\$92,479
2018-19	-\$138,718	-\$231,197	-\$92,479	-\$184,958	-\$46,239	-\$92,479
2019-20	-\$200,371	-\$231,197	-\$143,856	-\$184,958	-\$71,928	-\$92,479
2020-21	-\$231,197	-\$231,197	-\$184,958	-\$184,958	-\$92,479	-\$92,479

List of affected Trust Funds: Ad Valorem Group

Section 5: Consensus Estimate (Adopted: 02/05/2016): The Conference adopted the low for Alternative 2 and the low for an adjusted Alternative 4 (Alternative 4 first year's cash was adjusted to zero with the replanting adjustment forecasted to begin in FY 2017-18.)

	School		Non-School		Total Local/Other	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2016-17	(0.0)	(0.1)	(0.0)	(0.1)	(0.0)	(0.2)
2017-18	(0.0)	(0.1)	(0.0)	(0.1)	(0.0)	(0.2)
2018-19	(0.0)	(0.1)	(0.0)	(0.1)	(0.1)	(0.2)
2019-20	(0.0)	(0.1)	(0.1)	(0.1)	(0.1)	(0.2)
2020-21	(0.1)	(0.1)	(0.1)	(0.1)	(0.2)	(0.2)

	GR		Trust		Local/Other		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2016-17	0.0	0.0	0.0	0.0	(Insignificant)	(0.2)	(Insignificant)	(0.2)
2017-18	0.0	0.0	0.0	0.0	(Insignificant)	(0.2)	(Insignificant)	(0.2)
2018-19	0.0	0.0	0.0	0.0	(0.1)	(0.2)	(0.1)	(0.2)
2019-20	0.0	0.0	0.0	0.0	(0.1)	(0.2)	(0.1)	(0.2)
2020-21	0.0	0.0	0.0	0.0	(0.2)	(0.2)	(0.2)	(0.2)

	A	B	C	D	E	F	G	H		
1	Alternative 1 and 2									
2	Total Acreage in Citrus - 2014 (Source USDA)						515,147			
3										
4	Acreage subject to a compliance agreement under CHRP						24,262			
5										
6							High	Middle	Low	
7	Acreage Likely to be replanted within 5 years						25%	18%	10%	
8										
9										
10	Alternative 1 - even replanting over 5 years						High	Middle	Low	
11	2016-17						1213	873	485	
12	2017-18						2426	1747	970	
13	2018-19						3639	2620	1456	
14	2019-20						4852	3494	1941	
15	2020-21						4852	3494	1941	
16										
17	Current law assessed value per acre				1500					
18	Proposed assessed value per acre				50					
19										
20	Taxable Value Impact - alternative 1						High	Middle	Low	
21	2016-17						-\$1,758,995	-\$1,266,476	-\$703,598	
22	2017-18						-\$3,517,990	-\$2,532,953	-\$1,407,196	
23	2018-19						-\$5,276,985	-\$3,799,429	-\$2,110,794	
24	2019-20						-\$7,035,980	-\$5,065,906	-\$2,814,392	
25	2020-21						-\$7,035,980	-\$5,065,906	-\$2,814,392	
26										
27	Alternative 2 - replanting increases throughout forecast period									
28		Acres								
29		Replanted	High	Middle	Low					
30	2016-17	10%	607	437	243					
31	2017-18	25%	1516	1092	607					
32	2018-19	55%	3336	2402	1334					
33	2019-20	70%	4246	3057	1698					
34	2020-21	100%	5459	3930	2184					
35							High	Middle	Low	
36	Taxable Value Impact - alternative 2						2016-17	-\$879,498	-\$633,238	-\$351,799
37							2017-18	-\$2,198,744	-\$1,583,096	-\$879,498
38							2018-19	-\$4,837,236	-\$3,482,810	-\$1,934,895
39							2019-20	-\$6,156,483	-\$4,432,667	-\$2,462,593
40							2020-21	-\$7,915,478	-\$5,699,144	-\$3,166,191
41										
42	2015-16 School Millage			7.2946						
43	2015-16 NonSchool Millage			10.9023						
44										
45	Alternative 1						High	Middle	Low	
46	School						2016-17	-\$12,831	-\$9,238	-\$5,132
47							2017-18	-\$25,662	-\$18,477	-\$10,265
48							2018-19	-\$38,493	-\$27,715	-\$15,397
49							2019-20	-\$51,325	-\$36,954	-\$20,530
50							2020-21	-\$51,325	-\$36,954	-\$20,530
51										
52	NonSchool						High	Middle	Low	
53	2016-17						-\$19,177	-\$13,808	-\$7,671	
54	2017-18						-\$38,354	-\$27,615	-\$15,342	
55	2018-19						-\$57,531	-\$41,423	-\$23,013	
56	2019-20						-\$76,708	-\$55,230	-\$30,683	
57	2020-21						-\$76,708	-\$55,230	-\$30,683	
58										
59	Alternative 2						High	Middle	Low	
60	School						2016-17	-\$6,416	-\$4,619	-\$2,566
61							2017-18	-\$16,039	-\$11,548	-\$6,416
62							2018-19	-\$35,286	-\$25,406	-\$14,114
63							2019-20	-\$44,909	-\$32,335	-\$17,964
64							2020-21	-\$57,740	-\$41,573	-\$23,096
65										
66	NonSchool						High	Middle	Low	
67	2016-17						-\$9,589	-\$6,904	-\$3,835	
68	2017-18						-\$23,971	-\$17,259	-\$9,589	
69	2018-19						-\$52,737	-\$37,971	-\$21,095	
70	2019-20						-\$67,120	-\$48,326	-\$26,848	
71	2020-21						-\$86,297	-\$62,134	-\$34,519	

Alternatives 3 and 4

Total Acreage in Citrus - 2014 (Source USDA) 515,147

Abandoned Grove Acreage Approximately 130,000
 Acres currently under compliance agreement 24,262

Average new trees per acre 200
 Maximum likely number of new tree stock available for 800,000

	High	Middle	Low
Acreage Likely to be replanted within 5 years	15%	10%	5%

Alternative 3 - even replanting over 5 years	High	Middle	Low
2016-17	3900	2600	1300
2017-18	7800	5200	2600
2018-19	11700	7800	3900
2019-20	15600	10400	5200
2020-21	15600	10400	5200

Current law assessed value per acre 1500
 Proposed assessed value per acre 50

Taxable Value Impact - alternative 3	High	Middle	Low
2016-17	-\$5,655,000	-\$3,770,000	-\$1,885,000
2017-18	-\$11,310,000	-\$7,540,000	-\$3,770,000
2018-19	-\$16,965,000	-\$11,310,000	-\$5,655,000
2019-20	-\$22,620,000	-\$15,080,000	-\$7,540,000
2020-21	-\$22,620,000	-\$15,080,000	-\$7,540,000

Alternative 4 - replanting increases throughout forecast period

	Acres Replanted	High	Middle	Low
2016-17	0%	0	0	0
2017-18	10%	1950	1300	650
2018-19	25%	4875	3250	1625
2019-20	45%	8775	5850	2925
2020-21	70%	12675	9100	4550

Taxable Value Impact - Alternative 4	High	Middle	Low
2016-17	\$0	\$0	\$0
2017-18	-\$2,827,500	-\$1,885,000	-\$942,500
2018-19	-\$7,068,750	-\$4,712,500	-\$2,356,250
2019-20	-\$12,723,750	-\$8,482,500	-\$4,241,250
2020-21	-\$18,378,750	-\$13,195,000	-\$6,597,500

2015-16 School Millage 7.2946
 2015-16 NonSchool Millage 10.9023

Alternative 3	School	High	Middle	Low
	2016-17	-\$41,251	-\$27,501	-\$13,750
	2017-18	-\$82,502	-\$55,001	-\$27,501
	2018-19	-\$123,753	-\$82,502	-\$41,251
	2019-20	-\$165,004	-\$110,003	-\$55,001
	2020-21	-\$165,004	-\$110,003	-\$55,001

NonSchool	High	Middle	Low
2016-17	-\$61,653	-\$41,102	-\$20,551
2017-18	-\$123,305	-\$82,203	-\$41,102
2018-19	-\$184,958	-\$123,305	-\$61,653
2019-20	-\$246,610	-\$164,407	-\$82,203
2020-21	-\$246,610	-\$164,407	-\$82,203

Alternative 4	School	High	Middle	Low
	2016-17	\$0	\$0	\$0
	2017-18	-\$20,625	-\$13,750	-\$6,875
	2018-19	-\$51,564	-\$34,376	-\$17,188
	2019-20	-\$92,815	-\$61,876	-\$30,938
	2020-21	-\$134,066	-\$96,252	-\$48,126

NonSchool	High	Middle	Low
2016-17	\$0	\$0	\$0
2017-18	-\$30,826	-\$20,551	-\$10,275
2018-19	-\$77,066	-\$51,377	-\$25,689
2019-20	-\$138,718	-\$92,479	-\$46,239
2020-21	-\$200,371	-\$143,856	-\$71,928